

WHITLEY COUNTY ADVISORY PLAN COMMISSION

STAFF REPORT

19-W-SUBD-15 PRIMARY PLAT APPROVAL

DECEMBER 18, 2019

Stephan Pohler

AGENDA ITEM: 1

Oak Creek, Section 3, north side of SR 114, 450' west of 200W

SUMMARY OF PROPOSAL

Current zoning:	AG, Agricultural		<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	11.66 acres	Lot size:	1.837 acres	2.19 acres (Lot 7)
Number of lots:	2 lots	Lot width:	225'	237.5'± (Lot 7)
Dedicated ROW:	0.17 acre	Lot frontage:	50'	239.3'± (Lot 7)

The petitioner, owner of the subject property, is requesting primary plat approval for Oak Creek, Section 3, a proposed two-lot subdivision located near the northwest corner of State Road 114 and 200 West in Section 32 of Washington Township. The site is currently improved with a single-family dwelling and three outbuildings.

Proposed are two lots and dedicated right-of-way for CR 200 West. Platting is required due to previous splits from the parent tract. These are the first two lots platted from this parcel since 2018, so no rezoning is required.

Note that the proposed name of this subdivision is "Section 3". Normally, subdivisions are sectionalized by recording consecutive parts of a single primary plat. In this case, this is the third of a series of small subdivisions, the second of which is not even contiguous to or in the same ownership as the first and third. However, while unusual, since the subdivisions are in relative proximity, staff does not find any absolute need to change the title.

The proposed plat appears to comply with the development standards of the zoning code as shown in the above table.

Comment letters received (as of date of staff report)

Electric	X	Health	X	Cable TV		INDOT	X
Gas	X	Co. Highway		Sanitary Sewer	NA		
Telephone		SWCD	X	Water	NA		

A 30' wide right-of-way would be dedicated along CR 200 West. No right-of-way for SR 114 is required as the State has already acquired right-of-way across the property frontage. 10' utility and drainage easements are shown on the western and eastern boundaries of Lot 6, and along the southern and western boundaries of Lot 7. A 50' wide tile drain and utility easement is shown along the eastern boundary of Lot 7. A 75' legal drain easement is shown along the entire northern boundary of Lot 7, and along all but the westernmost portion of the northern boundary of Lot 6.

40' front yard setbacks for primary structures are shown along the rights-of-way. Note that while SR 114 is a state road, it is listed on the transportation plan as a minor arterial, which has the same setback as collector and local roads. Other setback lines are shown and appear compliant with current zoning standards.

At the time of this writing, the comment letters received have stated that the proposed plat is generally adequate. The Soil and Water Conservation District stated that Department of Natural Resources permitting will be required if constructing a building or placing fill in the floodway of the Lee J regulated drain. While as currently mapped, the floodway is largely contained within the banks of the waterway channel, but future mapping may be more detailed and indicate differently.

The Parcel Committee had no comments.

Separate restrictive covenants have been submitted for review.

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 primary plat appears consistent with the standards, with the following condition(s):

1. Secondary plat approval delegated to the Plan Commission Staff.

Date report completed: 12/11/19, MC; reviewed NB.

PLAN COMMISSION ACTION

Motion:

By:

Second by:

<i>Vote:</i>	Deckard	Hodges	Johnson	Mynhier	Western	J. Wolf	B. Wolfe	Woodmansee	Wright
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									



WALKER & ASSOCIATES

EST. 1984

112 WEST VAN BUREN STREET
COLUMBIA CITY, IN 46725
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LAND SURVEYING, CIVIL ENGINEERING,
& LAND PLANNING

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OAK CREEK, SECTION 3 (PRELIMINARY)

SITUATED IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 32,
TOWNSHIP 30 NORTH, RANGE 9 EAST, WHITLEY COUNTY, INDIANA

LEGEND

M = MEASURED C = CALCULATED
P = PLAT R = RECORDED
* = WALKER MONUMENT

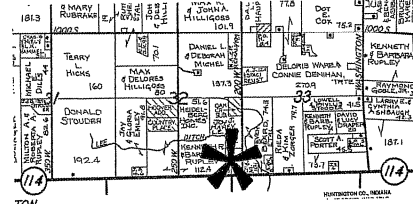
FIELD WORK COMPLETED ON 11-18-2019

PROPERTY ADDRESS FOR LOT # 6

2090 W St Rd 114
Columbia City, IN 46725

VICINITY MAP

NOT TO SCALE



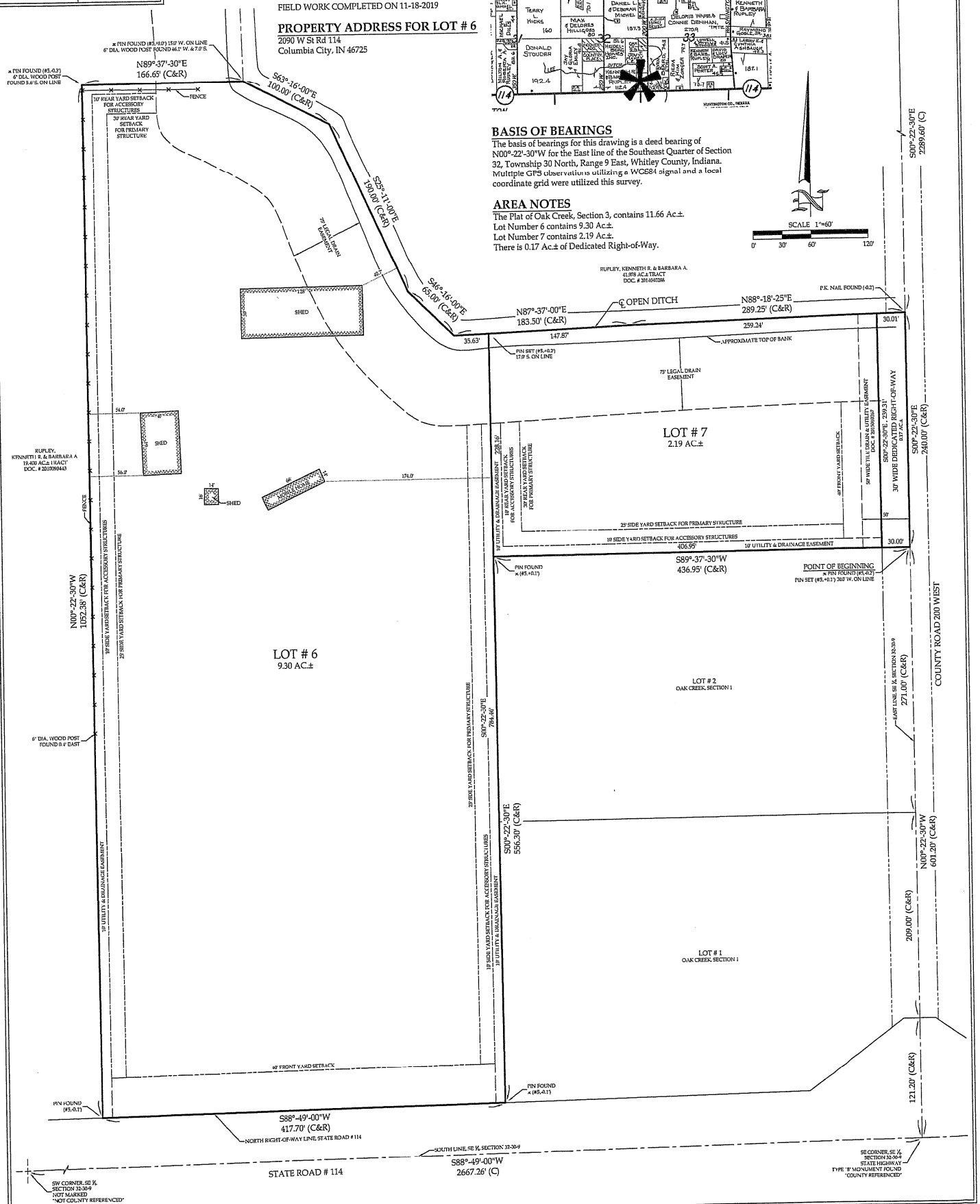
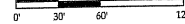
BASIS OF BEARINGS

The basis of bearings for this drawing is a deed bearing of
N00°22'-30"W for the East line of the Southeast Quarter of Section
32, Township 30 North, Range 9 East, Whitley County, Indiana.
Multiple GPS observation is utilizing a WGS84 signal and a local
coordinate grid were utilized this survey.

AREA NOTES

The Plat of Oak Creek, Section 3, contains 11.66 Ac.±.
Lot Number 6 contains 9.30 Ac.±.
Lot Number 7 contains 2.19 Ac.±.
There is 0.17 Ac.± of Dedicated Right-of-Way.

SCALE 1"=60'





WALKER & ASSOCIATES
EST. 1994

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LAND SURVEYING, CIVIL ENGINEERING,
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OAK CREEK, SECTION 3 (PRELIMINARY)

SITUATED IN THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 32,
TOWNSHIP 30 NORTH, RANGE 9 EAST, WHITLEY COUNTY, INDIANA

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DESCRIPTION

PART OF THE EAST HALF OF THE SOUTHEAST QUARTER OF SECTION 32, TOWNSHIP 30 NORTH, RANGE 9 EAST, WHITLEY COUNTY, INDIANA, MORE PARTICULARLY DESCRIBED AS FOLLOWS, TO WIT:

COMMENCING AT A MONUMENT FOUND MARKING THE SOUTHEAST CORNER OF SAID SOUTHEAST QUARTER; THENCE N 00 DEGREES-22'-30" W, ON AND ALONG THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 601.2 FEET TO AN IRON PIN FOUND AT THE TRUE POINT OF BEGINNING; THENCE S 89 DEGREES-37'-30" W, A DISTANCE OF 136.95 FEET TO AN IRON PIN; THENCE S 00 DEGREES-22'-30" E PARALLEL TO THE EAST LINE OF SAID SOUTHEAST QUARTER, A DISTANCE OF 536.3 FEET TO AN IRON PIN FOUND ON THE NORTHERLY RIGHT-OF-WAY LINE OF STATE ROAD NUMBER 114; THENCE S 88 DEGREES-49' W, ON AND ALONG SAID NORTHERLY RIGHT-OF-WAY LINE, A DISTANCE OF 417.7 FEET TO AN IRON PIN; THENCE N 00 DEGREES-22'-30" W, PARALLEL TO SAID EAST LINE, A DISTANCE OF 1052.38 FEET TO AN IRON PIN; THENCE N 89 DEGREES-37'-30" E, A DISTANCE OF 166.65 FEET TO A POINT ON THE CENTERLINE OF AN OPEN DITCH; THENCE S 63 DEGREES-16' E, ON AND ALONG SAID CENTERLINE, A DISTANCE OF 100.0 FEET; THENCE S 25 DEGREES-11' E, ON AND ALONG SAID CENTERLINE, A DISTANCE OF 190.0 FEET; THENCE S 46 DEGREES-16' E, ON AND ALONG SAID CENTERLINE, A DISTANCE OF 65.0 FEET; THENCE N 87 DEGREES-37' E, ON AND ALONG SAID CENTERLINE, A DISTANCE OF 183.5 FEET; THENCE N 88 DEGREES-19'-25" E, ON AND ALONG SAID CENTERLINE, A DISTANCE OF 289.25 FEET TO A P.K. NAIL FOUND AT THE POINT OF INTERSECTION WITH THE EAST LINE OF THE SOUTHEAST QUARTER OF SAID SECTION 32; THENCE S 00 DEGREES 22'30" E, ON AND ALONG SAID EAST LINE, BEING WITHIN THE RIGHT-OF-WAY OF COUNTY ROAD 200 W, A DISTANCE OF 240.0 FEET TO THE TRUE POINT OF BEGINNING, CONTAINING 11.656 ACRES OF LAND, MORE OR LESS, SUBJECT TO LEGAL RIGHT-OF-WAY FOR COUNTY ROAD 200 W, SUBJECT TO ALL LEGAL DRAIN EASEMENTS AND ALL OTHER EASEMENTS OF RECORD, FURTHER SUBJECT TO AN EASEMENT FOR TILE DRAIN AND UTILITY PURPOSES, OVER THE MOST EASTERLY 50 FEET OF THE ABOVE DESCRIBED TRACT.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. The surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0245C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

THEORY OF LOCATION

This is a retracement boundary survey of part of the East half of the Southeast Quarter of Section 32, Township 30 North, Range 9 East, Whitley County, Indiana, located at 2090 W St Rd 114, Columbia City, Indiana, deed recorded in Document Number 2015010267 in the records of Whitley County, Indiana.

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

The Southeast corner of said Southeast Quarter is county referenced. A State Highway Type "B" monument was found at this corner and was held this survey.

The Northeast corner of said Southeast Quarter is county referenced. An iron pin found at this corner and was held this survey. The South line of said Southeast Quarter was established using existing monuments found and State Highway Plans for State Road Number 114.

A 5/8-inch iron pin capped "Walker" was found at a Southeast corner of the surveyed tract on the East line of said Southeast Quarter. Said iron pin was held this survey.

A P.K. nail was found at a Northeast corner of the surveyed tract on the East line of said Southeast Quarter. Said P.K. nail was held this survey.

A 5/8-inch iron pin capped "Walker" was found at a Southeast corner of the surveyed tract on the North right-of-way line of State Road Number 114. Said iron pin was held this survey.

An iron pin was found at a Southwest corner of the surveyed tract on the North right-of-way line of State Road Number 114 and was held this survey.

A 5/8-inch iron pin capped "Walker" was found at a Southeast corner of the surveyed tract and was held this survey.

A 5/8-inch iron pin capped "Walker" was found at the Northwest corner of the surveyed tract and was held this survey.

See survey for other monuments found near the surveyed tract.

See survey for monuments found that are referenced.

SURVEYOR'S REPORT

In accordance with the Title 865 IAC 1-12 "Rule 12" of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties of the location of the lines and corners established on this survey as a result of:

(A) Availability and condition of referenced monuments.

See comments above concerning monuments set or found and held this survey. The monuments found are in good condition unless otherwise noted. Certain monuments are referenced as shown.

(B) Occupation or possession lines.

Open ditch exists as shown on this survey.

Fences exist as shown on this survey.

(C) Clarity or ambiguity of the record description used and of adjoining descriptions and the relationship of the lines of the subject tract with adjoining lines.

None

(D) The relative positional accuracy of the measurements.

The Relative Positional Accuracy (due to random errors in measurements) of the corners of the subject tract established by this survey is within the specifications for Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million as defined by IAC 865.

NOTES

- This survey is subject to any facts and/or easement that may be disclosed by a full and accurate title search. The undersigned should be notified of any additions or revision that are required. The undersigned was not provided with a current title commitment for use on this survey.
- For monuments found and set, see survey. All pins set are #5 Rebars with caps marked "Walker".
- Origin of monuments unknown unless noted on survey.
- Measurements of this survey are based on aforesaid G.P.S. and/or E.T.S. traverse measurements.
- Ownership research of the subject tract, and adjoining tracts, was obtained from current tax records on file in the Offices of the county Auditor and Recorder.
- The Whitley County Surveyor's Legal Drain Map shows a legal open drain along the North lines of the surveyed tract. Per Indiana Code 36-9-27 legal open drains have 75-foot wide drainage easements from the top of each bank. This open drain is as shown on this survey. Prior to any construction of a permanent structure near the legal drain easement, the location of the top of the bank should be verified by the Whitley County Surveyor. An existing shed extends into said drainage easement as shown on this survey.
- State Highway Plans were used as a reference.
The Plat of Oak Creek Section 1 was used as a reference.
The Plat of Oak Creek Section 2 was used as a reference.
Reference survey(s) by J.K. Walker & Associates, P.C., dated 12-23-98, 05-27-99, 03-20-09.

REDACTION STATEMENT

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. - Kevin Michel

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.

Prepared by:

Kevin R. Michel, Professional Surveyor



PLAN COMMISSION CERTIFICATION OF APPROVAL

Primary approval granted on this _____ day of _____, 20__ by the Whitley County Advisory Plan Commission.

Douglas Wright, Plan Commission President

John Johnson, Plan Commission Secretary

COUNTY COMMISSIONERS CERTIFICATION OF APPROVAL AND ACCEPTANCE

Approved and accepted this _____ day of _____, 20__ by the Board of Commissioners of the County of Whitley, State of Indiana.

George Schrumpt

Don Amber

Thomas Western

PLAN COMMISSION STAFF CERTIFICATION OF APPROVAL

Secondary approval granted this _____ day of _____, 20__ by the Staff of the Whitley County Advisory Plan Commission.

Nathan Bilger, Executive Director

DEED OF DEDICATION

I the undersigned, Stephan C. Pohler, owner of the real estate shown and described herein by virtue of a certain deed recorded as Document Number 2015010267, do hereby certify that I have laid off, platted and subdivided, and hereby lay off, plat and subdivide, said real estate in accordance with this plat.

This subdivision shall be known and designated as OAK CREEK, SECTION 3, a subdivision in Whitley County, Indiana. All rights-of-way of public roads, 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.

No owner of any Lot or any other parcel within this Plat shall at any time remonstrate against or attempt to cause the cessation of any farming operation, whether now existing or existing in the near future which interferes with the residential use of the Lot or tract owned by the person or the tract owned by the person or persons remonstrating. Any person accepting title to a Lot or tract within this Plat, acknowledges that general agricultural areas exist adjacent to or near this Plat, and that activities on such agricultural areas may result in normal farm interference such as noise, odor, dust, agricultural implement traffic, unusual hours, and other normal agricultural uses.

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 together with this plat.

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, 2044, 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 judgment 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 _____, 20__.

Stephan C. Pohler

State of Indiana)
County of Whitley)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Stephan C. Pohler, and each separately and severally acknowledge the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this _____ day of _____, 20__.

Notary Public

My Commission Expires

Steve Pohler

19-W-SUBD-15 Oak Creek, Section 3 Restrictive Covenants

These are hereby created and are to run with the land and shall be binding upon the parties hereto and their successors in title, as follows:

1. Owners of said lot(s) and their successors in title are on notice and understand that this subdivision is in a predominately agricultural area and that farming operations, to include livestock operations, will be practiced in the area of this subdivision. With this understanding, all owners of the lot(s) in this subdivision forego their right to bring claim against any farmer in the area who are practicing normal, reasonable and necessary farming and livestock operations.
2. Will abide by local and state building codes.

