

MINUTES OF THE HAMILTON COUNTY DRAINAGE BOARD

May 8, 2023

The meeting was called to order Monday, May 8, 2023 at 12:00 p.m.

The members of the Board present were Mr. Mark Heirbrandt-President, Mr. Steven C. Dillinger-Vice President and Ms. Christine Altman-Member. Also present was the Hamilton County Surveyor, Kenton C. Ward and his staff: Mr. Jerry Liston, Mr. Sam Clark, Mr. Reuben Arvin, Mr. Steve Cash, Mr. Luther Cline, Mr. Gavin Maxwell, Ms. Clara Furst, Mr. Gary Duncan, Mr. Brian Rayl and Mr. John Campbell. The Board's attorney's, Mr. Michael Howard and Mr. Connor Sullivan, were also present.

Approval of Minutes of April 24, 2023:

The minutes of April 24, 2023 were presented to the Board for approval.

Dillinger made the motion to approve the minutes of April 24, 2023, seconded by Altman and approved unanimously.

Mary Wilson Drain - Habig Heritage, LLC:

The Surveyor stated this item is for the Board's approval and signature. This is on the Habig property and the easement we need from them. You'll also have a similar item for your Commissioner's meeting.

Howard stated the appraisal's complete, the offer time has run and it's ready to go probably yet this week.

Altman made the motion to approve to submit to Commissioners, seconded by Dillinger and approved unanimously.

Mud Creek/Sand Creek Drain - Hults Drainage Easement:

The Surveyor stated that this particular item is on a fill in the floodplain. This is the easement to protect the mitigation area. This is the acceptance of that easement for the Board's approval.

Altman asked the Surveyor, is it your recommendation?

The Surveyor stated it is.

Altman made the motion to accept the easement for the mitigation area on the Hults fill in the floodplain, seconded by Dillinger and approved unanimously.

Findings & Order for Reconstruction - Guy Gilkey Drain:

The Surveyor stated this was approved at your April 24th meeting. However, one of the items, which is the findings and order for reconstruction, didn't get signed. This is where I ask you to sign it.

Big Cicero Creek Joint Drainage Board:

The Surveyor presented the minutes of the March 22, 2023 Big Cicero Creek Joint Drainage Board to the Board for their information. He asked if there were any questions.

There were no questions.

Preliminary Variance Request - Vestal/Kirkendall Drain (Fill in the Floodplain):

Mr. Matt Maple and Mr. Tim Barr were present for this item.

Cash presented his report to the Board.

"Re: Vestal-Kirkendall Drainage Area - Variance Preliminary Introduction

May 5, 2023

To: Hamilton County Drainage Board

Project Name: Magnolia Ridge, Sec. 2A

Petitioner: Magnolia Land Development, LLC

Summary:

Mark Gradison of Magnolia Land Development, LLC requests to present their proposal for site grading and installing flood plain compensatory storage as part of the Magnolia Ridge, Sec. 2A project. This proposal will require the approval of a variance from Ordinance No. 09-26-16A for fill in the floodplain of Vestal - Kirkendall Drainage Area, Emily Vestal Arm 1. The project site is located on the south side of 171st, east of Mill Creek Road. The plans are being designed by HWC Engineering.

The engineering design for the flood plain compensatory storage area will be reviewed by Clark-Dietz which is the Drainage Board's engineering consultant for the Vestal - Kirkendall Drainage Area watershed. Following successful review, a Clark-Dietz review memorandum will become part of the report submitted to the Board as part of the variance packet.

Hamilton County Drainage Board

May 8, 2023

The purpose of this presentation is to introduce the project to the Drainage Board and to request Preliminary Concurrence.

If Preliminary Concurrence is granted, this project will return to the Board for final approval.

Steven T. Cash
Plan Reviewer"

Altman asked, the fill is for a bridge only?

Cash stated yes, it is.

Altman stated okay, they're not putting any lots in the fill area?

Cash stated that is correct. This will come back once it's been reviewed by Clark Dietz who will be doing the review.

Altman stated I think on this one, given the proximity of lots in the area of the fill that Clark Dietz ought to be looking also at possible water encroachment in the areas to make sure that where they took the fill out will actually compensate. Which direction is the flow?

Cash stated the flow, based on the map, is from west to east toward the main drain of the Vestal. 171st Street is to the north.

Altman stated my concern is you've got lots butting right up to the floodway. If we're wrong, there could be a problem.

Cash stated so your suggestion is to have Clark Dietz make sure that these lots are not encroaching within the floodplain.

Heirbrandt stated yes.

Altman stated if you're filling in for that road or restricting it there, you're going to have backup aren't you; in theory, if we've got water.

Cash stated the whole purpose of the floodplain compensatory storage is to offset that.

Altman stated understood, but just make sure it really works in this situation because these people are going to have a real problem if it doesn't.

Altman made the motion to give preliminary approval based upon ultimate assurance that it won't affect lots, seconded by Dillinger and approved unanimously.

Variance Request - Emily Vestal Drain (Sanitary Separation):

Mr. Matt Maple and Mr. Tim Barr were present for this item.

Cash presented his report to the Board for approval.

"Staff Report

May 5, 2023

To: Hamilton County Drainage Board

Re: Vestal - Kirkendall Drainage Area, Emily Vestal Arm 1, Variance for Magnolia Ridge, Sec. 2A, DV-2023-00016 (Sanitary Separation), Parcel No. 10-10-03-00-00-024.000

Attached is a request by Magnolia Land Development, LLC requesting approval of a variance from the following ordinance and standard in connection with the Magnolia Ridge, Sec. 2A subdivision project:

- Ordinance No. 3-25-02-A: regarding Utility Installation Cross Section (Detail C-6).

Summary:

As part of a new residential subdivision project located south of 171st and east of Mill Creek Road, in Noblesville Twp., the petitioner proposes to extend sanitary sewers to Magnolia Ridge, Sec. 2A which results in crossing under Emily Vestal Arm 1. The developer requests to reduce the minimum cover over the sanitary sewer main crossing below the flowline of the open drain to less than the standard 10' separation. Due to the existing depth of the downstream sanitary manhole, the developer maintains the proposed sanitary sewer main cannot be installed lower than what is being proposed. The cover at the drain crossing between Str. 102 and Str. 103 is proposed to be 3.5'.

Additional Information:

The Surveyor's Office has coordinated with the City of Noblesville Engineering Department and Department of Public Works in the review of this proposal. The sanitary sewer will be turned over to the City of Noblesville upon successful completion of construction.

The separation requirements for pipeline and utility installation under open drains is depicted in Hamilton County Surveyor's Office Standard Plan Detail C-6. (See attached).

Due to the proposed construction in the floodway, a permit is required to be obtained from the Indiana Department of Natural Resources-Division of Water.

Staff Recommendations:

1. If this variance is approved by the Drainage Board, the Surveyor has recommended that as a condition of approval the following items be met:
 - a. The sanitary pipe is to be encased in concrete if open cut installation is used.
 - b. Site inspection approval by Surveyor's Office.
 - c. Submittal of as-built drawings showing the sanitary sewer crossing location and elevation. As-built drawings are to be stamped and sealed by a professional engineer.
 - d. A letter from the City of Noblesville that if the Vestal Drain requires dredging in the future resulting in a sanitary sewer conflict with the open drain, the City of Noblesville shall at the City's expense install a lift station and sanitary force main to eliminate said conflict.

Note - In addition to this variance, this project has also been required to apply for other applicable permits which are being pursued by the developer.

Based on this information, this report is respectfully submitted for your consideration.

Sincerely,

Steven T. Cash
Plan Reviewer

STC:stc"

Altman asked without a lift station?

Cash stated without a lift station.

Altman asked and you feel there's adequate coverage?

The Surveyor stated one of the recommendations from the office is that if the sanitary sewer is ever in need of lowering because the ditch is being dredged to that point that the City of Noblesville commit that a lift station and force main be installed. In talking to the developers this morning, I also would throw in there an "or". The "or" would be that if the City of Noblesville does not commit to that that they put it in the covenants of the plat that the owners of the lots within that subdivision would be required to pay for that lift station and force main in the future.

Howard asked how many lots?

The Surveyor stated twelve lots.

Altman stated that would be a heck of an assessment.

Howard stated from a disclosure of records standpoint probably they're going to need to quantify that because title companies are going to show that as an excess.

Altman stated yes, I hope so.

Howard stated I just think we need to make sure that it's in bold type letters. What that is today what might subsequently be needed could be a times six or ten or whatever those costs will be.

The Surveyor stated with what we've experienced lately as far as sanitary sewer, water lines, communications, power I don't want to paint a future Board or Surveyor into a corner.

Howard stated I agree with you. We're representing the Drainage Board here and the drainage infrastructure visa vie, but it sounds like the drainage infrastructure could very well be incompatible and I think we need to see their proposed language in draft form more than five minutes before the meeting and you and I sit down and see how strong that's going to be and the developer needs to understand. No offense to any developer, but sometimes people ignore things until they get to the title company, and this is going to jump out like a sore thumb. I think we need to work on that language, the exact language and have the Board approve it up front.

Altman stated the other thing is I would suggest in the language that the Drainage Board, as part of the reconstruction or dredging, will install adequate, put it back on as an assessment. That way we know it's going to get done.

Howard stated it's going to have to be an agreement to pay, it doesn't mean much but when it becomes a per lot assessment then that's superior to everything other than real property tax.

Heirbrandt stated I think you need to work this out and feel comfortable about it before you bring it back to us.

Altman made a motion to table this item until we get more definitive, but this is really concerning, seconded by Dillinger and approved unanimously.

Howard stated I think the format of the language that was in the Old Towne Development of Westfield, lets start with that and march forward.

Variance Request - William Baker Drain (Sanitary Separation):

Duncan presented Andy Conover's report to the Board for approval.

Staff Report

April 12, 2023

To: Hamilton County Drainage Board

Re: William Baker Drain - US 31 Infrastructure Investment Project

Variations - Sanitary Sewer Crossings
DV-2023-00005
DV-2023-00011
DV-2023-00013

Variations:

Attached are the Variance Applications for Hamilton County Building Group requesting approval of variances from the following ordinance in connection with the installation of sanitary sewers located west of US 31, both north and south of 236th Street.

- Ordinance No. 3-25-02-A

Summary:

The Variance Application requests are for the separation distance between the new sanitary sewers at the various locations of the William Baker Drain shown on the accompanying permit requests.

The Hamilton County Surveyor's Office Standard Plan C-4 requires 10 feet of separation between a sanitary sewer and the existing flowline of the drain. The submitted plans indicate that the proposed separation will be less than the required 10 feet.

- DV-2023-00005 is a request for a sanitary crossing under the William Baker regulated drain south of 236th Street. The request is to allow for a 9-foot separation between the proposed new sanitary line and the proposed flowline of the open William Baker drain.
- DV-2023-00011 is a request for a sanitary crossing under the William Baker regulated drain south of 236th Street. The request is to allow for a 5-foot separation between the proposed new sanitary line and the proposed flowline of the open William Baker drain.
- DV-2023-00013 is a request for a sanitary crossing under the William Baker regulated drain south of 236th Street. The request is to allow for a 5-foot separation between the proposed new sanitary line and the proposed flowline of the open William Baker drain

Additional Information:

The separation requirements for pipeline and utility installation under open drains is depicted in Hamilton County Surveyor's Office Standard Plan Detail C-4.

The plans have been designed by Wessler Engineering Project No. 244721-04-001 dated February 2023.

Each Variance Request has the associated plan sheet page attached.

Staff Recommendations for Variance approvals:

If the variances are approved by the drainage board, the surveyor has recommended that as a condition of approval the following items be met:

1. The utility is to be encased in concrete if open cut installation method is used.
2. Site inspection approval by Surveyor's Office before backfilling.
3. Submittal of as-built drawings showing the utility crossing location and elevation. As-built drawings are to be stamped and sealed by a professional engineer.

Based on this information, this report is respectfully submitted for your consideration.
Sincerely,



Andrew D. Conover"

Altman made the motion to approve the variance requests presented, seconded by Dillinger and approved unanimously.

Variance Request - Williams Creek Drian, Springmill Crossing Arm (Utility Separation):

Clark presented his report to the Board for approval.

"Staff Report

March 20th, 2023

To: Hamilton County Drainage Board

Re: Springmill Crossing Sec 1; 13656 Springmill Blvd

Attached is a request by Michalah Maxwell for variance approval from the following ordinance and standard in connection with the Utility Work being done by Spectrum Utilities:

- Ordinance No. 3-25-02-A: regarding utility installation Cross Section (Detail C-6).

Summary:

The proposed utility crossing is part of a larger group of proposed utility projects in Clay Township. The reason for the variance is the concentration of residential buildings in the project area making it impossible to meet the 10 foot separation requirement without damaging them.

Additional Information

- The Surveyor's Office has coordinated with the City of Carmel in the review of this proposal. The utilities will be turned over to Spectrum upon successful completion of construction.
- The separation requirements for pipeline and utility installation under regulated drains is depicted in Hamilton County Surveyor's Office Standard Plan Detail C-6.
- The plans have been designed by BSM Group Job No. 22-00093 The crossing can be found on sheet 7 of 7 on said plans.

Staff Recommendations

1. If this variance is approved by the drainage board, the surveyor has recommended that as a condition of approval the following items be met:
 - a. Site inspection approval by Surveyor's Office
 - b. Submittal of as-built drawings showing the utility crossing location and elevation. As-built drawings are to be stamped and sealed by a professional engineer.

Based on this information, this report is respectfully submitted for your consideration.
Sincerely,

Samuel T Clark
Plan Reviewer

STC:stc"

Altman asked how much clearance is there?

Clark stated they are requesting a minimum of 24 inches so that's two feet.

Altman stated we're going in this with eyes open because we know how responsive the cable companies have been. Certainly, can they go deeper? We're talking a cable, right?

Hamilton County Drainage Board
May 8, 2023

Clark stated that's true.

The Surveyor stated I agree.

Altman stated no, not with the history we have with those folks. Spectrum, I'm sure is totally different, but they'll be sold by the time we get there.

Liston stated we were notified last week from one of our maintenance contractors that Spectrum has hit one of our drains again and damaged it. We'll probably have a future violation there.

Altman stated it's not a future, it is a violation.

Liston stated it is, but we'll be bringing it back.

Altman made the motion to table this variance request until we figure out exactly how much clearance we can get, seconded by Dillinger and approved unanimously.

Variance Request - Hunters Creek South Drain (Utility Separation):

Clark presented his report to the Board for approval.

Staff Report

March 20th, 2023

To: Hamilton County Drainage Board

Re: Hunter's Creek Drain; 763 Marana Drive

Attached is a request by Michalah Maxwell for variance approval from the following ordinance and standard in connection with the Utility Work being done by Spectrum Utilities:

- Ordinance No. 3-25-02-A: regarding utility installation Cross Section (Detail C-6).

Summary:

The proposed utility crossing is part of a larger group of proposed utility projects in Clay Township. The reason for the variance is the concentration of residential buildings in the project area making it impossible to meet the 10 foot separation requirement without damaging them.

Additional Information

- The Surveyor's Office has coordinated with the City of Carmel in the review of this proposal. The utilities will be turned over to Spectrum upon successful completion of construction.
- The separation requirements for pipeline and utility installation under regulated drains is depicted in Hamilton County Surveyor's Office Standard Plan Detail C-6.
- The plans have been designed by BSM Group Job No. 22-00063 The crossing can be found on sheet 7 of 7 on said plans.

Staff Recommendations

2. If this variance is approved by the drainage board, the surveyor has recommended that as a condition of approval the following items be met:
 - c. Site inspection approval by Surveyor's Office
 - d. Submittal of as-built drawings showing the utility crossing location and elevation. As-built drawings are to be stamped and sealed by a professional engineer.

Based on this information, this report is respectfully submitted for your consideration.
Sincerely,

Samuel T Clark
Plan Reviewer

STC:stc"

Altman made the motion to table this variance request until we figure out exactly how much clearance we can get, seconded by Dillinger and approved unanimously.

Altman stated it probably ought to be a package deal.

Variance Request - Cool Creek Drain, Springwater (Fill in the Floodplain):

Clark presented his report to the Board for approval.

Staff Report

4/17/2023

TO: Hamilton County Drainage Board

RE: Cool Creek Drain, Floodplain Fill Variance for Springwater DV-2023-00003

Attached is a request by Apollo Developers for a variance from the following ordinances and standards in connection with the Springwater project.

Summary:

- Ordinance No. 09-26-16A: regarding fill in the flood plain.

Summary:

As part of a new development project in the City of Westfield, the petitioner proposes to regrade portions of private property (tax parcel: 08-10-07-00-00-001.000) which results in new fill within the flood plain. To offset the fill, the project will excavate compensatory flood plain storage area near the Cool Creek drain. The construction will require placing 2,279 cubic yards of fill within the flood plain and removing 6,837 cubic yards from the flood plain. The cut/fill ratio meets the standard 3:1 ratio required for consideration of the variance. No portion of platted lots will be located in the 100-year floodplain, or the proposed floodplain fill and mitigation with the approval of this subdivision.

This proposal received preliminary concurrence by the Drainage Board to proceed with engineering on January 13th, 2023.

The engineering review has been conducted by Clark Dietz Inc. See attached approval letter dated April 3rd, 2023.

Staff Recommendations:

1. If this variance is approved by the Drainage Board, the Surveyor has recommended that as a condition of approval the following items be met:
 - a. Protection of flood plain compensatory area with dedicated easement for areas outside of the 75' statutory regulated drain easement. Easement to be in the favor of the Hamilton County Drainage Board.
 - b. Surety to be posted to cover the construction costs of the flood plain compensatory storage area. The amount of the surety should be 120% of the engineer's estimate.
 - c. An engineer's estimate or copy of the contract for the storage area to be submitted along with the surety.
2. The Surveyor also requests the following conditions be met for release of surety:
 - a. Site inspection approval by Surveyor's Office.
 - b. Submittal of as-built drawings showing the cut and fill sections and dirt balances. As-built drawings are to be stamped and sealed by a professional engineer.
 - c. As-built drawings to be reviewed by Clark Dietz Inc., for compliance.
 - d. Fulfillment of developer financial responsibility for review fees incurred.
3. The maintenance of the flood plain compensatory area, including but not limited to sediment removal, erosion control along the banks, mowing and aquatic vegetation control will be the responsibility of the Homeowners Association and/or owner of record.

The Board will retain jurisdiction to enforce the storage volume for which the flood plain compensatory area was designed will be retained, thereby, allowing no fill or easement encroachments. In the event that the Homeowners Association or owner, in the sole discretion of the Board, fails to adequately maintain the flood compensatory area, after 30 days written notice to the owner of record, the Board may perform the required maintenance and assess the cost thereof to the owner of record as a special assessment.

The above language will be attached as a Page 2 of the Variance when recorded.

Based on this information, this report is respectfully submitted for your consideration.

Sincerely,

Samuel T. Clark
Plan Reviewer"

Hamilton County Drainage Board
May 8, 2023

Dillinger made the motion to approve the variance request presented, seconded by Altman and approved unanimously.

Altman stated in the future on these cover issues I think the petition ought to say that we're relying on that cover shall not be less than "x" and if we see that then I'll know and the meetings will go faster. Plus, it ties them to the original commitment without having to go to a plan sheet.

Non-enforcements:

Ms. Ludmila Botezat was present for this item.

Clark presented a non-enforcement request for the Shelborne Green Drain filed by BSM Groups (Spectrum) for parcels #17-13-08-01-08-016.000, 17-13-08-01-08-015.000, 17-13-08-01-08-014.000, 17-13-08-01-08-013.000, 17-13-08-01-08-012.000, 17-13-08-01-08-007.000, 17-13-08-01-08-008.000 for an underground coax cable. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the John Owen Drain filed by Brett Lebo for parcel #11-06-15-00-03-006.000 for a fence. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the Stoney Creek Drain, E. O. Michaels Arm filed by 40 Acre Farm, LLC (Bradley Boyer) for parcel #12-07-25-00-00-014.000 for a fence. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the Williams Creek, Stultz & Almond Drain, Heather Knoll Arm filed by Steven and Kathleen Konkoly for parcel #17-09-20-00-11-024.000 for a fence. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the Williams Creek Drain, Kings Mill Arm filed by Marlene Jacobs for parcel #17-13-05-00-11-010.000 for a fence. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the Vermillion Drain, Heritage at Vermillion Arm filed by Maria Vladimirova and Ryan Cole Geltz for parcel #13-16-08-00-08-011.000 for a fence. The Surveyor's Office recommends approval.

Dillinger made the motion to approve the non-enforcement request presented, seconded by Altman and approved unanimously.

Furst presented a non-enforcement request for the Vestal/Kirkendall Drain, Kinsley Arm filed by Oleg and Ludmila Botezat for parcel #11-10-16-00-01-027.000 for a fence to fully encroach into the rear 10-foot drainage easement and 10-foot into the 20-foot drainage easement on the south side. The Surveyor's Office recommends approval. Ms. Botezat is present today to discuss the fence, but prior to her joining me up here the property owners are requesting a full encroachment within the rear line as well as on the side. From the northwest corner over to where the inlet is there is a twenty-foot drainage, utility and sanitary along the south perimeter line. The Surveyor's recommendation is to do a half encroachment which is typically the standard to allow and maintain access along that side perimeter. Given the other fences that are in the area long the rear line and because there is not subsurface pipe, we are recommending a full encroachment in the rear. The homeowner is here today to discuss.

Botezat stated I'm here today to tell you that we want to build the fence how it was built before from the first, from the previous owner or I talked with my husband and he said if we are not allowed to build the fence on the property line we can leave from both sides two feet. I heard about how it is when you have a drainage on your property so what's allowed and what's not allowed. I see what they had before a tree there, there are two trees. When I read they said you are not allowed to plant anything when you have drainage. What I would say is just we want to build the fence, anything else we'll not plant or have located on the drainage, but in case that the drainage will have problem and someone should come and dig we will take the fence panel out and they can do their work and then we put back the fence. It's our responsibility because we will not have someone else to; a company to build the fence, but the company who will build will be the owner.

Howard stated when you say the company will be the owner, they're going to own the fence and they're going to agree to come out sometime if they have to and move it. Is that what you mean?

Heirbrandt stated we would just have to move it. If we have to get in there, we have to be able to get in and move the fence. That's what you're going to have to face.

Botezat stated so you mean when you have to move you will move it or you will break it.

Howard stated we will get the fence out of the way to do the work and we will lay it there on the ground and it will be your problem or somebody else's problem to replace it and it will be at your cost.

Botezat stated yes, it's not a problem. We assume this responsibility to put back the fence if you allow us to have the fence.

Altman stated with removable panels, is that what we're asking?

Heirbrandt stated yes.

Altman stated I think it's better, if we're going to allow any encroachment, do the full so we're not right on top of that line. What am I missing?

Furst stated one other thing to note is that the pipe itself, if you were to do a two foot encroachment would be putting the fence line practically right on top of the inlet.

Altman stated that's what I'm looking at. We can't do the two feet because we'd be on top of that pipe.

The Surveyor stated right, that's why I recommended the half encroachment.

Botezat asked what do you mean a half? I don't understand.

The Surveyor stated half of the easement would be 7.5 feet.

Furst stated no, ten feet.

Altman asked is it a ten-foot easement so it's five feet in?

Furst stated in the rear it's a ten-foot easement, but on the side that we're discussing is a twenty-foot easement so half encroachment would be ten feet.

The Surveyor stated to Furst, it says fifteen.

Altman stated Furst is right, it's twenty feet.

Furst stated the GIS layer is incorrect, but the twenty-foot easement is the side we're discussing, and the rear is ten feet.

Altman stated I don't have a problem putting it on the property line with removable panels, but I don't want a two foot because we'll be right on top.

Heirbrandt stated there's no way we could do that.

Botezat asked why are we not allowed to build on that mark that they build before the owner?

Howard stated two wrongs don't make a right. You're previous owner was in violation and we could have gone in and torn it down without even talking to him. We're trying to make the situation better, but what happened with your previous owner, I'm sorry, doesn't have anything to do with this. This is a free-standing deal. What can we do to give you something and still be able to have access in a reasonable situation.

Altman stated one other question. We're allowing a full encroachment in the back or half?

Furst stated in the rear we're allowing a full encroachment.

Altman stated but that's right down the drainage line?

The Surveyor stated there's no facility back there, it's just a swale.

Howard asked it's platted, but not used?

The Surveyor stated it's just a swale.

Botezat stated but the rear we will use as the one neighbor build and we do in the same line as him to look well.

Altman stated okay, that's fine because everybody else did. Do you want to allow the full with removable panels on the side?

Dillinger stated I think so.

Altman stated as close as their house is I don't know how we're going to do it otherwise.

Altman made the motion to allow a full encroachment on the side line with removable panels and a hold harmless on our part since that drain line is inside your fence if we allow that there's a high possibility you're going to have to remove your fence if there's a problem, seconded by Dillinger and approved unanimously.

Dillinger asked Botezat, do you understand?

Botezat stated no, I don't understand what your decision is.

Altman stated I moved to allow as you requested the full encroachment to the sideline, but you have to have removable panels on your fence for access and just a forewarning that if there ever is a problem there will be a high probability your fence will be taken down because your fence is on the wrong side of that pipe and we'd have to have access. That's just a warning to you.

Howard stated and when the fence comes down there's no compensation. You're given permission to be there but the permission includes that if we have to take the fence down you're the risk partner on that cost.

Botezat stated yes, but we are allowed to build on the property line.

Howard stated that's what the Board approved.

Dillinger asked Botezat, do you understand now?

Botezat stated yes, kind of.

Dillinger stated you got what you wanted, but just understand you're taking some risk.

Botezat stated yes, we do understand.

Stop Work Order - Leeman Topsoil, Inc. (Rescinded):

Furst presented her report to the Board for their information.

"May 5th, 2023

Leeman, Andrew
210 West Washington Street
Donham, AL 36301
Parcel ID#: 07-07-02-00-00-012.121

RE: Stop Work Order Rescinded, Leeman Topsoil Inc.-White River

On July 8th, 2022, a Stop Work Order was issued to cease all work on the parcel located at 13280 Strawtown Avenue, Noblesville, IN 46060, Parcel # 07-07-02-00-00-012.121 being shown on Hamilton County tax record as owned by Andrew Leeman.

The Stop Work Order was issued due to the following violations:

1. A Stormwater Pollution Prevention Plan (SWPPP) has not been submitted to or approved by Hamilton County Surveyor's Office. This is in direct violation of Hamilton County Ordinance No. 5-09-05-A and No. 5-09-05-B which regulates storm water runoff associated with construction and post-construction activities in Hamilton County, Indiana.
2. There are no Erosion Control measures installed on site. This is in direct violation of Hamilton County Ordinance No. 5-09-05-A and Hamilton County Ordinance No. 5-09-05-B.
3. Fill in the Floodplain occurring on site. This is in direct violation of Hamilton County Ordinance No. 09-26-16-A.

On Thursday, May 4th, 2023, the Hamilton County Surveyor's Office issued the Construction Stormwater General Permit Stormwater Prevention Pollution Plan approval for the mentioned project. At this time there are no Erosion Control measures installed on site. On Thursday, May 4th, 2023, the Hamilton County Surveyor's Office approved the submitted/received Performance Bond, Challenge Rider, and Certificate of Liability Insurance paperwork. Per recent verbal conversations with the site foreman/operator, Mr. Jon Ward, intends on installing the initial erosion control measures per plans, immediately following the scheduled pre-construction meeting. On February 27th, 2023, the Department of Natural Resources mailed a Construction in a Floodway approval certificate including the requirements that the property owner must follow to remain in compliance with future work.

On July 25th, 2022, the Hamilton County Surveyor's Office issued a Notice of Violation on the above-mentioned parcel. The Notice of Violation outlined in detail, specific violations located on site. A separate letter will be sent to address the status of specific violations on site after the pre-construction meeting has occurred.

As of today, Stop Work Order listed violations #1 and #3 mentioned above, have been resolved. Stop Work Order listed violation #2 mentioned above is scheduled. The Stop Work Order has been rescinded. Work performed by all contractors, subcontractors, and others may resume following the conclusion of the scheduled pre-construction meeting.

Hamilton County Drainage Board
May 8, 2023

Should you have any questions, please feel free to contact Clara Furst with the Hamilton County Surveyor's Office 317-776-8495.

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

Cc: Jon Ward-Leeman Topsoil Inc. Foreman/Site Operator
Hamilton County Drainage Board
Gary Duncan- HCSO Engineer
Jerry Liston-HCSO Inspector
Brad Davis-HCHD Director
Mike Howard- Drainage Board Attorney
Connor Sullivan- Attorney
CJ Taylor- HCPC Director
Lee Buckingham- HC
Randy Braun-IDEM
Rob Beck- IDEM
Katelyn Salzer-IDNR
Scott Dean-IDNR
Jerald, Jackson-IDEM
Scott Matthews-USACE "

Howard stated thank you very much goes out to Gary (Duncan) and everybody at the Surveyor's Office. This was a very difficult situation and guiding them through this was lots of consternation.

Duncan stated I'd like to add also, Furst also put together a binder of material for the operation to use which included the inspection forms and some additional items that they'll need as they actually start the operation. She put everything together with a bow on it.

Furst stated Mr. Ward (Jon) did have his employees on site on Friday at the preconstruction meeting and we were able, Jerry (Liston) and I were both present, and went through that binder with them.

Stop Work Order - Vermillion Drain, Woods at Vermillion Arm - Siddique (Rescinded):
Furst presented her report to the Board for their information.

"April 25th, 2023

Siddique, Iqbal & Chelsea
16289 Kenora Lane S
Fortville, IN 46040
Parcel ID#: 13-16-08-00-07-014.000

RE: Stop Work Order Rescinded, Vermillion Drain-Woods at Vermillion Sec. 1

On April 19th, 2023, a Stop Work Order was issued to cease all work on the parcel located at 16289 Kenora Lane S, Fortville, IN 46040, Parcel # 13-16-08-00-07-014.000 being shown on Hamilton County tax record as owned by Iqbal & Chelsea Siddique.

The Stop Work Order was issued due to the following violations:

1. There are no Erosion Control measures installed on site. This is in direct violation of Hamilton County Ordinance No. 05-09-05-A and Hamilton County Ordinance No. 5-09-05-B.
2. The approved *Non-Enforcement of Drainage Easement of Individual Tracts* permit and plan on file with Hamilton County Surveyor's Office has not been followed on site. This is in direct violation of Hamilton County Ordinance No. 11-14-22-C.

On Thursday, April 20th, 2023, the Hamilton County Surveyor's Office met with Jordan VanWye with Premier Pool & Spas on the property. During this on-site meeting, verification was provided by Mr. VanWye regarding the location of the installed pool. At the time of this meeting, it was determined the pool is installed within the requirements of the permit. However, the concrete apron of the pool was not installed yet. In addition, a BMP installer was actively installing erosion control measures on site. Additional photos were sent via email confirming erosion control measures were installed on site.

The violations have been resolved. The Stop Work Order has been rescinded. Work performed by all contractors, subcontractors, and others may resume.

Should you have any questions, please feel free to contact Clara Furst with the Hamilton County Surveyor's Office 317-776-8495.

Hamilton County Drainage Board
May 8, 2023

Sincerely,

Kenton C. Ward, CFM
Hamilton County Surveyor

Cc: Hamilton County Drainage Board
City of Fishers-Jason Armour
City of Fishers- John Young
Steve Cash- HCSO
Gary Duncan-HCSO
Jerry Liston- HCSO
Jordan VanWye-Premier Pools & Spa
Vermillion HOA-Tricia Edwards "

Surety Acceptance:

Liston stated that at this afternoon's Commissioners meeting the Board would be accepting the following sureties: Performance Bond No. Q0856670256 in the amount of \$120,000.00 for CEG Booster Station - Cumberland Park Compensatory Storage/Detention; Bond No. 101197538 in the amount of \$120,000.00 for S.R. 32 & Hazel Dell Parkway (Midland Pointe Offsite), Russell Shugart Drain Reconstruction (**Rider changing Bond No. 101197538 to Bond No. 1001197538**); Subdivision Bond No. K41682309 in the amount of \$287,858.00 for Harvest Trail Section 1, storm sewer improvements; Performance Bond No. B0971049 in the amount of \$35,292.00 for Firm Foundation, County McMahan Drain Reconstruction Erosion Control; Performance Bond No. B0371048 in the amount of \$95,554.00 for Firm Foundation, County McMahan Drain Reconstruction; Subdivision Improvements Performance Bond No. 4172317 for Marilyn Woods, William Lehr Drain Reconstruction.

Surety Release:

Liston stated that at this afternoon's Commissioners meeting the Board would be releasing the following sureties: Site Improvement Performance Bond No. INC61222 in the amount of \$261,255.31 for Meadows at Gristmill Crossing, Earthwork and Erosion Control (Floodplain); Irrevocable Standby Letter of Credit No. 5489679 in the amount of \$48,473.00 for Reserve at Springmill Section 2 Replat of Lots 68, 69C, 70C & 71, Wills Creek Drain.

Elwood Wilson Drain, E. M. Hare Arm Reconstruction - Change Order No. 3:

Liston presented his report to the Board for approval.

"May 3, 2023

TO: HAMILTON COUNTY DRAINAGE BOARD

RE: Elwood Wilson E M Hare Reconstruction - Change Order # 3

The following item is an additional to the Elwood Wilson E M Hare Reconstruction contract being done by Morphey Construction.

Change Order # 3 - Water Main Relocation - Will be Billed to Home Depot. Water Main Relocation allowed for Box Culverts to be lowered to new ditch grade.	\$ 292,350.11
Change Order # 1 - Guardian Material Increase for Concrete and Stone	\$ 28,116.31
Change Order # 2 - 37 Test Holes - To Determine Limits and Depth of Sand Across the E M Hare Reconstruction between Pressley Drive and Promise Road. Test holes were dug over a period of 2 days.	\$ 9,926.17
Total Change Order Cost to Date	\$ 330,392.59
Morphey's Contract	\$2,478,000.00
Total 15% Contingency	\$ 371,700.00
Total	\$2,849,700.00
Revised Construction Total to Date	\$2,808,392.59

Submitted By

Jerry L. Liston
Hamilton County Surveyor's Office"

Altman made the motion to approve Change Order No. 3 with an invoice to Home Depot for reimbursement, seconded by Dillinger and approved unanimously.

Hamilton County Drainage Board
May 8, 2023

Construction Updates:

Elwood Wilson Drain, E. M. Hare Arm Reconstruction - Liston stated this work is progressing. I will be meeting with the inspector from Clark Dietz once a week to stay abreast of whatever transpires during the week. We've also requested that whenever a schedule change comes in that Clark Dietz's inspector is included in that so they know that the schedule will be for the following week.

Canal Place Drain, Strongbow Gate Arm - Liston stated everything has been done except the fence replacement that was damaged during the initial prep of the site. I spoke with Agricon this morning and that fence has been shipped and will be installed once received.

William Lehr Drain, Joseph & Brooks Arm (156th Street Reconstruction) - Liston stated we're seeing shop drawings being approved for this project.

2022 Reconstruction of the W. S. Burnau Arm of the F. M. Musselman Drain - Liston stated this work is probably 90% to 95% complete. We've had some issues dealing with the property owners, but we've been able to work through that.

Jonas Rogers Drain, J. M. Gustin Arm Reconstruction - Liston stated our contractor has pretty much finished that work. The road was closed last week, the storm pipe was placed across the road and structures set on each side of the road. This is a first-time contractor and they've done an excellent job for us.

William Lehr Drain, J. S. McCarty Arm Phase 1 - Liston stated we just had the preconstruction meeting last week. The contractor asked for a start date of August 1, 2023.

Duncan stated the contractor has requested a first of August start date. They wanted to give everything a chance to dry out and dryer conditions. We support that.

Elwood Wilson Drain, E. M. Hare Arm Reconstruction (Continued) - Howard asked Liston, did you get the pictures this morning just downstream from Home Depot, the property owner, there's concrete.

Liston stated yes, I did. When I met with Jake Turner with Clark Dietz last Friday we discussed it, he went and told the contractor and they did go over and look at the problem, but they didn't go over and actually do anything with equipment. I did reach back out to Jake this morning and he had been there this morning and he was going to stop back by and make sure that happened.

Howard stated you're following through.

Liston stated yes.

Clara Knotts Drain, Park Broadway Arm Phase 2 - Cline stated the contractor has met with AT&T and hopefully we'll get the lines out of the way and get this started.

Flora Mendenhall Drain Reconstruction - Duncan stated I will continue to work with Connor (Sullivan) and Mike (Howard) on a document that we can approve with the contractor to rescind that construction contract.

Ream Creek Drain, Orchard Park Arm (Pending Asbuilts) - Cline stated we don't have asbuilts for Ream Creek. I contacted Burke today, but I haven't heard back from him.

Clara Knotts Drain, Park Broadway Arm Phase 1 (Pending Final Report) - Cline stated I hope to get started on the final report for this project this week.

Budget & Permit Update:

The Surveyor presented the budget and permit update to the Board for their information. He asked if there were any questions.

There were no questions.

Private Drain Petition - Wright vs Dhani:

Howard asked where are we on this item? We had the hearing and the order. We've sent copies of the order to the attorney. Nothing's happening.

The Surveyor stated I have to get with Gavin (Maxwell) and send a work order out this week.

Howard stated do you have a maintenance contractor to go out and remove it?

The Surveyor stated yes.

Howard stated I put in that order you may want to notify the deputy to be out there with you because I'm sure the lay of the land will not be pleasant.

The Surveyor stated probably going into a hostile environment.

Howard stated prevention is the better part of the cure.

Cool Creek Drain, John Wheeler Arm - IBeach:

Sullivan stated I've been talking to Katie Conner about iBeach and I know that she was getting her bonds taken care of for herself, all construction and I think her engineer. I think Clark talked to her last week about who the bonds names be addressed to. They had it originally in the name of the Hamilton County Drainage Board and I think Clark told them no, it's the Hamilton County Board of Commissioners. Conners is getting that changed by her bond company and that should be in your name. That have not submitted that with the changed name at this point, is that correct?

Clark stated they had emailed me, and I responded, but no.

Howard asked are we going to need a signature on that before they start work?

Sullivan stated we may have to have the Commissioners approve it now that they know. All they did was they had the wrong name, it won't change anything on their end, but we can have the president sign once it's been submitted.

Altman asked but that will be at the Board level, Commissioners?

Sullivan stated yes, I just wanted to update the Board while Clark was here so we could confirm some of this, but once they have that in we'll have it subject to approval by the Board of Commissioners president once that is submitted.

Altman stated if they could do DocuSign.

Sullivan stated if they can get it to us, we can get you via DocuSign.

Altman made the motion to adjourn, seconded by Dillinger and approved unanimously.

Mark Heirbrandt - President

Lynette Mosbaugh
Executive Secretary