

SURVEYOR'S OFFICE
Hamilton County

Kenton C. Ward, Surveyor

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Suite 188

One Hamilton County Square

Noblesville, Indiana 46060-2230

October 5, 2004

TO: Hamilton County Drainage Board

RE: Elliott Creek Drain, Village of West Clay Section 9005

Attached is a petition filed by Brenwick Development along with a non-enforcement request, plans, calculations, quantity summary and assessment roll for the Section 9005 Arm, Village of West Clay, Elliott Creek Drain to be located in Clay Township. I have reviewed the submittals and petition and have found each to be in proper form.

I have made a personal inspection of the land described in the petition. Upon doing so, I believe that the drain is practicable, will improve the public health, benefit a public highway, and be of public utility and that the costs, damages and expenses of the proposed drain will probably be less than the benefits accruing to the owners of land likely to be benefited. The drain will consist of the following:

Open Ditch 1,385 feet

The total length of the drain will be 1,385 feet.

I have reviewed the plans and believe the drain will benefit each lot equally. Therefore, I recommend each lot be assessed equally. I also believe that no damages will result to landowners by the construction of this drain. I recommend a maintenance assessment of \$ 3.00 per acre, \$3.00 per acre for roadways, \$15.00 per lot with a \$15.00 minimum. With this assessment the total annual assessment for this drain/this section will be \$417.82.

The petitioner has submitted surety for the proposed drain at this time. Surety shall be submitted prior to the approval of the Hamilton County Board of Commissioners/commencement of construction. The sureties which are in the form of a Performance Bond are included with the Section 9005 Arm, Village of West Clay Drain file.

Parcels assessed for this drain may be assessed for the Collins-Osborn or Williams Creek Drain at sometime in the future.

I believe this proposed drain meets the requirements for Urban Drain Classification as set out in IC 36-9-27-67 to 69. Therefore, this drain shall be designated as an Urban Drain.

The nature of maintenance work required is as follows:

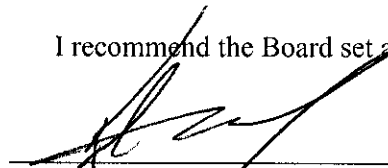
1. Removing debris and obstruction to flowline;
2. Bank erosion protection and/or seeding;
3. Repair of tile outlets;
4. Any other repairs necessary to maintain flow within the ditch.

The frequency with which maintenance work should be performed is annually as required by the condition of the drain.

This portion of the Elliott Creek Drain will include portions of the drain adjoining tract 17-09-28-00-00-017.001, owned by Stephen & Robbin Schneider. The easement along the drain across the Schneider's property shall be 25 feet as measured from the west and south top of bank of the drain.

I recommend that upon approval of the above proposed drain that the Board also approve the attached non-enforcement request. The request is for the reduction of the regulated drain easement to those easement widths as shown on the secondary plat for Village of West Clay Section 9005 as recorded in the office of the Hamilton County Recorder.

I recommend the Board set a hearing for this proposed drain for November 22, 2004.



Kenton C. Ward
Hamilton County Surveyor

KCW/pll

STATE OF INDIANA)
)
COUNTY OF HAMILTON)

TO: HAMILTON COUNTY DRAINAGE BOARD
c/o Hamilton County Surveyor, Courthouse, Noblesville, IN 46060

In the matter of Village of WestClay Subdivision,
Section 9005 Drain Petition.

Petitioner is the owner of all lots in the land affected by the proposed new regulated drain. The drainage will affect various lots in Village of WestClay, a subdivision in Hamilton County, Indiana. The general route of such drainage shall be in existing easements and along public roads as shown in the plans on file in the Surveyor's Office.

Petitioner believes that the cost, damages and expenses of the proposed improvement will be less than the benefits which will result to the owners of the land likely to be benefited thereby. Petitioner believes the proposed improvements will:

- (a) improve public health
- (b) benefit a public street
- (c) be of public utility

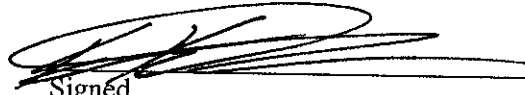
Petitioner agrees to pay the cost of construction of the drainage system and requests periodic maintenance assessments by the Board thereafter.

The Petitioner also agrees to the following:

1. To provide the Drainage Board a Performance Bond for the portion of the drainage system, which will be made a regulated drain. The bond will be in the amount of 100% of the Engineer's estimate. The bond will be in effect until construction of 100% of the system is completed and so certified by the Engineer.
2. The Petitioner shall retain an Engineer throughout the construction phase. At completion of the project, the Petitioner's Engineer shall certify that the drainage system which is to be maintained as a regulated drain has been constructed as per construction plans.

3. The Petitioner agrees to request in writing to the County Surveyor any changes from the approved plan and must receive written authorization from the County Surveyor prior to implementation of the change. All changes shall be documented and given to the Surveyor to be placed in the Drain File.
4. The Petitioner shall instruct his Engineer to provide a reproducible print on a 24" x 36" mylar of the final design of the Drainage System. This shall be submitted to the County Surveyor prior to the release of the Performance Bond.
5. The Petitioner shall comply with the Erosion Control Plan as specified on the construction plans. Failure to comply with the Erosion Control Plan shall be determined by the Board as being an obstruction to the drainage system. The County Surveyor shall immediately install or repair the needed measures at Petitioner's cost as per IC 36-9-27-46.

The Petitioner further requests that the Drain be classified as an Urban Drain.



 Signed

KEVIN KRUEK BRENWICK DEVELOPMENT COMPANY, INC.
 Printed Name AN AGENT TO BRENWICK TWD COMMUNITIES, LLC
 (OWNER)

 Signed

 Printed Name

RECORDED OWNER(S) OF LAND INVOLVED

DATE 3/25/04

FINDINGS AND ORDER
CONCERNING THE MAINTENANCE OF THE
Elliott Creek Drain, Village of West Clay Section 9005 Arm

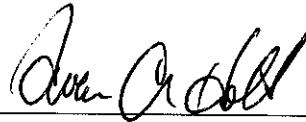
On this *22nd day of November, 2004*, the Hamilton County Drainage Board has held a hearing on the Maintenance Report and Schedule of Assessments of the *Elliott Creek Drain, Village of West Clay Section 9005 Arm*.

Evidence has been heard. Objections were presented and considered. The Board then adopted the original/amended Schedule of Assessments. The Board now finds that the annual maintenance assessment will be less than the benefits to the landowners and issues this order declaring that this Maintenance Fund be established.

HAMILTON COUNTY DRAINAGE BOARD



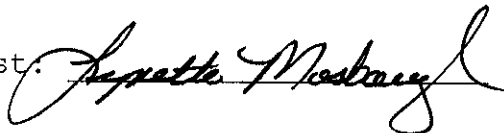
President



Member

Member

Attest.



STATE OF INDIANA)
) ss:
COUNTY OF HAMILTON)

BEFORE THE HAMILTON COUNTY
DRAINAGE BOARD
NOBLESVILLE, INDIANA

IN THE MATTER OF THE
RECONSTRUCTION OF THE
Elliott Creek Drain, Village of West Clay Section 9005

FINDINGS AND ORDER FOR RECONSTRUCTION

The matter of the proposed Reconstruction of the ***Elliott Creek Drain, Village of West Clay Section 9005*** came before the Hamilton County Drainage Board for hearing ***on November 22, 2004*** on the Reconstruction Report consisting of the report and the Schedule of Damages and Assessments. The Board also received and considered the written objection of an owner of certain lands affected by the proposed Reconstruction, said owner being:

Evidence was heard on the Reconstruction Report and on the aforementioned objections.

The Board, having considered the evidence and objections, and, upon motion duly made, seconded and unanimously carried, did find and determine that the costs, damages and expenses of the proposed Reconstruction will be less than the benefits accruing to the owners of all land benefited by the Reconstruction.

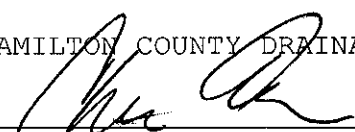
The Board having considered the evidence and objections, upon motion duly made, seconded and unanimously carried, did adopt the Schedule of Assessments as proposed, subject to amendment after inspection of the subject drain as it relates to the lands of any owners which may have been erroneously included or omitted from the Schedule of Assessments.

The Board further finds that it has jurisdiction of these proceedings and that all required notices have been duly given or published as required by law.

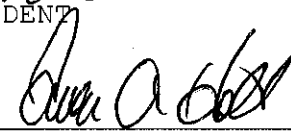
Wherefore, it is ORDERED, that the proposed Reconstruction of the ***Elliott Creek Drain, Village of West Clay Section 9005*** be and is hereby declared established.

Thereafter, the Board made inspection for the purpose of determining whether or not the lands of any owners had been erroneously included or excluded from the Schedule of Assessments. The Board finds on the basis of the reports and findings at this hearing as follows:

HAMILTON COUNTY DRAINAGE BOARD




PRESIDENT



Member

Member

ATTEST.



Executive Secretary

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD
IN THE MATTER OF
Elliott Creek Drain, Village of West Clay Section 9005

NOTICE

To Whom It May Concern and: _____

Notice is hereby given of the hearing of the Hamilton County Drainage Board on the **Elliott Creek Drain, Village of West Clay Section 9005** on **November 22, 2004** at **9:05 A.M.** in Commissioners Court, Hamilton County Judicial Center, One Hamilton County Square, Noblesville, Indiana, and which construction and maintenance reports of the Surveyor and the Schedule of Assessments made by the Drainage Board have been filed and are available for public inspection in the office of the Hamilton County Surveyor.

Hamilton County Drainage Board

Attest: Lynette Mosbaugh

ONE TIME ONLY

BEFORE THE HAMILTON COUNTY DRAINAGE BOARD
IN THE MATTER OF THE

Elliott Creek Drain, Village of West Clay Section 9005 Arm

NOTICE

Notice is hereby given pursuant to Section 405 of the 1965 Indiana Drainage Code that this Board, prior to final adjournment on **November 22, 2004** has issued an order adopting the Schedule of Assessments, filed the same and made public announcement thereof at the hearing and ordered publication. If judicial review of the findings and order of the Board is not requested pursuant to Article Eight of this code within twenty (20) days from the date of this publication, the order shall be conclusive.

Hamilton County Drainage Board

Attest: Lynette Mosbaugh

ONE TIME ONLY