

Withdrawn by petitioner  
and denial requested.  
Ayes: 0, Nays: 0

## ORDINANCE 97-15

### TO AMEND THE PRELIMINARY PLAN FOR A PLANNED UNIT DEVELOPMENT (PUD)

Re: 1599 E. Rhorer Rd.  
(Ken Blackwell, Petitioner)

WHEREAS, the Common Council adopted Ordinance 95-21 which repealed and replaced Title 20 of the Bloomington Municipal Code entitled "Zoning", including the incorporated zoning maps, and repealed Title 21, entitled "Land Use and Development" on May 1, 1995; and

WHEREAS, the Plan Commission has considered this case, PUD-5-97, and recommended that the petitioner, Ken Blackwell, be granted an amendment to the preliminary plan and request that the Common Council consider his petition;

NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE COMMON COUNCIL OF THE CITY OF BLOOMINGTON, MONROE COUNTY, INDIANA, THAT:

SECTION I. Through the authority of IC 36-7-4 that a preliminary plan amendment be approved for 1599 E. Rhorer Road, Bloomington, Indiana. That property is further described as follows:

A Part of the Southwest Quarter of Section 15, Township 8 North, Range 1 West, Monroe County, Indiana, and being more particularly described as follows: **COMMENCING** at the southwest corner of said Southwest Quarter; thence NORTH 89 degrees 46 minutes 14 seconds East 1009.24 feet on the south line of said Southwest Quarter; thence NORTH 11 degrees 47 minutes 54 seconds East 594.48 feet on the east line of a 4.44 acre tract to the northeast corner thereof; thence on the east line of a 5.96 acre tract the following two (2) courses: 1. NORTH 11 degrees 47 minutes 54 seconds East 249.81 feet; thence 2. NORTH 15 degrees 31 minutes 50 seconds West 262.41 feet to the POINT OF BEGINNING; thence on the west line of land of Dunn the following six (6) courses: 1. NORTH 15 degrees 31 minutes 50 seconds West 143.78 feet; thence 2. NORTH 28 degrees 13 minutes 34 seconds West 339.72 feet; thence 3. NORTH 17 degrees 07 minutes 00 seconds East 253.60 feet; thence 4. NORTH 34 degrees 37 minutes 00 seconds East 409.12 feet; thence 5. NORTH 14 degrees 10 minutes 10 seconds East 75.00 feet; thence 6. NORTH 68 degrees 30 minutes 29 seconds East 71.86 feet to the south line of a 7.00 acre tract; thence on said south line SOUTH 89 degrees 40 minutes 10 seconds West 744.52 feet to the east line of Sherwood Oaks II, Section II (Plat Cabinet B, Envelope 362); thence on said east line the following two (2) courses: 1. SOUTH 16 degrees 11 minutes 12 seconds West 129.75 feet; thence 2. SOUTH 45 degrees 05 minutes 20 seconds West 202.53 feet to the east line of Woods Edge (Plat Cabinet B, Envelope 380); thence on said east line the following six (6) courses: 1. SOUTH 40 degrees 47 minutes 10 seconds East 187.02 feet; thence 2. SOUTH 08 degrees 27 minutes 56 seconds East 168.67 feet; thence 3. SOUTH 11 degrees 28 minutes 03 seconds West 86.00 feet; thence 4. SOUTH 21 degrees 03 minutes 21 seconds East 169.63 feet; thence 5. SOUTH 08 degrees 00 minutes 02 seconds East 111.80 feet; thence 6. SOUTH 15 degrees 57 minutes 46 seconds East 189.65 feet; thence leaving said east line NORTH 90 degrees 00 minutes 00 seconds East 472.44 feet to the Point of Beginning, containing 13.38 acres, more or less.

SECTION II. The Preliminary Plan Amendment, as recommended by the Plan Commission, shall be attached and made a part of this ordinance.

SECTION III. This ordinance shall be in full force and effect from and after its passage by the Common Council and approval by the Mayor.

PASSED AND ADOPTED by the Common Council of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
ANTHONY PIZZO, President  
Bloomington Common Council

ATTEST:

\_\_\_\_\_  
PATRICIA WILLIAMS, Clerk  
City of Bloomington

PRESENTED by me to Mayor of the City of Bloomington, Monroe County, Indiana, upon this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
PATRICIA WILLIAMS, Clerk  
City of Bloomington

SIGNED AND APPROVED by me upon this \_\_\_\_\_ day of \_\_\_\_\_, 1997.

\_\_\_\_\_  
JOHN FERNANDEZ, Mayor  
City of Bloomington

SYNOPSIS

This ordinance grants approval of a preliminary plan amendment to allow a “warehouse” storage barn on this 13.38 acre site in the Sherwood II PUD located at 1599 E. Rhorer Road.

\*\*\*\*ORDINANCE CERTIFICATION\*\*\*\*

In accordance with IC 36-7-4-605 I hereby certify that the attached Ordinance Number 97-15 is a true and complete copy of Plan Commission Case Number PUD-5-97 which was given a recommendation of approval by a vote of 9 Ayes, 0 Nays, and 0 Abstentions by the Bloomington City Plan Commission at a public hearing held on April 7, 1997.

Date: April 8, 1997

Donald F. Hastings, Secretary  
Plan Commission

Received by the Common Council Office this \_\_\_\_ day of \_\_\_\_\_, 1997.

Patricia Williams  
Patricia Williams, City Clerk

Appropriation Fiscal Impact  
Ordinance # \_\_\_\_\_ Statement # \_\_\_\_\_ Resolution # \_\_\_\_\_  
Ordinance \_\_\_\_\_

Type of Legislation:

|                 |                |                       |
|-----------------|----------------|-----------------------|
| Appropriation   | End of Program | Penal Ordinance       |
| Budget Transfer | New Program    | Grant Approval        |
| Salary Change   | Bonding        | Administrative Change |
| Zoning Change   | Investments    | Short-Term Borrowing  |
| New Fees        | Annexation     | Other                 |

If the legislation directly affects City funds, the following must be completed by the City Controller:

Cause of Request:

Planned Expenditure \_\_\_\_\_ Emergency \_\_\_\_\_  
Unforeseen Need \_\_\_\_\_ Other \_\_\_\_\_

## Funds Affected by Request:

|                                      |          |          |
|--------------------------------------|----------|----------|
| Fund(s) Affected                     | _____    | _____    |
| Fund Balance as of January 1         | \$ _____ | \$ _____ |
| Revenue to Date                      | _____    | _____    |
| Revenue Expected for Rest of year    | _____    | _____    |
| Appropriations to Date               | _____    | _____    |
| Unappropriated Balance               | _____    | _____    |
| Effect of Proposed Legislation (+/-) | _____    | _____    |
| Projected Balance                    | \$ _____ | \$ _____ |

Signature of Controller\_\_\_\_\_

Will the legislation have a major impact on existing City appropriations, fiscal liability or revenues? Yes \_\_\_\_\_ No \_\_\_\_\_

If the legislation will not have a major fiscal impact, explain briefly the reason for your conclusion.

If the legislation will have a major fiscal impact, explain briefly what the effect on City costs and revenues will be and include factors which could lead to significant additional expenditures in the future. Be as specific as possible. (Continue on second sheet if necessary.)

**To:** Common Council  
**From:** Lynne Friedmeyer  
**Subject:** PUD-5-97  
**Date:** April 8, 1997

## MEMORANDUM

On April 7, 1997, the Bloomington Plan Commission voted to approve a preliminary plan amendment in order to allow the construction of a warehouse "storage barn" on a 13.38 acre lot in the Sherwood II PUD commonly known as "Sherwood Ranch". Preliminary and final plat approval of a three lot subdivision was also approved in order to create the lot for the barn (13.38 acres) and two additional lots.

The Sherwood Ranch PUD was originally approved in 1987 under Case# RS/PUD-55-87. The subject area of 24 acres is the last remaining phase to be developed. Most of this phase is located in the 100 year floodway. Originally, six home sites were approved as part of this phase of the PUD. Since that time, two of the adjacent property owners in Sherwood Estates have purchased the lower floodway near their homes. These parcels, which have been attached to their deeds, are 5.96 acres and 4.44 acres in size. The third parcel, 13.38 acres, is the site of the proposed barn.

Access to the 24 acres is from an existing gravel lane that follows the path of Jackson Creek. This road goes back to a sewer lift station operated by the City of Bloomington Utilities Department. With the lift station site placed on this site, this is not a prime location for single family housing due to the visual impacts and noise of the lift station. The lift station site is surrounded with a chainlink fence; otherwise the 24 acres has been left in its natural state. With little non-floodway land left available, the petitioner is requesting a preliminary plan amendment to allow the construction of a storage barn next to the lift station. No activity would take place in the barn as it would be used to store the petitioner's collection of antique cars. An amendment to the 1987 approval is necessary due to the nonresidential use being proposed. The petitioner has designed the 40' x 60' building to look like a barn (red siding with a cupola). Seven evergreen trees will be placed around the west side of the barn in order to soften the view. The remainder of the 13.38 acres outside of the barn site will be dedicated as a conservancy easement. No other activity or construction will occur on this parcel.

The City of Bloomington Utilities Department and Parks and Recreation Department have been working with the petitioner and the two additional land owners to gain an easement for the southeast sewer interceptor/parkway trail along Jackson Creek. The Utilities Department gained Board of Zoning Appeals conditional use approval on March 20 to place the sewer interceptor within the Jackson Creek floodway.

As part of this request, right-of-way will be dedicated along Rhorer Rd. and sidewalks will be required along this frontage.

The Growth Policies Plan designates this area "Neighborhood Conservation". The Plan's goal in neighborhood conservation areas is to continue land use patterns which are established in existing neighborhoods. The two large remainder lots for the single family homes to the west definitely follow the goals of the GPP. The storage barn use is somewhat in question. However, the area is very rural. If the structure is designed to look like a barn and the area is kept natural in the floodway, this use could be acceptable in the area. A key element of the petition as far as GPP compliance is concerned is the proposed passive use of the barn for storage only. Obviously, a storage building which would house either repair operations or auctions of vehicles would not be considered compatible to surrounding residential land uses. A condition of approval states that there will be no business activities or outdoor storage allowed. All residents of the Sherwood PUD were notified by certified mail concerning this project, and the petitioner held a neighborhood meeting for the adjacent property owners to this site. One neighbor spoke at the Plan Commission hearing and asked that rock and asphalt debris be removed from the site. No concerns over the use were verbalized by neighbors.

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Conditions of approval:

- 1) Seven evergreen trees shall be placed on the west side of the barn to soften the appearance to the neighborhood.
- 2) The storage barn shall be the same architecture as shown and described in the staff report.
- 3) A deed restriction shall be placed on Lot 1 (storage barn lot) stating that the remainder of the parcel shall be a conservancy area.
- 4) No outdoor storage is allowed on Lot 1. Inside storage only is allowed and no business activities shall be allowed.

BLOOMINGTON PLAN COMMISSION  
PRELIMINARY REPORT  
Location: 1599 E. Rhorer Road

CASE NO.: PUD-5-97  
DATE: April 7, 1997

PETITIONER: Name : Ken Blackwell  
Address: 3201 E. Rogers Road

COUNSEL: Name : Smith Neubecker & Assoc., Inc.  
Address: 4625 E. Morningside Dr.

PRELIMINARY HEARING DATE: April 7, 1997  
FINAL HEARING DATE: April 28, 1997

REQUEST: The petitioner is requesting a preliminary plan amendment in order to construct a storage barn on approximately 24 acres in the Sherwood II PUD commonly known as "Sherwood Ranch". Preliminary and final plat approval of a three lot subdivision, with waiver of second hearing, is also requested in order to create the lot for the barn (13.38 acres) and two additional lots. The purpose of the additional two lots is to provide open space for two single family home sites located west of the subject property. A waiver of second hearing has been requested.

SUMMARY REPORT: The Sherwood Ranch PUD was originally approved in 1987 under Case# RS/PUD-55-87. Approximately fourteen acres within this PUD was deeded to the City to create Sherwood Oaks Park (just north of this site). The subject area of 24 acres is the remaining phase to be developed. Most of this phase is located in the 100 year floodway. Originally, six home sites were approved as part of this PUD. Since that time, two of the adjacent property owners in Sherwood Estates have purchased the lower floodway near their homes. These parcels, which have been attached to their deeds, are 5.96 acres and 4.44 acres in size. The third parcel, 13.38 acres, is the site of the proposed barn.

As part of this request, right-of-way will be dedicated along Rhorer Rd. and sidewalks will be required along this frontage unless a variance is approved. Access to the 24 acres is from an existing gravel lane that follows the path of Jackson Creek. This road goes back to a sewer lift station operated by the City of Bloomington Utilities Department. With the lift station site placed on this site, this is not a prime location for single family housing due to the visual impacts and noise of the lift station. The lift station site is surrounded with a chainlink fence; otherwise the 24 acres has been left in its natural state. With little non-floodway land left available, the petitioner is requesting a preliminary plan amendment to

allow the construction of a storage barn next to the lift station. No activity would take place in the barn as it would be used to store the petitioner's collection of antique cars. An amendment to the 1987 approval is necessary due to the nonresidential use being proposed. The petitioner has designed the 40' x 60' building to look like a barn (red siding with a cupola). A rendering has been included in the packet. The remainder of the 24 acres outside of the barn site will be dedicated as a conservancy easement. No other activity or construction will occur on this parcel.

The City of Bloomington Utilities Department and Parks and Recreation Department have been working with the petitioner and the two additional land owners to gain an easement for the southeast sewer interceptor/parkway trail along Jackson Creek. The Utilities Department gained Board of Zoning Appeals conditional use approval on March 20 to place the sewer interceptor within the Jackson Creek floodway.

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**ISSUES:**

**R.O.W. Dedication:** Dedication of 50 feet from the centerline of Rhorer Rd. is required with this subdivision.

**Access:** Access for the proposed storage barn will be from an existing gravel drive that follows the creek. No improvements to this access are necessary due to the low intensity of use being proposed.

**Utilities:** The only utility required for this storage barn is electricity. This service is in place next to the lift station.

**Drainage:** The flow of water in this area is directed into the floodway. The Engineering Department will review the drainage plan at final plan stage. Again, the scope of activity (a 40' x 60' barn) is so low that significant drainage improvements should not be necessary.

**Tree Preservation:** No trees will be removed in the construction of the storage barn. Staff recommends that the petitioner be required to plant evergreen trees on the west side of the barn in order to soften the view of the structure from Sherwood Estates to the west.

**Sidewalks:** Sidewalks are required along the frontage of Rhorer Rd. The gravel drive will remain private and unimproved so no sidewalk is required along its length. Eventually the Parks Department will construct a trail from the Sherwood Oaks Park to Rhorer Rd. This will replace the need for any sidewalk access through the site.

**Growth Policies Plan Compliance:** The Growth Policies Plan designates this area "Neighborhood Conservation". The Plan's goal in neighborhood conservation

areas is to continue land use patterns which are established in existing neighborhoods. The two large remainder lots for the single family homes to the west definitely follow the goals of the GPP. The storage barn use is somewhat in question. However, the area is very rural. If the structure is designed to look like a barn and the area is kept natural in the floodway, this use could be acceptable in the area. A key element of the petition as far as GPP compliance is concerned is the proposed passive use of the barn for storage only. Obviously, a storage building which would house either repair operations or auctions of vehicles would not be considered compatible to surrounding residential land uses. All residents of the Sherwood PUD have been notified by certified mail concerning this project. The petitioner will be holding a neighborhood meeting for the adjacent property owners to this site.

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RECOMMENDATION: Staff recommends approval of this petition with waiver of second hearing, with the following conditions of approval:

- 1) Seven evergreen trees shall be placed on the west side of the barn to soften the appearance to the neighborhood.
- 2) The storage barn shall be the same architecture as shown and described in the staff report.
- 3) A deed restriction shall be placed on Lot 1 (storage barn lot) stating that the remainder of the parcel shall be a conservancy area.



## MEMORANDUM

TO: Don Hastings

FROM: M. Figg, K. Komisarcik, M. Litwin, M.E. Murphy, D. Rollo, M. Wedekind

DATE: April 7, 1997

SUBJECT: PUD-5-97, 1599 E. Rhorer Road  
Request for preliminary plan amendment and preliminary/final plan approval for single family lots, to be known as the Ranch Estates, in the Sherwood II PUD.

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The Planning Subcommittee of the Environmental Commission has reviewed this petition and has the following comments on this proposal.

**FEMA Floodway** Almost this entire site is located in FEMA floodway. The only area that is not in FEMA floodway is where the petitioner is planning to build. The rest of the site that's in FEMA floodway will be placed in a conservancy easement. The Planning Subcommittee supports this.

WITHDRAWN



March 19, 1997

Stephen L. Smith P.E., L.S.  
President

Daniel Neubecker L.A.  
Project Manager

City Plan Commission  
c/o Lynne Friedmeyer  
City of Bloomington Planning Department  
P.O. Box 100  
Bloomington, IN. 47402

RE: Sherwood Ranch

Dear Lynne and Plan Commissioners:

On behalf of our client, Ken Blackwell, we respectfully request an amendment to the Outline Plan of the Sherwood II PUD. We would also like to request primary and final plan approval of our petition with a waiver of second hearing. Additionally we need to request preliminary and final plat approval for three lots in the Sherwood II PUD known as Sherwood Ranch Estates.

The area of the original Sherwood II PUD which we would like to amend is the PUD area that was referred to as the Ranch Estates. Originally, there were 6 lots along Jackson Creek that were to be sold as large residential lots of approximately 5 acres in size. Since the time of the PUD approval, 1 lot was given to the City for the creation of a City Park and 2 lots were transferred by deed to adjoining lots in Sherwood Estates. The 3 lots that remain total approximately 13 acres. The Tower Lift Station is situated near the center of the remaining 13 acre area.

It was assumed that with the construction of the new interceptor sewer to relieve the Tower Lift Station that the lift station building, fencing and appurtenances would be removed and the lots could then be sold for residential use as was originally intended. The new interceptor will be constructed this summer, however, City Utilities has elected to retain the lift station and all of its appurtenances. The only areas on these 3 remaining lots where a residential dwelling could be constructed such that it would be out of the floodway of Jackson Creek is immediately adjacent to the lift station. As can be seen in the attached picture of the facility, construction of a residential dwelling in the vicinity of the station would not be desirable. Therefore, since CBU has elected to retain the Tower Lift Station, these lots are no longer suitable for residential use.

We would like to amend the outline plan to allow the construction of a pole barn for storage on the remaining 3 lots. We feel that this is the only suitable use for the property given the visual encumbrance of the lift station and the physical restriction placed on the property by the floodway. The barn would be located outside of the floodway adjacent to the lift station. The proposed location of the barn would be



City Plan Commission  
c/o Lynne Friedmeyer  
March 19, 1997  
Page two

such that the existing vegetation would screen the barn from the Sherwood Oaks Subdivision.

The barn would be used for storage of personal items such as automobiles, recreational vehicles, boats, lawn equipment and antique machinery. There would be no outside storage nor would there be any storage of commercial vehicles. No business or commercial venture would be operated from the barn. The use is strictly personal. The right to construct a residential dwelling in addition to the barn is not being requested. The right to construct a private storage building is the only request.

A conservancy easement would be placed on the site except for the footprint of the barn such that no other structures could be built on the property. We would reserve the right to use the area in conservancy agriculturally.

Access to the barn would be provided via the existing gravel access road to the Tower Lift Station. The drive will not be paved nor will it be widened. It is currently gated such that access to the Tower Lift Station is limited to CBU and Ken Blackwell. Once the barn has been constructed, the drive will continue to have a gated access which will be limited to CBU and the owner of the barn.

An area adjacent to Jackson Creek, 30' in width is currently being negotiated for use by the City for the construction of the proposed City Greenway and Pedestrian Path.

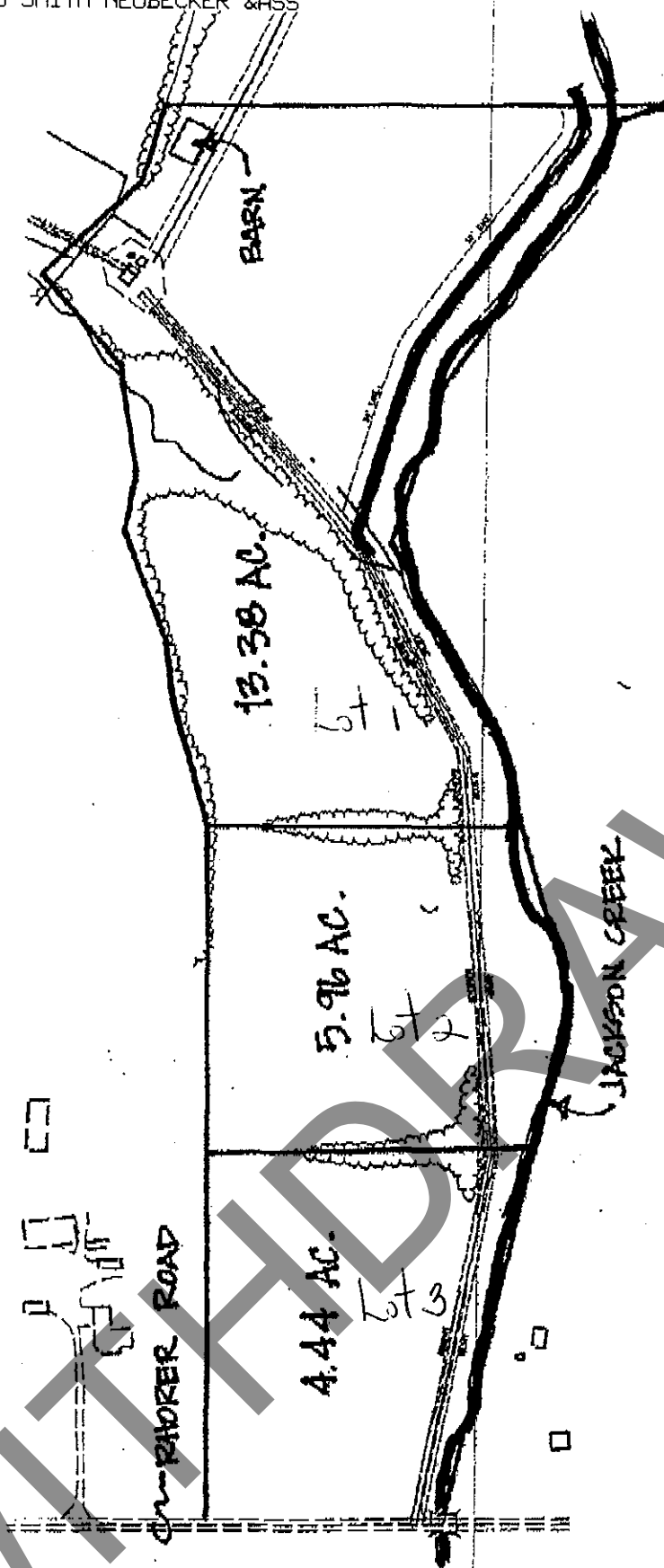
A plan of the area, the application form and fees, an 8.5" x 11" reduction of the area, a picture of the Tower Lift Station and a sketch of the pole barn are included with this letter. Proof of certified mailing will be provided prior to the hearing.

Sincerely,

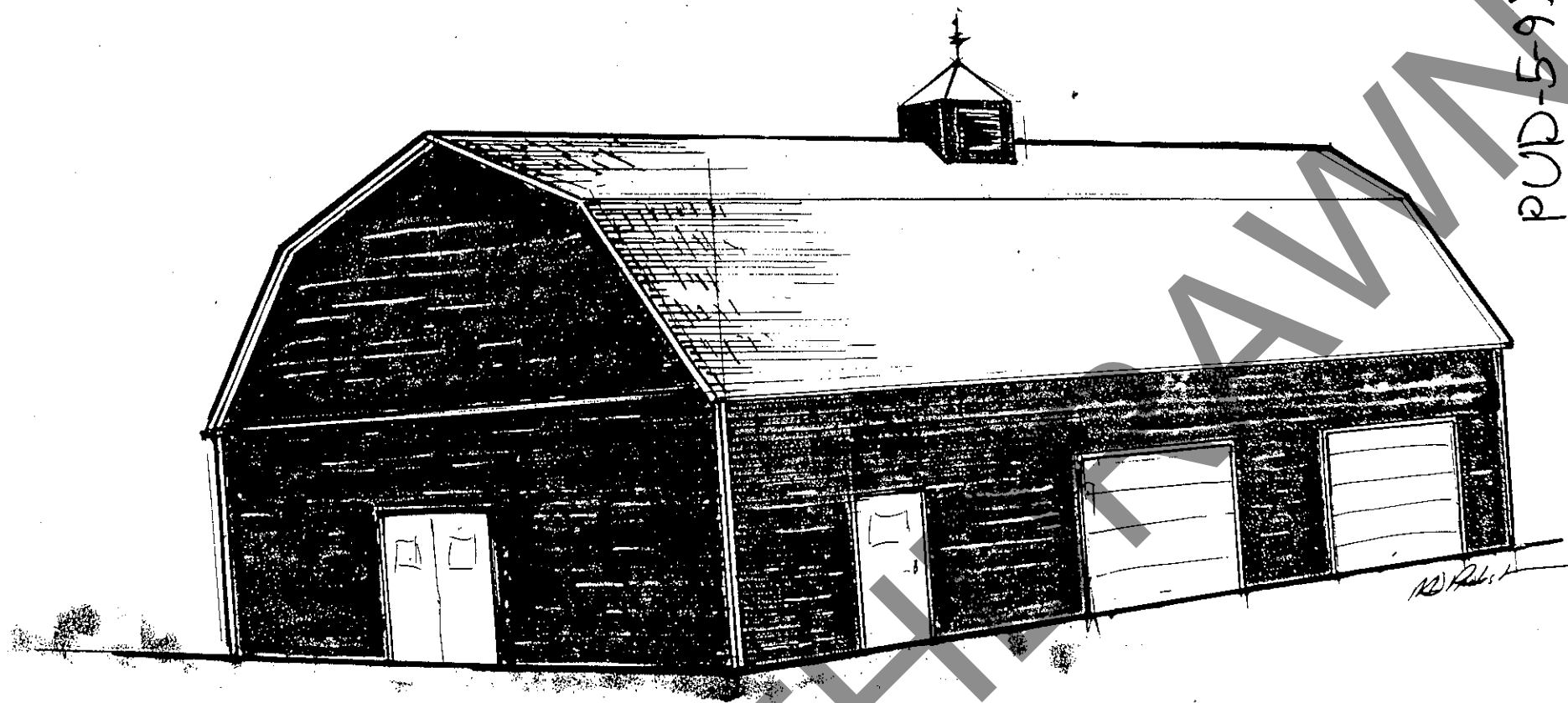
A handwritten signature in black ink, appearing to read 'Steve A. Brehob', followed by a horizontal line.

Steve A. Brehob  
SMITH NEUBECKER & ASSOCIATES, INC.

cc: 2550 file  
Ken Blackwell



PUD-5-97  
Subdivision  
Layout 17



PUD-5-97  
Barn Elevation  
19

*W. R. R. R.*



May 7, 1997

Stephen L. Smith P.E., L.S.  
*President*

Daniel Neubecker L.A.  
*Project Manager*

City of Bloomington Council Members  
c/o Lynne Friedmeyer  
P.O. Box 100  
Bloomington IN 47402

RE: Sherwood Ranch Estates

Dear Council Members:

On behalf of our client, Ken Blackwell, we ask that you deny the Sherwood Ranch Estates petition. The petitioner is no longer interested in pursuing the amendment.

Thank you for your time.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Steve A. Brehob', written over a large, diagonal, semi-transparent watermark that says 'WITHDRAWN'.

Steve Brehob  
Smith Neubecker & Associates, Inc.

cc: file 2550