

**MINUTES
DEKALB COUNTY PLAN COMMISSION
Wednesday, February 21, 2018**

The Regular Meeting of the DeKalb County Plan Commission was called to order at 7:00 P.M. in the DeKalb County Commissioner's Court by President Tim Griffin.

ROLL CALL:

Members Present: Tim Griffin, Sandra Harrison, Bill Van Wye, Jerry Yoder, Randall Deetz and Sarah Delbecq

Members Absent: Mike Kline, Frank Pulver, Elysia Rodgers

Staff Present: Plan Commission Attorney David Kruse, Director/Zoning Administrator Chris Gaumer, Assistant Director Dawn Mason & Secretary Caeli Hixson

Community Representatives Present: None

Public in Attendance: Charity Wisel, Rich Wisel, John Buchs, Lana Buchs, Nate Young, Taryn Young, Jeff Barkhaus, Cam Moore, Mary Moore, Orval Wallace, Joan Wallace, Jerry Teders, Brad Stump, Russ Couchman

The Pledge of Allegiance was led by the President.

ELECTION OF OFFICERS:

Motion was made by Randall Deetz to retain the current slate of officers. Tim Griffin as President, Bill Van Wye as Vice President and Caeli Hixson as Secretary. Seconded by Jerry Yoder. Motion carried.

CITY/TOWN REPRESENTATIVES:

Motion was made by Randall Deetz that Bill Van Wye be the Town Representative for the Town of Ashley. Seconded by Sandra Harrison. Motion carried.

Motion was made by Bill Van Wye to retain the current slate of City/Town Representatives. Randall Deetz for the Cities of Butler and Waterloo, Frank Pulver for the City of Garrett, Tim Griffin for the City of Auburn and Sandra Harrison for the Town of Hamilton. Seconded by Sarah Delbecq. Motion carried.

BZA MEMBER APPOINTMENT FROM PLAN COMMISSION:

Motion was made by Bill Van Wye to retain Tim Griffin as the Plan Commission appointed member for BZA. Seconded by Randall Deetz. Motion carried.

APPROVAL OF MINUTES:

Motion was made by Sandra Harrison and seconded by Bill Van Wye to approve the December 20, 2017 minutes. Motion carried.

CONSIDERATION OF CLAIMS:

Motion was made by Sarah Delbecq and seconded by Sandra Harrison to accept the December 2017 and January 2018 claims as presented for \$24,125.03. Motion carried.

OLD BUSINESS:

None

NEW BUSINESS:

A public hearing was conducted pursuant to proper legal notice.

Petition #18-01 - Jeff Barkhaus, who is also representing Orval & Joan Wallace, Cameron & Mary Moore, Sheila Cole and James Leslie, who are all requesting a Zone Map Amendment from AP2 & AP3 to A2, Agricultural. The properties are located at 6221 County Road 427; 6247 County Road 427; 6479 County Road 427; 6493 County Road 427 & 2471 County Road 64 all of Auburn, Indiana.

Zoning Administrator Chris Gaumer read the report and gave a brief summary of the existing zoning in that location. He stated that the area in question was rezoned in 2009.

Mr. Griffin asked if there were any questions from staff.

Mrs. Delbecq asked if all the houses were there in 2009. Mr. Gaumer said that they were.

Mr. Gaumer said that the change in zoning in 2009 was due to the new UDO that came into effect. At that time, State law only required notification in the newspaper and not individual notification.

Mr. Barkhaus said that the rezone was brought to light because he purchased a house located on CR 64 and he went to apply for a permit and it was denied because of the zoning. He said he approached the residents on CR 64 and CR 427 to see if they knew of the zoning change. He said no one was aware. Those residents would also like for their properties to be rezoned back to A2. Jeff agreed to include them and represent them in his petition.

Mr. Van Wye asked if the zoning affected his loan or just the permit for the add-on.

Mr. Barkhaus said that he was denied the equity line for commercial use which was the loan for the add-on because it's not zoned residential.

Mr. Griffin asked if there were anyone in the audience that would like to speak for the rezone.

Cameron Moore said that he has lived on CR 427 for 35 years and that he would like his property to be put back to residential like it was when he purchased it.

Russ Couchman, DeKalb County Airport Authority, wanted to alleviate concern about the zoning on the South three properties. He said they were changed because the airport was being forced to look at a cross-wind runway however, that is no longer so those properties are no longer in an area the airport wishes to protect. In regards to the two properties to the North they would prefer not to change the zoning unless there were a compelling reason to do so.

Mr. Deetz asked if the two North properties were on the master plan to purchase.

Mr. Couchman said they were not.

Mr. Deetz said that he almost looks at it as a little bit of a taking if they don't allow the rezone of the North two properties if it is not on the airports master plan to purchase. He would like those houses to have the opportunity to go on the open market with the residential zoning. It would be different if they were a part of the master plan to purchase.

Orval Wallace said that he has lived on CR 427 since 1964 and that he was never notified of the zone change. He feels that it was underhanded.

Brad Stump, consultant for the DeKalb County Airport Authority, said that State Law recognizes that there is no way to send individual notice to every land owner in the district of a rezone. He recommends that using the issue of not being able to get a loan due to the zoning for findings of fact isn't as important of a reason as the fact that its non-conforming since there are some houses

that have been purchased since 2009 that have mortgages. Mr. Stump asked why the residential property immediately North of the two properties along CR 427 was not included in this petition. Mr. Gaumer stated that if he wasn't a part of the application he wasn't brought forward. He would look at it more in depth if this was a staff initiated rezone but it would take a significant amount of time and Mr. Barkhaus did not want to wait and under State Law they are allowed to come forward on their own.

Mrs. Delbecq asked if the airport owned property around the two properties to the North.

Mr. Stump said that they own all the property around them except on the very North edge.

Mr. Barkhaus said that he did not want to do a staff initiated rezone. He went door to door asking the property owners by himself. He said that he did approach the gentleman that Mr. Stump was referring to twice and that both times he never answered the door and that is why he didn't get added to the application. He said that he decided that trying to contact all residents along CR 60 was too big for him so he decided to just leave it with the 5 he had.

Mr. Gaumer said that there was a letter in the packet that all owner's included in this petition had signed.

Mr. Gaumer asked if the Board would like to vote on all the properties together or separate.

Mr. Deetz said that if the airport or another commercial industry would like to purchase any of these properties should they become available that it would just be another application for rezone to change it back.

Mrs. Delbecq asked if the airport would be notified as part of the approval process if these properties did request a permit or did anything to these properties.

Mr. Gaumer said yes, if required.

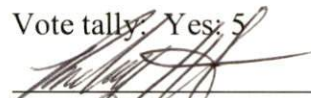
Mr. Griffin asked if there were any other questions.

There were none.

Mr. Griffin closed the public hearing.

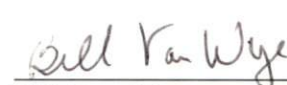
Motion was made by Randall Deetz to vote on the properties all together as one petition as they were brought forth and not to distinguish between North and South. Seconded by Jerry Yoder.

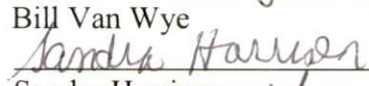
Vote tally: Yes: 5 No: 1 (Bill Van Wye)


Randall Deetz


Sarah Delbecq


Jerry Yoder


Bill Van Wye


Sandra Harrison


Tim Griffin

JURISDICTIONAL FINDINGS:

1. The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application completed and filed on **1/11/18**
2. Legal notice published in The Star on **2/9/18**
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Report from the County Board of Health, dated **1/15/18**
5. Report from the County Highway Department, dated **1/25/18**
6. Report from the DeKalb County Soil & Water Conservation District **1/24/18**

7. Report from the County Surveyor or Drainage Board, dated **1/25/18**
8. Report from the DeKalb County Airport Authority, dated **1/23/18**
9. Rezoning for described property from AP2 & AP3 to A2.

UDO & STATUTORY MATTERS TO CONSIDER:

1. Is the change in zoning in harmony with the Comprehensive Plan?

Yes No

The subject site has a Future Land Use (FLU) designation of Aviation Compatible Use Area and DeKalb County Airport. The proposed zoning district is compatible with this FLU designation as other Agricultural, A2, districts fall within the FLU Designation.

2. Do the current conditions and the character of current structures and uses in each district adapt to the proposed zoning?

Yes No

The existing development in the area is residential in nature. There are single family residences to the north, south and west while the property to the east is owned by the DeKalb County Airport Authority. Should these properties ever be bought or obtained by the airport or other commercial entity, they can petition the Plan Commission for a Zone Map Amendment for commercial or industrial development.

3. Is the change in zoning consistent with the most desirable use for which the land in each zoning district is adapted?

Yes No

The most desirable use for this property is residential in nature with the types of uses permitted in the A2, Agricultural zoning district. Changes in airport operations could cause a change in circumstances in the future.

4. Will the change in zoning help with the conservation of property values throughout the jurisdiction?

Yes No

The property values of the area shouldn't be disturbed negatively considering the zoning of the property will be in harmony with the adjacent properties.

5. Does the change in zoning promote responsible growth and development?

Yes No

In changing the zoning of these properties to A2, Agricultural, the Plan Commission will be eliminating the possibility of incompatible uses being next to each other, which protects the residential property owners from possible negative impacts with incompatible uses. Also, the rezone gives relief to property owners for non-conforming statuses.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION, THAT THIS REZONE, PETITION # 18-01, IS HEREBY CERTIFYING A FAVORABLE

RECOMMENDATION TO THE COUNTY COMMISSIONERS ON THIS 21st DAY OF FEBRUARY, 2018.

Randall Deetz made motion to approve Petition #18-01, seconded by Jerry Yoder.

Vote tally: Yes: 6 No:

Randall Deetz

Sandra Harrison

Jerry Yoder

Bill Van Wye

Sarah Delbecq

Tim Griffin

Petition #18-02 - John & Lana Buchs requesting a 1 lot subdivision. The property is located at the intersection of County Road 39 and State Road 427, Waterloo, Indiana and is zoned A2, Agricultural.

Mrs. Mason read the report and gave a brief description of the split.

Mr. Griffin asked if there were any questions for staff.

There were none.

Jerry Teders, representing John and Lana Buchs, said they were seeking approval for a 1 lot subdivision for their daughter and son-in-law to build a home.

Mr. Deetz asked if the net acreage shown was deducting out all the easements and right of ways.

Mr. Teders said yes.

Mr. Gaumer stated that the Planning Department's requirements now reflect the Health Department in that they require a minimum of 2 acres minus any recorded easements and right of way.

Mr. Griffin asked if there were any more questions.

There were none.

Mr. Griffin closed the public hearing.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application completed and filed on **11/15/17**
2. Legal notice published in The Star on **1/31/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter from the County Board of Health, dated **1/3/18**
5. Letter from the County Highway Department, dated **11/15/17**
6. Report from the DeKalb County Soil & Water Conservation District **11/16/17**
7. Letter from the County Surveyor or Drainage Board, dated **11/17/17**
8. Airport Board report, if applicable **N/A**
9. Plat prepared by **Tri-County Land Surveying P.C.**
10. The real estate being developed is in Zoning District **A2** which permits the requested development.

FINDINGS OF FACT - UDO REQUIREMENTS:**1. Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?**

Yes, the minor subdivision will be used for residential purposes, which is compatible to the existing and adjacent land use.

2. Does the Minor Subdivision conform to the following UDO standards:

- a) Minimum width, depth & areal of lot(s)
- b) Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. Adequate access off CR 39/ SR427.
- c) The extension of water, sewer & other municipal services, if applicable or required. Or private septic system and water _____ private _____.
- d) The allocation of areas to be used as public ways, parks, and schools, public and semipublic building, homes, businesses, and utilities, if applicable or required.

Yes, all applicable standards conform to the UDO requirements.

CONDITIONS OF APPROVAL:**STANDARD CONDITIONS TO BE RECORDED ON OR WITH THE PLAT:**

- a. This lot shall be included in any subdivision arising from any further development of the land involved. However, there is no intention that any terms, conditions or restrictions on a future plat would have any retroactive applicability to this division of land.
- b. There shall be compliance with the laws and regulations of any Federal, State, or local agency.
- c. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate shall be obstructed by any development on this site. The Plan Commission may enforce these conditions by injunctive relief with attorney fees.
- d. The appropriate agricultural covenants shall be on the plat.
- e. The appropriate drainage covenants shall be on the plat.

CONDITIONS THAT WILL NOT BE RECORDED BUT MUST BE MET:

- 1. Comply with the Staff Report.
- 2. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
- 3. Comply with any floodplain management ordinance.
- 4. Comply with any wetland laws and regulations where applicable.
- 5. Provide covenant if needed for compliance with Airport Board requirements.

6. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO ADOPT SAID FINDINGS AND THAT THIS MINOR SUBDIVISION PETITION #18-02, IS HEREBY GRANTED PRIMARY AND SECONDARY PLAT APPROVAL ON THIS 21st DAY OF FEBRUARY, 2018.

Bill Van Wye made motion to approve Petition #18-02, seconded by Jerry Yoder.

Vote tally: Yes: 6

No:

Randall Deetz

Sandra Harrison

Jerry Yoder

Bill Van Wye

Sarah Delbecq

Tim Griffin

Petition #18-03 - Richard & Charity Wisel requesting to vacate a subdivision known as Wisel's Estate Lot 1. The property is located on County Road 48 and East of County Road 3, Garrett, Indiana and is zoned A2, Agricultural.

Mrs. Mason read the report.

Mr. Griffin asked if there were any questions for staff.

There were none.

Mr. Teders, representing Richard and Charity Wisel, said they are seeking approval of the vacation of this plat so that they can replat it and add an additional building lot.

Mr. Griffin asked if there were any questions from the audience.

There were none.

Mr. Griffin closed the public hearing.

JURISDICTIONAL FINDINGS:

1. The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application completed and filed on **1/5/18**
2. Legal notice published in The Star on **1/31/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff and notice to each land owner in the Plat being vacated. YES
4. Letter from the County Board of Health, dated **1/15/18**
5. Letter from the County Highway Department, dated **1/12/18**
6. Report from the DeKalb County Soil & Water Conservation District **1/12/18**
7. Letter from the County Surveyor or Drainage Board, dated **N/A**

8. Pursuant to I.C. 36-7-4-711 the Plan Commission has exclusive control over vacation of Plats or parts of Plats. Provided the County Commissioner's approval is also needed for vacation of public ways, streets or alleys. See I.C. 36-7-3-12.
9. The Zoning District is A2: Agricultural
10. Is the vacation in harmony with the Comprehensive Plan of the County? YES
11. Has the petition met the following requirements as stated in the UDO 9.25 F.2.(a) (b) & (c) and I.C.36-7-4-711(b):
 - Properly stated the reasons for and the circumstances prompting the request:
Yes x No
 - Specifically described the property in the plat proposed to be vacated:
Yes x No
 - Given the name and address of every other owner of land in the plat:
Yes x No
 - What covenants of record does Petition seek to vacate [I.C. 36-7-4-711(c)]?
All recorded with original plat.
 - Have all land owners of the Plat been given an opportunity to comment [I.C. 36-7-4-711 (e)]?
Yes x No

FINDINGS OF FACT (UDO SECTION 9.25 H(4)(A) & IC 37-7-4-711(F) (1-3)

- 1. Have conditions in the platted area been changed so as to defeat the original purpose of the plat?**

Yes, the vacation of the original platted lot will help clean up property lines with the following request for a new 2 lot minor subdivision.

- 2. Is it in the public interest to vacation all or part of the plat?**

Yes, the vacation will allow for a more suitable layout for the existing structures and a future buildable lot if approved.

- 3. The value of the land in the plat not owned by the Petitioner will not be diminished by the vacation:**

The entire platted subdivision is solely owned by the petitioner.

In event of a protest, the remonstrator, needs to show evidence of the following grounds in UDO Article 9.25 H(3)

- a. The vacation will not hinder the growth or orderly development of the unit or neighborhood in which it is location or which it is contiguous. UDO Article 9.25 (H)
- b. The vacation will not make access to the lands of the aggrieved person by means of public way difficult or inconvenient. UDO Article 9.25 (H)
- c. The vacation will not hinder the public access to a Church, School or other Public Building or Place. UDO Article 9.25 (H)
- d. The vacation will not hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous. UDO Article 9.25 (H)

RECITAL - RECORDATION:

1. According to the UDO, a copy of this decision shall be filed with the DeKalb County Recorder's Office so that the Plat Vacation is made of record. The instrument for recording shall be approved by the County Attorney. Recordation to be done within sixty (60) days of when the Zoning Administrator deems any applicable conditions have been met.
2. Zoning Administrator will determine when conditions are met before recording of plat.

IT IS THEREFORE, THE DECISION OF THE PLAN COMMISSION TO ADOPT SAID FINDINGS AND THAT PLAT VACATION #18-03 FOR WISEL'S ESTATE IS APPROVED ON THIS 21ST DAY OF FEBRUARY, 2018.

Sandra Harrison made motion to approve Petition #18-03, seconded by Sarah Delbecq.

Vote tally: Yes: 6 No:


Randall Deetz


Sandra Harrison


Jerry Yoder


Bill Van Wye


Sarah Delbecq


Tim Griffin

Petition #18-04 - Richard & Charity Wisel requesting a 2 lot minor subdivision. The property is located on County Road 48 and East of County Road 3, Garrett, Indiana and is zoned A2, Agricultural.

Mrs. Mason read the report.

Mr. Griffin asked if there were any questions for staff.

Mrs. Delbecq asked if there was still a parent tract.

Mrs. Mason said that it will revert back to its original parent parcel and no new numbers would be created.

Mr. Teders said that the Wisel's were seeking approval of their 2 lot subdivision.

Mr. Griffin asked if there were any questions from the audience.

There were none.

Mr. Griffin closed the public hearing.

JURISDICTIONAL FINDINGS:

The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.

1. Application completed and filed on **1/5/18**
2. Legal notice published in The Star on **1/31/18** and affidavit given to staff.
3. Certificate of mailing notices sent and receipts given to staff. **YES**
4. Letter form the County Board of Health, dated **1/15/18**
5. Letter from the County Highway Department, dated **1/12/18**
6. Report from the DeKalb County Soil & Conservation District **1/12/18**
7. Letter from the County Surveyor or Drainage Board, dated **1/8/18**
8. Airport Board report, if applicable **N/A**

9. Plat prepared by **Tri-County Land Surveying**
10. The real estate being developed is in Zoning District **A2: Agricultural** which permits the requested development.

FINDINGS OF FACT - UDO REQUIREMENTS:

1. **Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?**

Yes, the minor subdivision will be used for residential purposes, which is compatible to the existing and adjacent land use.

2. **Does the Minor Subdivision conform to the following UDO standards:**

- a) Minimum width, depth & areal of lot(s)
- b) Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. Adequate access off CR 48.
- c) The extension of water, sewer & other municipal services, if applicable or required. Or private septic system and water private.
- d) The allocation of areas to be used as public ways, parks, and schools, public and semipublic building, homes, businesses, and utilities, if applicable or required.

Yes, all applicable standards conform to the UDO requirements.

CONDITIONS OF APPROVAL:

STANDARD CONDITIONS TO BE RECORDED ON OR WITH THE PLAT:

- a) This lot shall be included in any subdivision arising from any further development of the land involved. However, there is no intention that any terms, conditions or restrictions on a future plat would have any retroactive applicability to this division of land.
- b) There shall be compliance with the laws and regulations of any Federal, State, or local agency.
- c) No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate shall be obstructed by any development on this site. The Plan Commission may enforce these conditions by injunctive relief with attorney fees.
- d) The appropriate agricultural covenants shall be on the plat.
- e) The appropriate drainage covenants shall be on the plat.

CONDITIONS THAT WILL NOT BE RECORDED BUT MUST BE MET:

1. Comply with the Staff Report.
2. Comply with any applicable Environmental Standards as required in Article 5, 5.11; EN-01, in the Unified Development Ordinance.
3. Comply with any floodplain management ordinance.
4. Comply with any wetland laws and regulations where applicable.

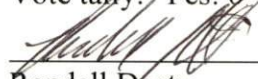


5. Provide covenant if needed for compliance with Airport Board requirements.
6. No Certificate of Occupancy or Certificate of Completion shall be issued until the applicant files written evidence of compliance with any conditions of the DeKalb County Board of Health, DeKalb County Highway Dept., DeKalb County Drainage Board or DeKalb County Surveyor, DeKalb County Airport, DeKalb County Soil & Water Conservation, or other agency as applicable. And further, where applicable, file written evidence of compliance with Federal or State agencies where identified in the findings or conditions. The Zoning Administrator to determine when conditions have been met.
7. The existing structure will remain and be used as an accessory frame shed. This structure cannot be rebuilt/expanded or used for residential purposes without prior approval from the Board of Zoning Appeals.

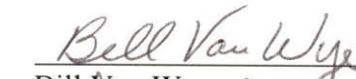
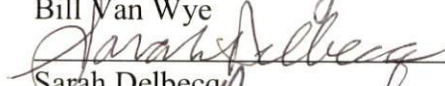
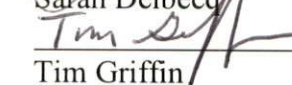
IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO ADOPT SAID FINDINGS AND THAT THIS MINOR SUBDIVISION PETITION #18-04, IS HEREBY GRANTED PRIMARY AND SECONDARY PLAT APPROVAL ON THIS 21st DAY OF FEBRUARY, 2018.

Randall Deetz made motion to approve Petition #18-04, seconded by Bill Van Wye.

Vote tally: Yes: 6

No:


 Randall Deetz

 Sandra Harrison

 Jerry Yoder


 Bill Van Wye

 Sarah Delbecq

 Tim Griffin

REPORTS FROM OFFICERS, COMMITTEES, AND STAFF OR TOWN/CITY LIAISONS:

Chris Gaumer introduced Senate Bill #66 for discussion. Sarah Delbecq said this was not passed and is a dead bill as of now.

Chris Gaumer presented the 2017 Year End Report.

Sandra Harrison reported that Hamilton approved the tiny homes for the campgrounds.

Randall Deetz reported that Butler School District is building a new bus facility. He also said that Waterloo approved for a new store on the SW intersection of Wayne St. and Union.

Tim Griffin reported that Auburn is working on their UDO.

There being no further business to come before the Plan Commission, the meeting was adjourned at 8:36 p.m.


 Timothy B. Griffin, President


 Bill Van Wye, Vice President