

DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

301 S. Union St., Auburn IN 46706

Planning: 260.925.1923 • Building: 260.925.3021 • GIS: 260.927.2356 • Fax: 260.927.4791

AGENDA

DeKalb County Plan Commission

Commissioners Court – 2nd Floor DeKalb County Court House

Wednesday, February 21, 2024

7:00 PM

To view the livestream, click here: <https://tinyurl.com/YouTubeDCPC>

1. Roll call
2. Pledge of Allegiance
3. Prayer
4. Approval of Minutes: January 17, 2024
5. Consideration of Claims: January 2024

Payroll	\$22,186.05
Verizon	\$153.72
Mileage- Jeff Martin	\$170.00
Building Inspections	\$405.00
Amazon – office supplies	\$141.15
USPS – stamps	\$66.00
WestWood Car Wash	\$20.00
TOTAL:	\$23,141.92

6. Old Business: None
7. New Business:

Petition #24-02 - Text Amendments to the Unified Development Ordinance to include revisions, additions and/or deletions to Article 11: Definitions for Accessory Building or Structure; Abandonment of Use; Legal Nonconforming Building or Structure

Petition #24-03 - Text Amendments to the Unified Development Ordinance to include revisions, additions and/or deletions to Article 8: Nonconforming Lots, Structures & Uses and Article 11: Definitions for Abandonment of Use; Legal Nonconforming Building or Structure; Legal Nonconforming Lot of Record; Legal Nonconforming Sign; Legal Nonconforming Use

Discussion of 2027 Comprehensive Plan

- 2027 Comprehensive Plan Information & Schedule
- Request for Proposals/ Qualifications: Contract with Hometown Initiatives LLC

8. Reports from Officers, Committees, Staff or Town/City Liaisons
 - 2024 Membership List
 - 2023 Year End Report
9. Comments from Public in Attendance
10. Adjournment

Next Meeting: March 20, 2024

**If you cannot attend, please contact Meredith Reith
mreith@co.dekalb.in.us | (260) 925-1923**

***PLEASE ENTER THROUGH THE NORTH DOOR OF
COURTHOUSE LOCATED ON SEVENTH STREET.**

****No cellphones, tablets, laptops, or weapons are permitted.**

MINUTES
DEKALB COUNTY PLAN COMMISSION
Wednesday January 17, 2024

The Regular Meeting of the DeKalb County Plan Commission was called to order at 8:36 a.m. in the DeKalb County Commissioner's Courtroom by Plan Commission President, Jason Carnahan

ROLL CALL:

Members Present: Jason Carnahan, Bill Van Wye, Angie Holt, Frank Pulver, Sandy Harrison, Suzanne Davis, Bill Hartman

Members Absent: Glenn Crawford and Elysia Rodgers

Staff Present: Plan Commission Attorney Andrew Kruse, Director/Zoning Administrator Chris Gaumer, and Secretary Meredith Reith

Community Representatives Present: Mike Makarewich (Auburn)

Public in Attendance: Andrew Provines and Kellen Deulley

PLEDGE OF ALLEGIANCE:

Jason Carnahan led The Pledge of Allegiance

PRAYER:

No one led in prayer.

ELECTION OF OFFICERS:

Motion made by Frank Pulver to nominate Jason Carnahan as President with Suzanne Davis seconding the motion. Bill Hartman then motioned to close the nominations. Seconded by Bill Van Wye. None opposed. Motion carried.

Jason Carnahan continued to preside over the meeting.

Motion made by Sandy Harrison to nominate Bill Van Wye as Vice-President with Angie Holt seconding the motion. Frank Pulver motioned to close nominations. Seconded by Sandy Harrison. None opposed. Motion carried.

Motion made by Suzanne Davis to appoint Meredith Reith as Secretary with Bill Hartman seconding the motion. Bill Van Wye motioned to close nominations. Seconded by Jason Carnahan. None opposed. Motion carried.

CITY AND TOWN REPRESENTATIVES:

Mr. Gaumer stated that we need members to volunteer to be community representatives.

Sandy Harrison – Hamilton and Butler

Frank Pulver/ Bill Hartman – Garrett

Bill Van Wye – Ashley

Suzanne Davis– Auburn

Angie Holt– Waterloo

Ms. Holt motioned to approve the appointments seconded by Mr. Hartman. None opposed. Motion carried.

BOARD OF ZONING APPEALS APPOINTMENT:

Mrs. Holt nominated Mr. Carnahan as the Plan Commission member of Board of Zoning Appeals. Mrs. Davis seconded the motion.

By a unanimous vote Mr. Carnahan was appointed the Plan Commission member of Board of Zoning Appeals. None opposed. Motion carried.

Mr. Gaumer clarified that the alternate can only be used in case of conflict or absence. Can't be alternate for any other Board of Zoning Appeals member.

Mr. Van Wye nominated Mrs. Holt as the alternate for Jason Carnahan. Mr. Hartman seconded the motion.

By a unanimous vote Mrs. Holt was appointed the Plan Commission alternate member of Board of Zoning Appeals. None opposed. Motion carried.

PLAT COMMITTEE APPOINTMENTS:

Mr. Gaumer mentioned there must be a minimum of 3 to hold a meeting. He would like to have five members in case two cannot attend. He quickly summarized what the Plat Committee does.

By unanimous vote, Plan Commission members Sandy Harrison, Elysia Rodgers, Jason Carnahan, Frank Pulver, and Suzanne Davis volunteered to be on the Plat Committee. None opposed.

APPROVAL OF MINUTES:

Motioned by Mr. Van Wye to approve the December 20, 2023 meeting minutes as amended.

Seconded by Mrs. Davis. None opposed. Motion carried.

Mr. Hartman and Mrs. Harrison abstained from their vote.

CONSIDERATION OF CLAIMS:

Jason Carnahan inquired about any comments, questions, or motions to approve December 2023 claims, totaling \$29,207.09.

Mrs. Holt motioned to approve with a second from Mr. Pulver. None opposed. Motion carried.

Mr. Kruse had a question about the GIS software in the claims.

OLD BUSINESS:

None.

NEW BUSINESS:

Discussion of UDO Amendments:

- Definition of Accessory Building or Structure
- Non-Conforming Lots, Structures & Uses

Mr. Gaumer reviewed the proposed amendments to the UDO. Stating exemptions for what can be added to an accessory structure for sanitary purposes but is not designed for human occupancy as a dwelling.

Mr. Gaumer wanted to clarify exemptions to the accessory structure setback requirements.

Mrs. Holt asked if there were any items on this list that he debated on adding.

Mr. Gaumer added as much information that was exempt stating some will be similar. Letting the members know if they have other exemptions to add before the next meeting.

Mr. Gaumer explained that the non-conforming lots, structures & uses were adopted before the amended ordinance in 2009. Clarified what abandonment of use means by adding text in the ordinance.

Mr. Kruse requested to add more text to the abandonment of use to help further clarify why.

Mr. Gaumer went over what illegal nonconforming and legal nonconforming. Adding language to change it from illegal nonconforming to legal nonconforming after several years. Wanting to have discussion on how long the time should be.

Mr. Makarewich questioned what if someone challenged their neighbor on the number of years, they did business in the county.

Mr. Kruse replied it would be allowed and enforced, not seeing a reason why it wouldn't. Being it was illegal prior to date, you will be granted permission unless lied about. Adding that if a neighbor was sitting on their rights not enforcing them it's a defiance of the law.

Mrs. Davis questioned, since the current UDO was adopted in 2009 it has been 15 years since then. Would it be better to go for 15 years instead of 20?

Mr. Gaumer stated he really didn't know what seemed appropriate for the number of years needed. Asking the members if they had any ideas.

Mr. Van Wye agreed 15 years.

Mr. Gaumer will bring the proposed UDO amendments with corrections forward in the coming months. He added that there's not much on the Plan Commission for public hearings. Will need to start thinking about doing the comprehensive plan rewrite and a request for proposals. He would also like to start a article about the planning department educating people on topics of question or permitting.

Mr. Pulver asked when we did roll call why Jerry Yoder wasn't called.

Mr. Gaumer stated that Mr. Yoder's term ended until or if he is reappointed by the commissioners.

Mr. Hartman said he is up for reappointment at the next commissioners' meeting and is still eligible.

REPORTS FROM OFFICERS, COMMITTEES, STAFF OR TOWN/CITY LIANSONS:

Frank Pulver informed the board about the City of Garrett's new business coming to town.

Mrs. Harrison informed the board about the City of Butler meeting on the 8th passing a zoning ordinance for RV staging. City of Waterloo meeting for a rezone of a triplex. Their town clerk is working on getting Grants for the city.

Mrs. Holt asked if the Plan Commission packets need to be mailed or if they can be emailed.

Mr. Gaumer asked if everyone would prefer one or the other.

Everyone agreed on having them emailed.

Mr. Gaumer will have extra copies of the meeting packet. Mentioning that members are free to bring laptops to view packets electronically.

Mr. Van Wye asked if the meetings will be moved to 8:30 a.m.?

Mr. Gaumer stated if there were no public hearings it could be in the mornings. Leaving it up to the members to decide.

COMMENTS/QUESTIONS FROM THE PUBLIC IN ATTENDANCE:

None.

ADJOURNMENT:

Jason Carnahan adjourned the meeting at 9:57 a.m.

President – Jason Carnahan

Secretary – Meredith Reith

This staff report is prepared by the DeKalb County Department of Development Services to provide information to the Plan Commission to assist them in making a decision on this Amendment to Ordinance Text to the Unified Development Ordinance – Article 9.05. It may also be useful to members of the public interested in this Amendment to Ordinance Text proposal.

PETITIONER: DeKalb County Plan Commission – Zoning Administrator

ARTICLE SECTIONS: Article 11: Definitions

PROPOSED TEXT CHANGE:

Accessory Building or Structure (see also Storage Buildings, if applicable): A building or structure which:

- Is subordinate to a primary building or structure in area, intent, and/or purpose,
- Contributes to the comfort, convenience, or necessity of occupants of the primary building, structure, or principal use,
- Does not alter or change the character of the premises,
- Is located on the same parcel or lot and zoning district zoning lot as the primary building, structure, or use,
- Conforms to the setback, height, bulk, lot impervious surface coverage, and other development standards or requirements of the Unified Development Ordinance unless otherwise provided for,
- May not be constructed prior to the time of construction of the primary building or structure, unless used for agricultural or personal storage or otherwise specified in the Unified Development Ordinance,
- Is not designed for human occupancy as a dwelling or commercial use but may have bathroom, kitchen, sink or other facilities needed for sanitary purposes so long as there is Health Department approval, and,
- In the case of a private/noncommercial telecommunications tower, antenna, or other radio or cellular communications or equipment, the tower, antenna, or other radio or cellular communications or equipment is exempt from accessory structure setbacks. # The subordinate structure (typically considered a cabinet) the use of which is incidental and accessory to that of the principal private/noncommercial telecommunications tower, antenna, or other radio or cellular communications equipment that is detached from but located on the same site shall be considered an accessory structure and must comply with accessory structure setback requirements.
- Exemptions to the accessory structure setback requirements are:
 - Flag Poles, private/noncommercial telecommunication towers, antennas or other radio or cellular communications equipment (except cabinets – see above in Accessory Building or Structure definition), freestanding chicken coops, animal cages/runs, lawn art or lawn statues, outdoor kitchens for single family homes that do not include a covered structure, water features such as fountains, small fish ponds or similar that are not defined or meet the standards of a recreational pond, or other similar items as deemed exempt by the Zoning Administrator and is not specifically defined in the Unified Development Ordinance.

STAFF RECOMMENDATIONS:

Staff recommends that the proposed text amendment be certified by the Plan Commission with a favorable recommendation to the DeKalb County Commissioners.

UNIFIED DEVELOPMENT ORDINANCE REQUIREMENTS:

When considering a Textual Amendment, the DeKalb County Plan Commission and the County Commissioners are obligated — under Section 9.05 G (2) of the DeKalb County Unified Development Ordinance — to pay reasonable regard to the following:

- a. The Comprehensive Plan;
- b. Current conditions and the character of current structures and uses in each district;
- c. The most desirable use for which the land in each district is adapted;
- d. The conservation of property values throughout the jurisdiction; and
- e. Responsible development and growth.

JURISDICTIONAL FINDINGS:

1. The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.
 - a. Legal notice published in The Star on **February 09, 2024** and Publishers Affidavit given to staff

This staff report is prepared by the DeKalb County Department of Development Services to provide information to the Plan Commission to assist them in making a decision on this Amendment to Ordinance Text to the Unified Development Ordinance – Article 9.05. It may also be useful to members of the public interested in this Amendment to Ordinance Text proposal.

PETITIONER: DeKalb County Plan Commission – Zoning Administrator

ARTICLE SECTIONS: Article 11: Definitions
Article 8: Nonconforming Lots, Structures & Uses

PROPOSED TEXT CHANGE:

Definitions:

Abandonment of Use: A use that has not been occupied by residing in, doing business in, or what the intended use was by the time set in Article 8 shall be considered abandoned. Proof of occupancy cannot be by proof of property or structure maintenance or utility bills, payment of taxes or similar. The Zoning Administrator shall determine if there has been abandonment.

Legal Nonconforming Building or Structure: Any continuously occupied, lawfully established structure or building prior to the effective date of the Unified Development Ordinance, or its subsequent amendments, that no longer meets the development standards, unless otherwise noted in Article 8.

Legal Nonconforming Lot of Record: Any legally established and recorded lot prior to the effective date of this Ordinance, or its subsequent amendments, that no longer meet the lot-specific development standards.

Legal Nonconforming Sign: Any sign lawfully existing on the effective date of this Unified Development Ordinance, or amendment thereto, that does not conform to all the standards and regulations of the Unified Development Ordinance, unless otherwise noted in Article 8.

Legal Nonconforming Use: Any continuous, lawful use of structures, land, or structures and land in combination established prior to the effective date of the Unified Development Ordinance or its subsequent amendments that is no longer a permitted use in the district where it is located, unless otherwise noted in Article 8.

Article 8: Nonconforming Lots, Structures & Uses

8.01 Intent

As new zoning regulations are adopted or zoning map changes are made, lots, structures, and uses that were previously compliant with zoning regulation are sometimes made noncompliant. *Article 08: Nonconformance* specifies the provisions that apply to these legal nonconforming (informally referred to as grandfathered) lots, structures, and uses.

8.02 Transitional Rule

Any enforcement action being conducted prior to the effective date of the Unified Development Ordinance for a known or suspected violation of the preceding zoning ordinance and/or subdivision control ordinance shall be continued under the terms of enforcement and penalties of the preceding zoning ordinance and/or subdivision control ordinance, assuming the Unified Development Ordinance does not make what was previously a violation a non-violation (i.e. fully conforming). All other enforcement actions for known or suspected violation shall be conducted using the Unified Development Ordinance.

8.03 Distinction Between Conforming, Illegal Nonconforming, and Legal Nonconforming and a Change from Illegal Nonconforming or Legal Nonconforming to Conforming

Each structure, use, and lot is either “conforming” or “nonconforming.” Conforming is used to describe a structure, use, or lot as being in full compliance with the Unified Development Ordinance. Nonconforming is used to describe a structure, use, or lot that is in violation of the current Unified Development Ordinance. Nonconforming structures, uses, and lots are either “illegal nonconforming” or “legal nonconforming.” The following sections determine the nonconforming status of a structure, use, or lot and determines when status changes from legal nonconforming to conforming:

A. Illegal Nonconforming:

1. *Structure:* A structure constructed in violation of the zoning ordinance that was in effect at the time of construction which remains in violation of the current Unified Development Ordinance is an illegal structure.
2. *Use:* A use initiated in violation of the zoning ordinance that was in effect at the time of initiation which remains in violation of the current Unified Development Ordinance is an illegal use. In addition, a use that was legally established that now is not permitted under the current Unified Development Ordinance but has been abandoned or discontinued for a period of at least one year, is an illegal use.
3. *Lot:* A lot established in violation of the zoning or subdivision control ordinance that was in effect at the time of establishment which remains in violation of the current Unified Development Ordinance is an illegal lot.

B. Legal Nonconforming:

1. *Structure:* A structure that does not meet one or more development standards of the Unified Development Ordinance, but was legally established prior to the effective date of the Unified Development Ordinance shall be deemed a legal nonconforming structure. Generally, a structure is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. However, a legal nonconformity may be caused by a governments use of eminent domain or right-of-way acquisition.
2. *Use:* The use of a structure or land (or a structure and land in combination) that was legally established and has since been continuously operated, that is no longer permitted by the Unified Development Ordinance in the zoning district in which it is located, shall be deemed a legal nonconforming use. Generally, a use is rendered legal nonconforming by an amendment to the zoning regulations or zone map change.
3. *Lot:* A lot that does not meet one or more lot standards of the Unified Development Ordinance, but was legally established and recorded prior to the effective date of the Unified Development Ordinance shall be deemed a legal nonconforming lot of record. Generally, a lot is rendered legal nonconforming by an amendment to the zoning regulations or a zoning map change. Periodically, a legal nonconformity may be caused by a governments use of eminent domain or right-of-way acquisition.

C. The status of an Illegal Nonconforming or Legal Nonconforming structure and/or use may change or become a Conforming structure and/or use if the structure and/or use has been in continual use or existence for 15 years. For example: a parcel that has a small engine or lawn mower repair shop that may be an illegal nonconforming use shall become a legal conforming use if the use is 15 years or older. If the use is 15 years or newer, it shall be deemed in violation of the Unified Development Ordinance.

8.04 Illegal Nonconforming Structure, Use, and Lot

An illegal structure, use, or lot is subject to the enforcement procedures and penalties of the Unified Development Ordinance as amended, unless otherwise noted in this Article.

8.05 Legal Nonconforming Structure

The following provisions apply to a legal nonconforming structure, a structure associated with legal nonconforming uses, and structures associated with legal nonconforming lots that are 15 years or newer:

A. Legal Nonconforming Building Provisions: The provisions for legal nonconforming buildings, a subcategory of structures, are as follows:

1. *Building Expansion*: A legal nonconforming building shall be permitted to expand in area and height as long as the nonconformity is not increased and the expansion otherwise meets the current Unified Development Ordinance. For example, if a building is in violation of the maximum height standard, it can be expanded in area as long as the new addition does not exceed the maximum height standard and is otherwise in compliance with current Unified Development Ordinance.

2. *Building Exterior Alteration*: The exterior walls of a building shall not be moved except as provided in the previous clause. Otherwise, the roof and exterior walls may be maintained, repaired, re-faced, and modified, resulting in the original aesthetic character or an altered exterior character, as long as the building's nonconformity is not increased and the alteration otherwise meets the current Unified Development Ordinance.

3. *Building Interior Alteration*: Ordinary repair and replacement of interior finishes, heating systems, fixtures, electrical systems, or plumbing systems; and interior wall modifications are not regulated by the Unified Development Ordinance.

4. *Building Relocating*: A legal nonconforming building may be relocated if, by moving the building, it decreases the legal nonconformity and the relocation otherwise meets the current Unified Development Ordinance.

B. *Legal Nonconforming Structure Provisions*: The provisions for legal nonconforming structures, excluding the subcategory of buildings, are as follows:

1. *Structure Alteration*: A legal nonconforming structure shall be permitted to be altered in height, area, mass, and time as long as the nonconformity is not increased and the alteration otherwise meets the current Unified Development Ordinance. For example, if a permanent sign is in violation of the maximum height standard, it can be altered as long as the alteration does not exceed the currently allowed maximum height standard and is otherwise in compliance with Unified Development Ordinance.

2. *Structure Relocating*: A legal nonconforming structure may be relocated if, by moving the structure, it decreases the legal nonconformity and the relocation otherwise meets the current Unified Development ordinance.

3. *Conversion for Longevity*: Converting a structural component of a legal nonconforming structure to a more permanent material in order to prolong legal nonconformity shall not be permitted. For example, a legal nonconforming permanent pole sign would not be permitted to replace its existing wood posts with metal posts even if dimensionally the same size.

C. *Loss of Legal Nonconforming Structure Status*: The following provisions apply to all types of structures:

1. *Condemned Structures*: If a structure, through lack of maintenance, is declared by an authorized official to be condemned due to its physical or unsafe condition, it shall lose its legal nonconforming status and become illegal nonconforming; unless the structure is restored or repaired within three months of the declaration. The Zoning Administrator may grant an appropriate extension of time if work was started within the initial three month period and reasonable attempts are being made by the owner to remedy the condemnation.

2. *Removal of Permanent Structures*: If a permanent structure is fully or significantly removed or razed (i.e. 80% or more of the exterior walls, structure area, structure height), the remaining permanent structure shall lose its legal nonconforming status and become illegal nonconforming; unless by significantly removing or razing the permanent structure the remaining permanent structure is in compliance or more in compliance with the current Unified Development Ordinance.

3. *Removal of Temporary Structures*: If a temporary structure is removed (e.g. moved inside, taken off-site, or replaced by a new temporary structure), the temporary structure shall lose its legal nonconforming status and become illegal nonconforming.

4. *Flood*: If a structure is severely damaged from a flood, resulting in a loss of either 50% of its market value or 50% of its structure, all reconstruction shall be required to meet the current Unified Development Ordinance. All other flood damaged structures shall be allowed to rebuild the structure that previously existed.

5. *Acts of God*: If a structure is severely damaged from an act of god, excluding flooding, resulting in a loss of either 70% of its market value or 70% of its structure, all reconstruction shall be required to meet the current Unified Development Ordinance. All other structures damaged by an act of god shall be allowed to rebuild the structure that previously existed.

D. Maintenance and Repair: Nothing in this section shall be deemed to prevent the maintenance or repair of a structure to keep it in a safe, aesthetic, and functional condition.

8.06 Legal Nonconforming Lot

The following provisions apply to legal nonconforming lots:

A. Legal Nonconforming Lot Provisions: A legal nonconforming lot shall be permitted to be developed as long as the desired structure and use meets the current Unified Development Ordinance. If the application of the current Unified Development Ordinance renders the lot undevelopable (e.g. the current setbacks don't allow a developable building envelope), reasonable variances shall be applied for by the County to the Board of Zoning Appeals for relief.

B. Loss of Legal Nonconforming Lot Status:

1. *Combining Lots Results in Conformity*: If a legal nonconforming lot is combined with an adjacent lot resulting in conformity with the current Unified Development Ordinance, it shall lose its legal nonconforming status. Therefore, future division of the combined lot shall conform to the current Unified Development Ordinance.

2. *Lots in Combination*: If a legal nonconforming lot is owned by the same person as the adjacent lot, and the owner uses both lots in combination for a duration of more than five years, the legal nonconforming lot shall lose its legal nonconforming status; provided the two or more lots in combination would constitute a single conforming lot.

3. *Permanent Structure Across Property Lines*: If a legal nonconforming lot is owned by the same person as the adjacent lot, and the owner constructs a permanent structure across the property line, thus permanently using two lots in combination, the legal nonconforming lot shall lose its legal nonconforming status; provided the two lots in combination would constitute a single conforming lot.

8.07 Legal Nonconforming Use

The following provisions apply to legal nonconforming uses **that are 15 years or newer**:

A. Cross Reference:

1. *Agricultural*: With respect to agricultural legal nonconforming uses, nothing in this section shall be interpreted in a manner that is inconsistent with IC: 36-7-4-616: *Zoning ordinance; agricultural nonconforming use*.

B. Legal Nonconforming Use Provisions: The provisions for legal nonconforming uses are as follows:

1. *Utilizing Existing Enlarged, New or Relocated Buildings*: A legal nonconforming use shall be permitted to occupy or use an existing building, enlarged existing building, newly constructed building, or relocated building, provided the building meets the current Unified Development Ordinance.

2. *Utilizing Existing, Altered, New or Relocated Structures*: A legal nonconforming use shall be permitted to utilize an existing structure, altered existing structure, newly constructed structure, or relocated structure, provided the building meets the current Unified Development Ordinance.

3. *Utilizing Land*: Any legal nonconforming use shall be permitted to utilize its lot, or lots owned in combination upon the effective date of the Unified Development Ordinance, provided the utilization of land meets the current Unified Development Ordinance.

4. *Increase in Nonconformity*: No legal nonconforming use shall be permitted to increase its nonconformity. The size of operation, number of employees, increase to vehicular traffic and similar increases in size does not increase nonconformity of a use. For example, a five acre legal nonconforming junkyard that expands its operations onto five more acres of land it previously owned, does not qualify as an increase in nonconformity, its still a junkyard. However, if the same junkyard adds a compactor facility which previously did not exist, that would qualify as an increase in nonconformity.

C. Loss of Legal Nonconforming Use Status:

1. *Abandonment of Use*: If a legal nonconforming use is abandoned or is discontinued for one year or more, except when a government action impedes access to the premises, it shall lose its legal nonconforming status. Any subsequent use shall conform to the provisions of the current Unified Development Ordinance. See definition.

2. *Change of Use*: When a legal nonconforming use is changed, altered, or evolves to be in compliance or more in compliance with the current Unified Development Ordinance, the legal nonconforming use status is lost or partially lost. The current use cannot revert back to the original legal nonconforming use or increments thereof.

STAFF RECOMMENDATIONS:

Staff recommends that the proposed text amendment be certified by the Plan Commission with a favorable recommendation to the DeKalb County Commissioners.

UNIFIED DEVELOPMENT ORDINANCE REQUIREMENTS:

When considering a Textual Amendment, the DeKalb County Plan Commission and the County Commissioners are obligated — under Section 9.05 G (2) of the DeKalb County Unified Development Ordinance — to pay reasonable regard to the following:

- a. The Comprehensive Plan;
- b. Current conditions and the character of current structures and uses in each district;
- c. The most desirable use for which the land in each district is adapted;
- d. The conservation of property values throughout the jurisdiction; and
- e. Responsible development and growth.

JURISDICTIONAL FINDINGS:

1. The petitioner has complied with the rules and regulations of the Plan Commission in filing appropriate forms and reports.
 - a. Legal notice published in The Star on **February 09, 2024** and Publishers Affidavit given to staff

AGREEMENT FOR SERVICES

This AGREEMENT FOR SERVICES (hereinafter referred to as "Agreement") is by and between Hometown Initiatives LLC located at 6471 County Road 29, Auburn, IN 46706 ("Consultant") and Plan Commission, DeKalb County, Indiana located at 301 S Union St, Auburn, IN 46706 ("Client").

WHEREAS, Consultant is in the business of planning, zoning, community development, and administrative planning services; and

WHEREAS, Client and Consultant wish to enter into this Agreement whereby Consultant shall provide certain products and/or services, as more particularly described in Exhibit "A" hereto, to Client in accordance with the terms and conditions set forth herein.

NOW THEREFORE, in consideration of the foregoing mutual promises and covenants contained herein, and for other valuable consideration, the receipt and sufficiency of which is hereby acknowledged, Consultant and Client hereby agree as follows:

1. Products and Services

- 1.1 **"Products and Services" Defined.** As used in this Agreement, the term "Products and Services" shall mean all graphics, videos, creations, goods, products, work, processes, functions, and/or services, provided by Consultant to Client pursuant to this Agreement, and more specifically set forth and described in Exhibit A which is attached hereto and incorporated herein as part of this Agreement.
- 1.2 **Consultant's Duties.** Consultant hereby agrees to diligently provide the Products and Services under this Agreement, as specified in Exhibit A, in a manner which shall meet the standards of expected excellence in the industry and shall further meet the reasonable satisfaction of Client. The Consultant shall respond to Client inquiries within three (3) business days of receiving communication.
- 1.3 **Client's Duties.** Client hereby agrees to diligently provide the Information and Services under this Agreement as specified in Exhibit C. The Client's designated contact shall be Chris Gaumer, Director/Zoning Administrator. The Client is expected to respond to Consultant inquiries within three (3) business days of receiving communication.

2. Consideration

- 2.1 **Price and Payment.** In consideration of this Agreement, and the provision of the Products and Services, Client hereby agrees to compensate Consultant in accordance with the price set forth in Exhibit B ("Contract Price") which is attached to this Agreement and incorporated herein.
- 2.2 **Time of Invoicing.** This agreement shall be invoiced as a lump sum fee upon contract completion for the Total Project Cost, which shall be the sum of the Contract Services Fee and the total amount of additional services completed. Invoicing to Client shall be as follows:

- A) The Consultant shall submit an itemized invoice upon the completion of the contract to the Client for the Total Project Cost. Payment shall be made to Consultant within 30-days of the invoice date.
 - B) If additional services, not listed within Exhibit "A" of this Agreement, are requested in writing by the Client, the Consultant shall receive payment for such extra work, either by a lump sum fee determined and agreed to by the Client and the Consultant prior to the commencement of such work and in writing, or on an hourly basis; and
- 2.3 Payment Terms. All payments shall be made in full. Client promises to promptly approve, process, and pay each invoice submitted by Consultant.

3. Term and Termination

- 3.1 Term. This Agreement shall commence upon its execution, as noted by the signature date, and shall continue in full force and effect through the completion of the project estimated to be no later than May 1, 2024. Any extension of the term shall be agreed to in writing by both parties.
- 3.2 Termination. In the event either Consultant or Client wishes to terminate this Agreement, either party may freely do so, in its own discretion and at any time, through providing thirty (30) days prior written notice regarding such termination. Further, such termination of this Agreement shall be effective thirty (30) days after the other party's receipt of said written notice.
- 3.3 Termination for Cause. Either party to this Agreement shall have the ability to immediately terminate this Agreement for Cause. For purposes of this Agreement, the term "Cause" shall include any and all material violations of the terms and conditions of this Agreement, as well as any repeated or otherwise substantial breaches of any term or condition of this Agreement. Furthermore, Cause shall additionally include Client's failure to tender payment to Consultant pursuant to section 2.3 of this Agreement. In order to effectuate such an immediate termination for cause, either party need only provide the other with written notice of that party's intent to exercise its right to immediately terminate this Agreement, fully explaining and setting forth the Cause upon which the terminating party is exercising this right.
- 3.4 Payment in the Event of Termination. In the event this Agreement is terminated under either Sections 3.2 or 3.3 of this Agreement, Consultant shall be entitled to full payment for any and all Products or Services completed, preformed, undertaken, or supplied by Consultant prior to any effective date of such a termination, and Consultant shall tender to Client an invoice setting forth any and all such payment due.

4. Production

- 4.1 Costs of Production. Consultant shall bear all reasonable and ordinary costs for the provision, production or development of any Products or Services under this Agreement.

- 4.2 Assistance from Client. Client hereby agrees that it will fully cooperate with Consultant with regard to this Agreement and adhere to all reasonable requests and/or suggestions of Consultant, including the Information and Services by Client listed in Exhibit "C".
- 4.3 Consultant's Discretion. Client hereby agrees that Consultant has sole discretion with regard to any and all methods, techniques, processes and/or means by which the creation or provision of the Products or Services at subject of this Agreement is undertaken and accomplished.

5. Relationship

- 5.1 Relationship of Parties. Client and Consultant hereby explicitly agree and acknowledge that their relationship is one where Consultant is an independent Consultant, Client being interested only in the result obtained. No other relationship of any kind or form exists between the two entities. Under no circumstances shall Consultant, its agents, subconsultants, representatives, officers or employees be deemed employees, franchisees, agents or representatives of Client and nothing in this Agreement shall constitute or be interpreted or construed as such or giving rise to such a relationship. In addition, Client agrees and acknowledges that it is hereby prohibited from representing to any third party that any relationship exists other than the relationship as set forth herein.
- 5.2 Non-Exclusivity. Client and Consultant hereby agree and set forth that the relationship between the parties hereto is in no way one of exclusivity and nothing in this Agreement shall constitute or be interpreted or construed as such or giving rise to such a relationship. As such, during and throughout the term of this Agreement, Consultant is free to perform other work and provide other products and services to third parties.
- 5.3 Contracting. Neither Consultant nor Client shall have the ability or right to enter into any contract, commitment, or other agreement of any kind, type or variety, or make any representation or warranty, in the name of, on behalf of, or as agent, employee or representative of the other party. Any contracts, commitments or other agreements made by Client with any third party or multiple parties shall not be binding upon Consultant.

6. Remedies, Limitation of Liability and Indemnification

- 6.1 Remedy. In the event the Products or Services tendered to Client are not to Client's full satisfaction, and the quality of such Products or Services would not be considered to be satisfactory to a professional in this field, Client shall provide Consultant with written notice of such, complete with a full explanation of any and all reasons said Products or Services are not to Client's satisfaction within ten (10) days of the tender or completion of the Products or Services. Client's sole remedy is the Consultant has an opportunity to modify the Product or Service to the Client's satisfaction or a full refund of the consideration paid for said Products or Services upon the return to Producer of any Products tendered to the Client.
- 6.2 Limitation of Liability. In no event shall Consultant be liable for any consequential or incidental damages, or any other type of damage which may be caused in whole or in part by any failure, defect or other problem of products or services.

- 6.3 Indemnification. Client recognizes that the Products and Services being provided by Consultant pursuant to this Agreement are being provided solely at the request of Client. Client hereby represents and warrants that the performance and provision pursuant to Client's request of any Products or Services pursuant to this Agreement will not, and does not, infringe upon any third party's copyright, patent, trademark, trade secret or other proprietary rights or any rights of publicity or privacy. As such, Client hereby agrees to protect, indemnify, defend, and hold harmless Consultant from, for and in any and all disputes, actions, proceedings, claims, demands, losses, damages, or expenses, including attorney's fees, that any third party may have or choose to bring in consequence of, or arising in any way out of the Products or Services to be provided pursuant to this Agreement, with the exception of any reckless or intentional acts of Consultant.

7. General Provisions

- 7.1 Entire Agreement. This Agreement constitutes the entire agreement between Consultant and Client with respect to the subject matter hereof and supersedes all prior or contemporaneous agreements, representations and understandings, written or oral, relative to the subject matter hereof.
- 7.2 Remedies for Breach. Nothing herein contained shall be construed as prohibiting Consultant or Client from pursuing any other additional remedies available at law or in equity for breach or threatened breach, and no such remedy shall be considered exclusive of any other remedy, and the same shall be cumulative, and each and every remedy may be exercised respectively from time to time, and as often as the occasion may arise, or as may be deemed expedient, including the contractual remedy of liquidated damages as provided for herein.
- 7.3 Assignment. Client may not assign this Agreement or any of the rights or obligations hereunder without first obtaining the prior consent of Consultant, and any such attempted assignment shall be void.
- 7.4 Delayed Assertion of Rights. No delay or omission to exercise any of Consultant's rights under this Agreement, or under law, shall impair any such rights, nor shall any such delay or omission be construed to be a waiver of any such rights, or any acquiescence in any breach of the terms hereof.
- 7.5 Litigation Costs and Attorneys' fees. In the event of any legal action (including arbitration) to enforce or interpret this Agreement, the non-prevailing Party shall pay the reasonable attorneys' fees and other costs and expenses (including expert witness fees) of the prevailing Party in such amount as may be determined. In addition, such non-prevailing Party shall pay reasonable attorneys' fees incurred by the prevailing Party in enforcing, or on appeal from, a judgment in favor of the prevailing Party. The preceding sentence is intended by the Parties to be severable from the other provisions of this Agreement and to survive and not be merged into such judgment.
- 7.6 Covenants Survive Agreement. The covenants, terms and conditions, as provided for throughout this Agreement, including, but not limited to those with regard to indemnification, limitation of liability and payment obligations, shall survive the termination of this Agreement, and continue in full force and effect thereafter.

- 7.7 Modification. This Agreement may not be amended, discharged, terminated, or changed orally; and any such proposed amendment, discharge, termination, or change shall be in writing and signed by the party against whom such amendment, change, discharge, or termination is sought.
- 7.8 Waiver. No waiver of any terms, conditions or covenants of this Agreement shall be deemed or shall constitute a waiver of any other term, condition or covenant, whether or not similar, nor will any such waiver constitute a continuing waiver. No waiver will be binding unless executed in writing and is signed by the party against whom such waiver is sought.
- 7.9 Severability. If any term, covenant or condition of this Agreement, is, for any reason, held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability shall not affect any other term, covenant or condition or part of any term, covenant or condition contained within this Agreement. Rather, in such an instance, this Agreement shall be reformed and construed as if such provision had never been contained in it, and any such provision shall be reformed so that it would be valid, legal and enforceable to the maximum extent provided and as intended by the parties.
- 7.10 Governing Law. Consultant and Client hereby irrevocably agree that the venue for any suit, action or proceedings with respect to this Agreement shall be the Superior or Circuit Court of DeKalb County, Indiana or the United States District Court for the Northern District of Indiana, Allen County Division. It is further agreed that this Agreement shall be exclusively governed by, construed and enforced in accordance with the laws of the State of Indiana (notwithstanding conflict of law provisions). Legal defensibility of any ordinance cannot be guaranteed due to the nature of the court system, differing legal interpretations, ongoing case law decisions, and federal and state legislation changes. Client decisions throughout the process can also influence the defensibility of an ordinance. The Consultant will produce an end product that is consistent with professional quality and the Consultant's knowledge honoring the Client's wishes.
- 7.11 Use and Ownership. After completion of the Agreement and adoption of the desired amendments, the Client is granted licensing and ownership rights, without restriction, for the electronic documents and final printed material for its own purposes, provided the Consultant's name, contact information, and appropriate copyright notice remain on the documents.
- 7.12 Section and Paragraph Headings. The Section and Paragraph headings contained in this Agreement are provided for convenience and ease of reference only and shall not be utilized in any manner to interpret or give substantive meaning to the provisions of this Agreement.
- 7.13 Reasonableness of Terms. Consultant and Client hereby stipulate and agree that each and every term, covenant and condition contained within this Agreement is entirely reasonable in all respects and has been expressly acknowledged and agreed to by both parties.
- 7.14 Ambiguity. Consultant and Client hereby acknowledge that each party has read the Agreement and consulted with an attorney regarding its terms, or has had the opportunity to do so, and agrees with the terms, covenants and conditions contained herein as though the party has drafted this Agreement itself. Consultant and Client hereby agree that

although the Agreement was, by necessity, printed and assembled by one party, its agents or attorney's, the Agreement reflects the terms as agreed to by the parties and that the party printing and assembling Agreement is considered only the Scrivner of the document. In the event any term or condition is held to be ambiguous, no party shall be considered the draftsperson for purposes of construing the terms and conditions of this Agreement against that party.

- 7.15 Project Eligibility. The approval and acceptance of this Agreement shall not prevent the Consultant from applying for and submitting qualifications for projects for DeKalb County, including but not limited to the Request for Qualifications for a new Comprehensive Plan for DeKalb County.

IN WITNESS WHEREOF, Client and Consultant hereby acknowledge that they have reviewed this Agreement for Services and Exhibit A, Exhibit B, and Exhibit C attached hereto and fully consent and agree with all terms and conditions as set forth herein, and further agree that the attached Exhibit A, Exhibit B, and Exhibit C is incorporated into and made a part of this Agreement.

Hometown Initiatives LLC

DeKalb County Plan Commission



Amber K Bassett, Partner & COO

X

Jason Carnahan, President

Date February 13, 2024

Date



Amy M Schweitzer, Partner & CEO

X

Chris Gaumer, Director/Zoning Administrator

Date February 13, 2024

Date

Exhibit A

Scope of Services by the Consultant

- Prepare a Request for Proposal/Qualifications (RFP/Q) on behalf of the Client for a new Comprehensive Plan replacing DeKalb County's current Comprehensive Plan. The final RFP/Q shall be in Microsoft Word format and Adobe Portable Document Format (PDF).
- Attend one meeting with a designated subcommittee of the Plan Commission along with Staff to outline the RFP/Q and determine Client's goals and needs within the document.

Deliverables by the Consultant

- Provide all electronic files associated with a project to the Client for storage and future use at their discretion.
- One meeting with Staff and/or Plan Commission members.

Exhibit B
Contract Price

The Consultant shall receive payment from the Client for the work performed under this Agreement, as listed below:

Activity	Fee/Rate
Contract Services	\$200.00
Additional Meetings	\$100.00 per meeting
Additional Services Offered	Cost Reimbursement + 10% for hard copy prints

At the end of the project, the Consultant will submit an invoice to the Client calculating the Total Project Fees.

Exhibit C
Information and Services by Client

- The Client shall provide full access to information it possesses and/or that is readily accessible to the Client at no cost to the Consultant regarding requirements for the agreement.
- The Client shall be prepared for meetings or events, and relay necessary information and guidance to the Consultant in a reasonable amount of time prior to meetings or events.
- The Client shall furnish all previously completed and related studies, plans, maps and information collected as they pertain to this agreement as requested by the Consultant.
- The Client shall provide their own legal review of the final products or the project prior to adoption and make any findings or necessary changes known to the Consultant in writing.
- The Client shall be responsible for advertising meetings, both internally and publicly as necessary. Further, the Client shall pay for the cost of the newspaper advertisements announcing public meetings, including legal notices.
- The Client's designated contact shall be responsible for being the liaison between the Consultant and DeKalb County Appointed and Elected Officials and any other employee.
- The Client shall provide and arrange for meeting space for periodic meetings with the staff, interest group, County Officials, etc., at no cost to the Consultant.

DEKALB COUNTY DEPARTMENT OF DEVELOPMENT SERVICES

PLANNING • BUILDING • GIS

301 S. Union St., Auburn IN 46706

Planning: 260.925.1923 • Building: 260.925.3021 • GIS: 260.927.2356 • Fax: 260.927.4791



2023 YEAR END REPORT

INTRODUCTION

The Department of Development Services is comprised of three offices* that are integral to the development in DeKalb County. From homeowners to builders and developers to business owners, we provide services to DeKalb County that permits the growth to happen.

Planning and Zoning ensures that projects comply with local zoning rules. The Unified Development Ordinance provides the tool for compliance – setbacks, height, parking, structure size – everything needed to make sure the public health, safety, morals and general welfare of the community are met.

Building provides a service to confirm that the safety of the County's residents and guests are safe if they enter a building. The Building Inspector makes sure the building being constructed is in compliance any local, state and/or national building code.

GIS has become an integral part of development in the County by providing up-to-date mapping and information to various departments in the County as well as Cities and Towns. From creating property line data to adding storm water or sewer location data, DeKalb County residents and developers can be assured that the information is as accurate as possible.

In this report, you will find a broad amount of information about general permit data, types of permits issued, planning/zoning activity and how this year compares to past years.

*The offices were combined by Resolution 2014-R-2.

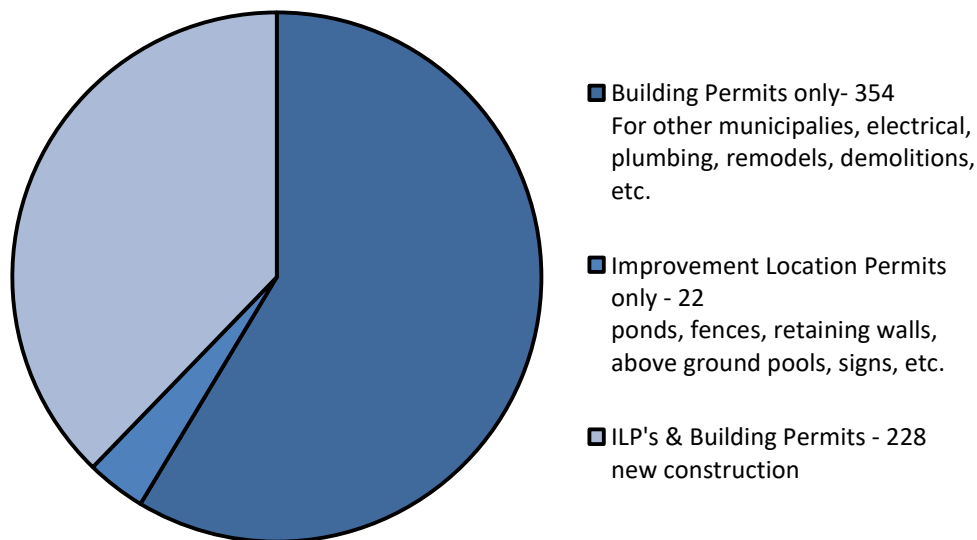
GENERAL PERMIT INFORMATION

The Department of Development Services provides permits for Zoning and Building. Zoning permits are referred to as Improvement Location Permits (ILP's) as outlined by the laws, rules and regulations in the Unified Development Ordinance (UDO). No structure is to be located, erected, altered or repaired on any land in unincorporated DeKalb County until an ILP has been applied for and issued by the Zoning Administrator. ILP's are issued for unincorporated DeKalb County, Corunna & Spencerville.

Building Permits are issued in conjunction with an ILP to be assured that the structure is being built to current Local, State and/or Federal Building Codes. Building Permits are also issued for upgrades in electrical services, plumbing, new roofs, interior remodels and structural alterations that are not increasing square footage. These are administered by the Building Inspector who inspects work being done for compliance with all building code regulations. Building Permits are issued for unincorporated DeKalb County, Ashley, Butler, Garrett, St. Joe & Waterloo.

The chart below shows the types and numbers of permits issued in unincorporated DeKalb County: Improvement Location Permits only, Building Permits only & both ILP's & Building Permits.

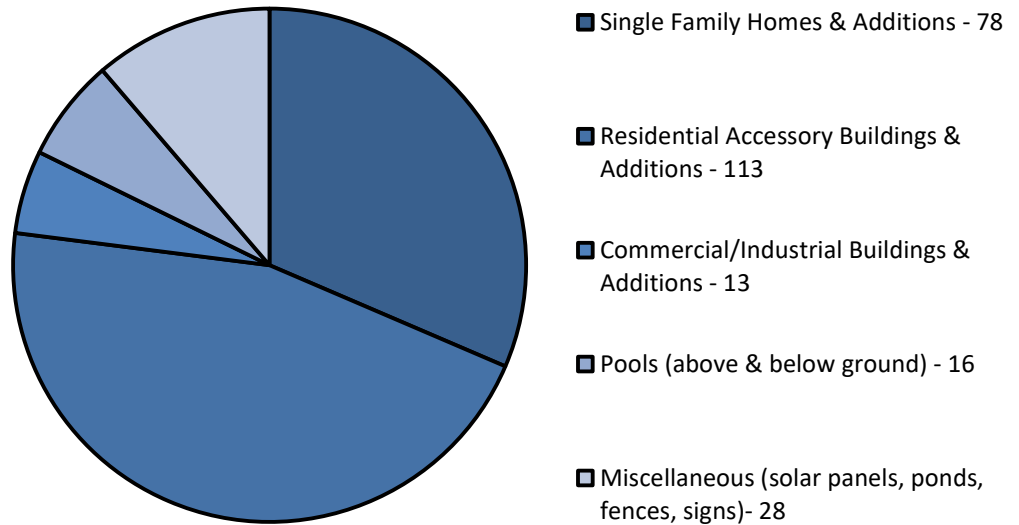
General Permit Information



TYPES OF PERMITS ISSUED (County only)

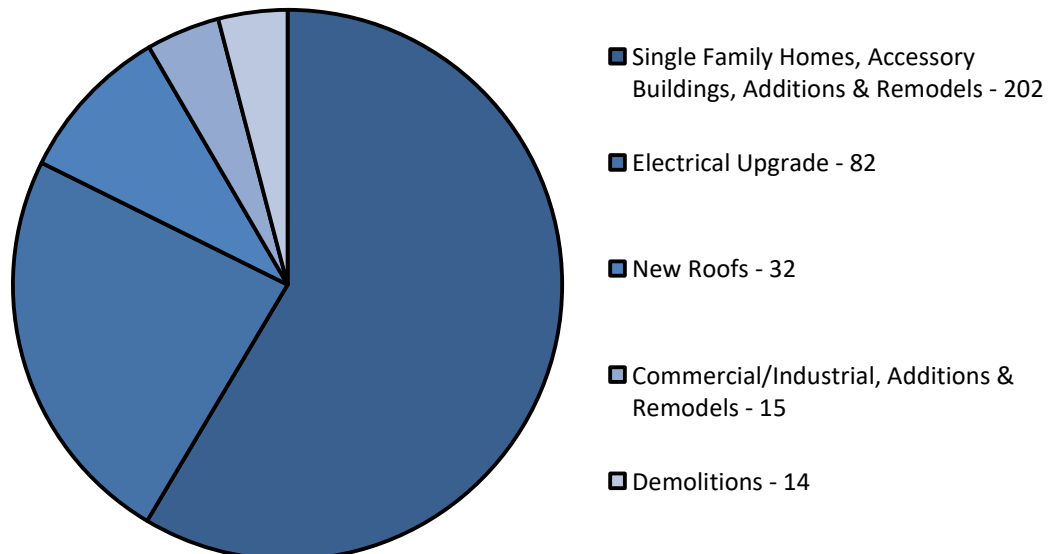
Improvement Location Permits are issued for new Single Family Homes, Accessory Structures (barns, detached garages, sheds), decks/porches, Commercial & Industrial Structures and additions for all. The chart below shows the types and numbers of ILP's issued.

Improvement Location Permits



Building Permits are issued for interior remodels of Single Family Homes, remodels of Commercial or Industrial Structures, remodels of accessory structures, electrical or plumbing upgrades, new roofs & demolitions. The chart below shows the types and numbers of Building Permits issued.

Building Permits



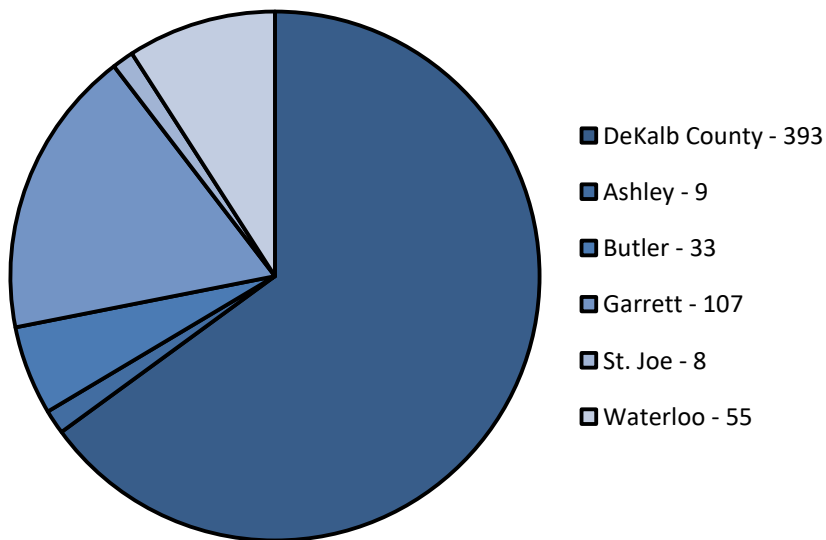
WHERE IS THE GROWTH?

The Department of Development Services also provides Building Permits and the required inspections to the cities and towns in DeKalb County of Ashley, Butler, Garrett, St. Joe & Waterloo. This includes Building Permits and inspections for new Single Family Homes and additions or remodels,

Accessory Buildings and additions or remodels, Commercial and Industrial buildings and additions or remodels, electrical and plumbing upgrades, new roofs, etc.

The chart below shows the total number of permits issued for each

Permits Issued by Each Municipality



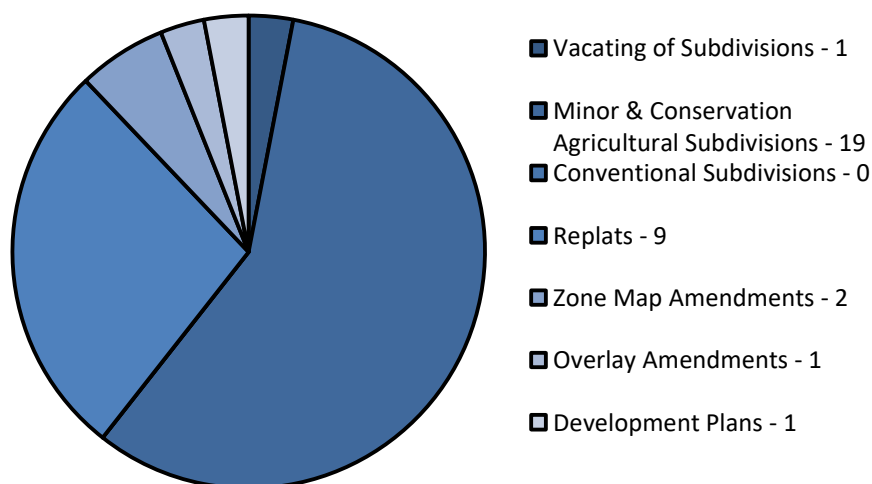
PLANNING ACTIVITY

Planning and Zoning has remained busy in 2023 with Plan Commission petitions while there has been a small uptick in Board of Zoning Appeals requests.

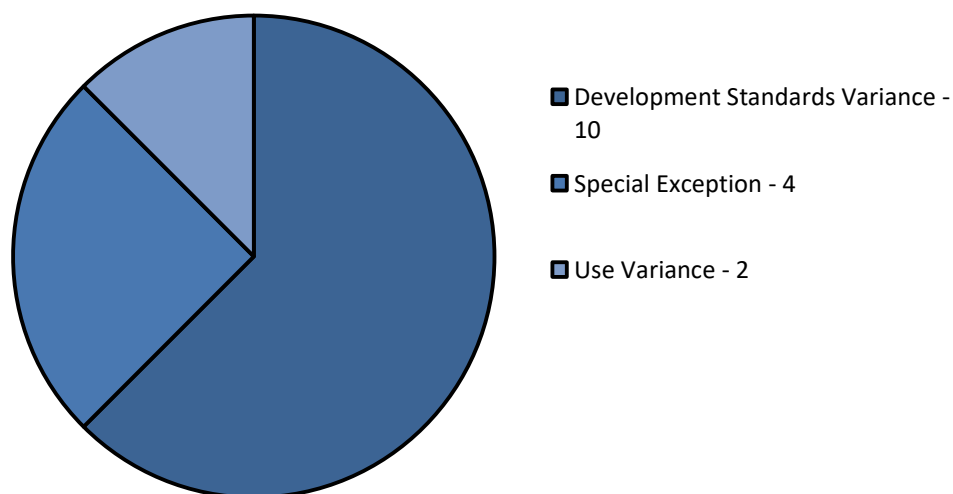
The Plan Commission hears petitions regarding subdivision of land, zone map changes and text amendments to the Unified Development Ordinance.

The Board of Zoning Appeals hears requests from the public for Development Standards Variances, Special Exceptions and Use Variances.

Plan Commission



Board of Zoning Appeals



COMPARING YEARS

Over the past 6 years, DeKalb County has seen fluctuation in the number of overall permits issued. There has been a steady increase from 2018 to 2023.

2018: 521 PERMITS ISSUED

= \$46,446.39 IN PERMIT REVENUE
= \$45,992,812.39 INCREASE IN TAXABLE VALUE

2019: 536 PERMITS ISSUED

= \$48,529.74 IN PERMIT REVENUE
= \$50,451,623.20 INCREASE IN TAXABLE VALUE

2020: 571 PERMITS ISSUED

= \$60,400.36 IN PERMIT REVENUE
= \$61,451,967.81 INCREASE IN TAXABLE VALUE

2021: 600 PERMITS ISSUED

= \$51,323.05 IN PERMIT REVENUE
= \$65,001,553.50 INCREASE IN TAXABLE VALUE

2022: 628 PERMITS ISSUED

= \$55,772.25 IN PERMIT REVENUE
= \$90,792,215.00 INCREASE IN TAXABLE VALUE

2023: 605 PERMITS ISSUED

= \$52,407.93 IN PERMIT REVENUE
= \$77,077,781.00 INCREASE IN TAXABLE VALUE