

**MINUTES**  
**DEKALB COUNTY PLAN COMMISSION**  
**Wednesday, April 18, 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 (7:03p.m.)

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: Don Myers

Public in Attendance: Mark Murdoch, Tom Graves, Karen Graves, Aaron Jones, M.S. Feitler, F.C. Feitler, Pat Frain, Todd Bauer, Nancy Hartman, Bill Hartman.

The Pledge of Allegiance was led by the President.

**APPROVAL OF MINUTES:**

Motion was made by Sandra Harrison and seconded by Jerry Yoder to approve the February 21, 2018 minutes. Motion carried.

**CONSIDERATION OF CLAIMS:**

Motion was made by Randall Deetz and seconded by Sandra Harrison to accept the February and March 2018 claims as presented for \$17,392.37. Motion carried.

**OLD BUSINESS:**

None

**NEW BUSINESS:**

A public hearing was conducted pursuant to proper legal notice.

Petition #18-05 - Aaron Jones requesting a 1 lot subdivision. The property is located on State Road 1 just east of County Road 65A, Hamilton, Indiana and is zoned A2, Agricultural.

Dawn Mason read the report.

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

There were none.

Aaron Jones stated that he wanted to build a ranch style home on a full basement.

Mr. Deetz asked Mr. Jones if he had the permits for the entrance off of State Road 1.

Mr. Jones said he did.

Mr. Griffin asked if there were any questions or comments 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 **3/6/18**
2. Legal notice published in The Star on **4/3/18** 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 **3/13/18**
5. Letter from the County Highway Department, dated **3/9/18**
6. Report from the DeKalb County Soil & Water Conservation District **3/9/18**
7. Letter from the County Surveyor or Drainage Board, dated **4/3/18**
8. Airport Board report, if applicable **N/A**
9. Plat prepared by **John Kimple & Associates, Inc.**
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: **State Road 1.***
- 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.*

**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 #18-05, THE JONES ESTATE, IS HEREBY GRANTED PRIMARY AND SECONDARY PLAT APPROVAL ON THIS 18<sup>TH</sup> DAY OF APRIL, 2018.

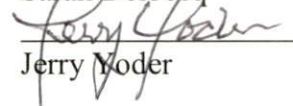
Jerry Yoder made motion to accept Petition #18-05, seconded by Sandra Harrison.

Vote tally: Yes: 6

No:

  
Randall Deetz

  
Sarah Delbeeg

  
Jerry Yoder

  
Bill Van Wye

  
Sandra Harrison

  
Tim Griffin

Petition #18-08 – Thomas & Karen Graves requesting to vacate a 1 lot subdivision known as Graves Estates Section II. The property is located on County Road 64 east of County Road 47, Spencerville, Indiana and is zoned A2, Agricultural.

Dawn Mason read the report.

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

Mr. Kruse asked if there were any streets or roads involved.

Mrs. Mason said no.

Karen Graves stated that they originally created this lot for their daughter to build however she ended up purchasing a house in the city. They would just like to put the land back together.

Mr. Deetz asked if it would have to be recorded again if they vacate is approved.

Mr. Gaumer said there was an instrument that will be filled out and recorded to show approval of the vacation.

Mr. Griffin asked if there were any questions or comments 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 3/15/18*
  2. *Legal notice published in The Star on 4/3/18 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 4/2/18*
  5. *Letter from the County Highway Department, dated 3/16/18*
  6. *Report from the DeKalb County Soil & Water Conservation District 3/15/18*
  7. *Letter from the County Surveyor or Drainage Board, dated 3/15/18*
  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 original lot is no longer intended for use as a building site in this location.
2. **Is it in the public interest to vacation all or part of the plat?**  
Yes, the vacation will allow for the land to stay farm ground and could allow a more suitable layout for any future building sites if approved.
3. **The value of the land in the plat not owned by the Petitioner will not be diminished by the vacation:**  
Yes, 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)

**CONDITIONS IMPOSED BY PLAN COMMISSION I.C. 36-7-4-711 (G):**

**1. Are there any drainage covenants?**

None

**2. Are there any land use conditions?**

None

**3. There is not an adverse effect on the public health, convenience, safety, morals or general welfare:**

None

**COMMITMENTS:**

**1. Does Petitioner make any commitments?**

None

**RECITAL - RECORDATION:**

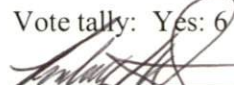
- 1. According to the UDO, a copy of this decision shall be filed with the DeKalb County Recorder's Office so that the Plat Vacation is made of record. The instrument for recording shall be approved by the County Attorney. Recordation to be done within sixty (60) days of when the Zoning Administrator 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 #18-08 FOR GRAVES ESTATES SEC II IS APPROVED ON THIS 18<sup>TH</sup> DAY OF APRIL, 2018.

Sandra Harrison made motion to approve Petition #18-08, seconded by Jerry Yoder.

Vote tally: Yes: 6

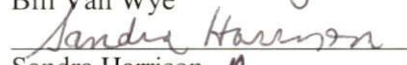
No:

  
Randall Deetz

  
Sarah Delbecq

  
Jerry Yoder

  
Bill Van Wye

  
Sandra Harrison

  
Tim Griffin

Petition #18-06 - Textual Amendment to the Unified Development Ordinance regarding setback regulations.

Mr. Gaumer stated that there had been quite a few petition's going before the Board of Zoning Appeals for accessory structures and side yard setbacks. In 2009, when the UDO was revised a lot of the side yard setbacks almost doubled and sometimes tripled what they had been. With these setbacks, in a lot of cases

it puts the structure in the middle of the back yard. Over the past 3 years 30% of the BZA cases were for side or rear yard setbacks, all of which were approved. He is proposing to revise them to match more closely to what they were pre 2009.

Mr. Gaumer read through each setback being proposed for changes.

Mr. Kruse asked if this was also for front yard setbacks.

Mr. Gaumer said all the front yard setbacks will remain the same and this was for accessory structures only.

Mr. Van Wye wanted confirmation that this was being proposed because the BZA has been passing all these variances.

Mr. Gaumer said yes, and pre 2009 the Ordinance stated that all accessory structures were to not exceed 10 feet and he does not know why it was changed so drastically in 2009.

In addition to the changes on side and rear yard setbacks, Mr. Gaumer said that he wanted to add to the Ordinance how the distance is determined for front yard setbacks. He said it is currently not stated anywhere in the Ordinance but it has always been practiced that the minimum front yard setback is determined using the DeKalb County Thoroughfare Plan.

Mrs. Mason stated that it is important to keep in mind that it is the Thoroughfare Plan and not necessarily current existing road right-of-way.

Mr. Gaumer said the reason for going with the Thoroughfare Plan is to keep the development consistent.

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

Maryann Feitler asked where she could go to look at the Thoroughfare Plan.

Mr. Gaumer said that it was in the office of the Plan Commission and it is also online on the County website.

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. Legal notice published in The Star on 3/30/18

#### **UDO AND STATUTORY MATTERS TO CONSIDER:**

- 1. Is the change in text in harmony with the Comprehensive Plan?**

Yes X No

Adds clarity regarding driveway approvals.

- 2. Is the change in text consistent with the current conditions and the character of current structures and uses in each zoning district?**

Yes X No

The text amendment is meant to clarify and simplify current usage.

- 3. Does the change in text help with the most desirable use for which the land in each zoning district is adapted?**

Yes X No

Adds clarity regarding driveway approvals. The Text Amendment is made to clarify and simplify the current usage

4. Will the change in text promote the conservation of property values throughout the jurisdiction?

Yes X No

No affect

5. Will the change in text promote responsible growth and development?

Yes X No

Adds clarity regarding driveway approvals. The Text Amendment is made to clarify and simplify the current usage. There will be no affect to property values.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION THAT THIS TEXT AMENDMENT, PETITION #18-06, FOR SETBACK REGULATIONS, IS HEREBY CERTIFYING A FAVORABLE RECOMMENDATION TO THE COUNTY COMMISSIONERS ON THIS 18<sup>TH</sup> DAY OF APRIL, 2018.

Bill Van Wye made motion for a favorable recommendation for Petition #18-06, seconded by Sandra Harrison.

Vote tally: Yes 6 No

Randall Deetz

Sarah Delbecq

Jerry Yoder

Bill Van Wye

Bill Van Wye

Sandra Harrison

Tim Griffin

Petition #18-07 - Textual Amendment to the Unified Development Ordinance regarding driveway standards.

Mr. Gaumer stated that this Text Amendment was discussed between the Highway Superintendent Ben Parker, himself and the Commissioner's. It is just cleaning up the language regarding driveways.

Mr. Kruse asked if the Building and Planning Department would be enforcing violations.

Mr. Gaumer said that the permit has to come from the Highway Department so they would be the enforcing body.

Mr. Griffin asked if there were any comments or 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.

Legal notice published in The Star on 3/30/18

**UDO AND STATUTORY MATTERS TO CONSIDER:**

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

Yes X No

Adds clarity regarding driveway approvals.



2. **Is the change in text consistent with the current conditions and the character of current structures and uses in each zoning district?**

Yes X No

Text Amendment was made to clarify and simplify the current usage.

3. **Does the change in text help with the most desirable use for which the land in each zoning district is adapted?**

Yes X No

Adds clarity regarding driveway approvals. The Text Amendment is made to clarify and simplify the current usage.

4. **Will the change in text promote the conservation of property values throughout the jurisdiction?**

Yes X No

No affect.

5. **Will the change in text promote responsible growth and development?**

Yes X No

Adds clarity regarding driveway approvals. The Text Amendment is made to clarify and simplify the current usage. There will be no affect to property values.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION THAT THIS TEXT AMENDMENT, PETITION #18-07, FOR DRIVEWAY STANDARDS, IS HEREBY CERTIFYING A FAVORABLE RECOMMENDATION TO THE COUNTY COMMISSIONERS ON THIS 18<sup>TH</sup> DAY OF APRIL, 2018.

Bill Van Wye made motion for a favorable recommendation on Petition# 18-07, seconded by Jerry Yoder.

Vote tally: Yes: 6 No

  
Randall Deetz

  
Sarah Delbecq

  
Jerry Yoder

  
Bill Van Wye

  
Sandra Harrison

  
Tim Griffin

### **COMMENTS FROM THE PUBLIC**

Pat Frain - 0494 County Road 60. Mrs. Frain expressed her concerns and frustrations regarding a property next to hers. She said that they have been digging and removing sand from the property. She said it looks awful and it's noisy and she doesn't think that it is fair that their property taxes got raised for being zoned residential and they are running a business on this property. She said she had contacted Mr. Gaumer almost a year ago informing him that they were running a business and she was under the impression that Mr. Gaumer would have it stopped.

Mr. Gaumer said that once he reviewed the Ordinance he seen that the processing of sand and gravel as the use for that property. He contacted the Plan Commission attorney Mr. Kruse and was informed that if there was not any processing or sorting being done and they were only



extracting, then there was nothing they could do to stop it because it is an Indiana Code that states that extraction of minerals is exempt. Per the IC no laws or ordinances can be put into place to stop extraction of minerals.

Mrs. Frain asked if there was anything that could be done. She feels that it is unfair that they are allowed to run a business and that nothing can be done.

Mr. Kruse said that she would have to get an attorney or speak to the State Legislator or State Representative.

Mrs. Frain said that they are tearing up the road and that they put two driveways in.

Mr. Deetz said that this is the first time he has heard of the situation but that he will be sending the Highway Superintendent out to check the roads and make sure there are permits for the driveways. There are rules and regulations and he will make sure that those are being followed.

There was further discussion about Mrs. Frain's complaint.

Mr. Kruse advised her that they cannot give her legal advice and that to change a state law she would need to contact her Legislator or State Rep.

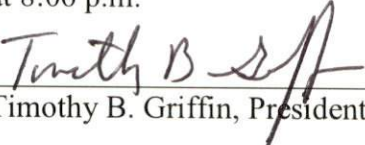
#### **REPORTS FROM OFFICERS, COMMITTEES, AND STAFF OR TOWN/CITY LIAISONS:**

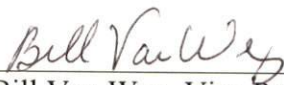
Sandra Harrison reported that Hamilton was looking at how to zone their campgrounds around the lake.

Randall Deetz reported that in Waterloo there will be development of a hotel and two restaurants in the newly annexed area South of U.S. Highway 6.

Tim Griffin reported that Auburn was discussing a trail system.

There being no further business to come before the Plan Commission, the meeting was adjourned at 8:06 p.m.

  
Timothy B. Griffin, President

  
Bill Van Wye, Vice President