

**MINUTES**  
**DEKALB COUNTY PLAT COMMITTEE**  
**Tuesday, April 4, 2023 @ 8:30 AM**

The Regular Meeting of the DeKalb County Plat Committee was called to order at 8:30 a.m. in the DeKalb County Commissioner's Court by Elysia Rodgers.

**ROLL CALL:**

**Members Present:** Mike Watson, Sandy Harrison, Elysia Rodgers, Jason Carnahan, Jerry Yoder

**Members Absent:** None

**Staff Present:** Director/Zoning Administrator Chris Gaumer and Secretary Andrea Noll

**Staff Absent:** None

**Public in Attendance:** Wayne Funk, Bruce Getts, Joe Herendeen (Sauer Land Surveying), Jason Holman

**APPROVAL OF MINUTES:** Mike Watson moved to approve the Minutes from March 7, 2023; seconded by Sandy Harrison. None opposed. Motion carried.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**Petition #23-06** – Westrick, LLC requesting a 3 Lot Minor Subdivision known as Rotondo Estates. The proposed 3 lot subdivision will be a total of 32.797 acres. The subdivision will be used for single family residences. The property is located on the northwest corner of County Road 17 and County Road 66, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report and mentioned that on the plats, covenants were added from the letter from the Drainage Board. The covenants require a minimum flood protection grade on lots 2 and 3 of 838 feet. Also, a note on the plat stating that "The owner of lot 2 agrees that the pond will be used by lots 1, 2, and 3 for storm water drainage".

Mr. Gaumer also wanted to remind the board that on all plats, there will now be markings where the proposed driveway location(s) will be, per request from the Highway Department.

Elysia Rodgers determined that there were no further questions or comments from the board and from the audience. Ms. Rodgers closed the public portion of the petition.

Chris Gaumer read the Findings of Fact.

**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 **March 3, 2023**
2. Legal notice published in The Star on **March 24, 2023** and Affidavit received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **March 17, 2023**
5. Letter from County Highway dated **March 24, 2023**
6. Report from the DeKalb County Soil & Water Conservation District, dated **March 6, 2023**
7. Letter from the Drainage Board, dated **March 24, 2023**
8. Airport Board report, if applicable: **not applicable**

9. Plat prepared by **Sauer Land Surveying**
10. The real estate to be developed is in Zoning District A2 which permits the requested development.

**FINDINGS OF FACT:**

1. Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?  
*Yes, the minor subdivision will be used for residential uses, which is compatible to the existing and adjacent land uses.*
2. Does the Minor Subdivision conform to the following UDO standards:
  - a. Minimum width, depth & area of lot(s). *Yes. See Plat & Staff Report.*
  - b. Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. *Adequate access off County Road 66 and County Road 17 with dedication of right of way. The driveways have been staked and approved by the DeKalb County Highway Dept. The applicant or buyer(s) will need to receive a driveway permit from the Highway Dept.*
  - c. The extension of water, sewer & other municipal services, if applicable or required. *None Required. The property owner(s) or buyer(s) will need to apply for and receive a permit for a residential onsite sewage system from the DeKalb County Board of Health*
  - 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. *None required.*

**Standard Conditions to be recorded on or with the plat:**

1. This lot shall be included in any subdivision arising from any further development from the land involved. However, there is no intention that any terms, conditions, or restrictions on a future plat will have any retroactive applicability to this division of land.
2. There shall be compliance with the laws and regulations of any Federal, State, or local agency.
3. No offsite drainage, existing surface water or existing tiled water drainage, crossing over said real estate shall be obstructed by any development on the site. The Plan Commission may enforce these conditions by injunctive relief with attorney fees.
4. The appropriate agricultural covenants, drainage covenants and airport zone covenants shall be on the plat, if required.
5. The covenants from the Drainage Board letter dated March 24, 2023 requiring a minimum flood protection grade (MFPG) on Lots 2 & 3 of 838 feet and "Owner of Lot 2 agrees that the pond will be used by Lots 1, 2, and 3 for storm water drainage".

**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 the Flood Hazard Area for DeKalb County Ordinance and any wetland laws and regulations, if required.
4. 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 District, or other agency as 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.

Elysia Rodgers acknowledged another Restrictive Covenant on the plat that states: "No commercial livestock farming of any kind is permitted on these lots."

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO ADOPT SAID FINDINGS AND THAT THIS MINOR SUBDIVISION PETITION #23-06, IS HEREBY GRANTED PRIMARY AND SECONDARY PLAT APPROVAL ON THIS 4TH DAY OF APRIL, 2023.


Motion made by Sandy Harrison, Seconded by Jerry Yoder.

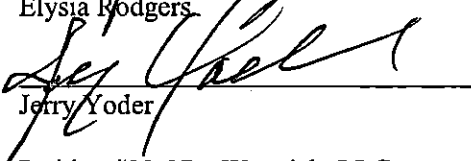
Vote tally: Yes: 5 No: 0

  
Mike Watson

  
Jason Carnahan

  
Elysia Rodgers

  
Sandy Harrison

  
Jerry Yoder

Petition #23-07 – Westrick, LLC requesting a 3 Lot Minor Subdivision known as Pietrelcina Estates. The proposed 3 lot subdivision will be a total of 35.833 acres. The subdivision will be used for single family residences. The property is located on the west side of County Road 17, approximately ½ miles north of the intersection of County Road 17 and County Road 66, Auburn, Indiana and is zoned A2, Agricultural.

Chris Gaumer read the Staff Report. Mr. Gaumer also mentioned that this plat had no new added covenants, other than the same drainage covenant as the previous plat, Rotondo Estates.

Elysia Rodgers stated that there was an additional covenant on this plat, that wasn't on the plat of Rotondo Estates. It reads: "No manufactured or mobile homes are permitted on these lots."

Mr. Gaumer conferred with the representative in the petitioner in the audience for this petition to establish that they wanted the mobile home covenant on both plats (Rotondo Est. and Pietrelcina Est.).

Elysia Rodgers invited anyone from the public in attendance to speak at the podium.

Wayne Funk (adjacent landowner) spoke at the podium to express his concerns about the drainage on the property and an abandoned county tile. He maintained that the proposed development consistently floods every time they get a small amount of rain. He had gone into the surveyor's office to discuss that county tile (drain) and that office informed Mr. Funk that the drain was considered private.

Wayne Funk then directed a question to the developers of the properties, as to what plans they have in place to help control the flow of water from this property, onto adjacent properties. Mr. Funk stated that this developer has created excessive runoff of water onto his property, from mounds that they have built on their property for privacy and noise control. Unfortunately, the water that collects on these mounds runs towards the road and towards his property, causing his fields (which he farms for profit) to flood. Lastly, Mr. Funk established his concerns of the water runoff into Cedar Creek, as well as any chemicals or pollutants from the yard.

Mike Watson inquired when this plat went in front of the Drainage Board.

Chris Gaumer replied that it went in front of the Drainage Board on the same day that the plat for Rotondo Estates. He then proceeded to read a portion of the approval letter from the Drainage Board.

Mr. Gaumer maintained that the surveyor is correct that the drain Mr. Funk was concerned with is, in fact, a private drain. So, there is nothing that the county can do between those two property owners to regulate the private drain.

Joe Herendeen (Sauer Land Surveying) approached the podium to confirm and reiterate that there is currently a drainage covenant on the plat that will be between the developer and any adjacent landowners. Mr. Herendeen expressed that after the single-family residences are built by the landowners there shouldn't be any greater impact in relation to water being added onto the properties.

Jason Holman (Action Realty) approached the podium to confirm that there will only be single-family homes on the proposed lots and that there is a wetland back in the woods that helps the water to drain the other way. Mr. Holman stated that he acknowledged the concerns with the tile issues, but that there will not be a large subdivision with multiple houses; there will be one house per 12-acre lot.

Bruce Getts (adjacent landowner) spoke at the podium to convey his concerns that the water forms ponds when it rains and that this proposed subdivision has a complete lack of any form of regulated drainage in place. His biggest concern is with the wetland on the northwest corner of the property for the water to drain towards, and that his property is on the other side of the wetlands. He informed that the water then drains towards the Heights Drain, which is currently inoperable on his side of the property. In addition, the wetland lies in a 5-acre wooded property that he owns, and that the water is re-directed toward his direction onto his property, which will make more of that woods unusable than what it already is right now.

Chris Gaumer inquired if the Drainage Board meetings were public hearings.

Mike Watson confirmed that those meetings were not open to the public like this current Plat Committee hearing is.

Mr. Gaumer suggested that these concerns probably weren't discussed at that Drainage Board meeting, because the drain is private (non-county regulated), addressing specifically Mr. Funk's concerns.

Addressing Mr. Getts' concerns, Mr. Gaumer stated that these are 12-acre lots and advised that the minimum acreage requirement per lot is only 2 acres, as long as setback requirements are met. So, these 12-acre lots should not have any retroactive drainage issues, considering the general size of current surrounding homes. Finally, Mr. Gaumer advised that if the property owners couldn't come to an agreement to fix a private drain that crosses between both properties, because Westrick LLC (or whoever buys those properties) isn't willing to work with the adjacent landowners, the property owner(s) could then petition the Plan Commission. That property owner must present sufficient evidence of problems with the private drain and the other property owner refuses to help pay to fix said drain.

Further, Mr. Gaumer reiterated that he doesn't believe that there's anything the Drainage Board can even do with these lots, because the Drainage Board doesn't regulate private drains or wetlands. He proposed the option of this committee to table this petition and take it back to the Drainage Board. A second option would be to approve the petition, with conditions that it gets re-discussed further at the Drainage Board level.

Bruce Getts (adjacent landowner) re-approached the podium to reinforce that he opposes the approval of this petition, until some sort of a drainage plan is presented.

Chris Gaumer then indicated that this whole drainage issue may end up becoming a dispute between property owners, and that is not something that the Plan Commission arbitrates.

Joe Herendeen advised that if it's a broken private tile, then it's just something that needs repaired. He also stated that the addition of 3 single-family homes to the proposed area will not put off but a very minimal amount of water.

Jerry Yoder established that the only runoff of water the new homes will produce (in the form of surface drainage) will be from their down spouts and down spout tile. Mr. Yoder also stated that he does believe that there should be something that is coordinated between the developer and the neighbors. Mr. Yoder stated that he agreed with Mr. Gaumer, that he doesn't think there's anything else the Drainage Board can do.

Mike Watson interjected that he would be comfortable approving this petition, with the condition that it's reviewed again by the Drainage Board or by the Surveyor and report to the Drainage Board.

Mr. Yoder maintained his opinion that the approval of this petition should condition the developer to make sure there is a drain, private or otherwise, that will aid in drainage of this property.

Mr. Yoder concluded that if the private drain needs fixed, that should fall onto the developer, which Mr. Watson and Mr. Gaumer agreed with, if the drain's problem is on the developer's property.

Mr. Gaumer stated that the Plan Commission does not regulate private covenants on properties. The Plan Commission regulates the typical covenants that are recorded on the plat, which is reinforced in the ordinance.

Elysia Rodgers closed the public portion of the discussion.

Mr. Gaumer read the Findings of Fact, noting that there is a covenant from the drainage board that was from the previous plat that does not need to be on there. Mr. Gaumer suggested they add a covenant stating that the drainage board review this subdivision further, with the knowledge from Mr. Getts and Mr. Funk, and to have the Drainage Board coordinate with either him or Mike Watson.

#### **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 **March 3, 2023**
2. Legal notice published in The Star on **March 24, 2023** and Affidavit received.
3. Certificate of mailing notices sent and receipts given to staff.
4. Letter from the County Board of Health, dated **March 17, 2023**
5. Letter from County Highway dated **March 24, 2023**
6. Report from the DeKalb County Soil & Water Conservation District, dated **March 6, 2023**
7. Letter from the Drainage Board, dated **March 17, 2023**
8. Airport Board report, if applicable: **not applicable**
9. Plat prepared by **Sauer Land Surveying**
10. The real estate to be developed is in Zoning District A2 which permits the requested development.

#### **FINDINGS OF FACT:**

1. Does the proposed Minor Subdivision adequately conform to the Comprehensive Plan?  
*Yes, the minor subdivision will be used for residential uses, which is compatible to the existing and adjacent land uses.*
2. Does the Minor Subdivision conform to the following UDO standards:
  - a. Minimum width, depth & area of lot(s). *Yes. See Plat & Staff Report.*
  - b. Public way widths, grades, curves & the coordination of public ways with current and planned public ways, if applicable or required. *Adequate access off County Road 17 with dedication of right of way. The driveways have been staked and approved by the DeKalb County Highway Dept. The applicant or buyer(s) will need to receive a driveway permit from the Highway Dept.*

- c. The extension of water, sewer & other municipal services, if applicable or required. None Required. The property owner(s) or buyer(s) will need to apply for and receive a permit for a residential onsite sewage system from the DeKalb County Board of Health
- 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. None required.

**Standard Conditions to be recorded on or with the plat:**

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

**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 the Flood Hazard Area for DeKalb County Ordinance and any wetland laws and regulations, if required.
4. 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 District, or other agency as 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.

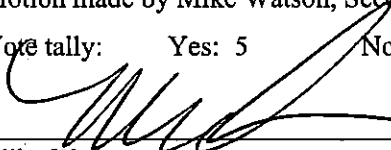
Elysia Rodgers acknowledged the two additional covenants, which stated, "No manufactured or mobile homes are permitted on these lots" and "No commercial livestock farming is permitted on these lots."


Mike Watson motioned to approve petition 23-07 with the condition that there is a final review by the County Surveyor in making a recommendation to the Drainage Board. Also, that Mr. Getts and Mr. Funk have the opportunity to discuss their concerns at the first Drainage Board meeting that they can get on the agenda for.

IT IS, THEREFORE, THE DECISION OF THE PLAN COMMISSION TO ADOPT SAID FINDINGS AND THAT THIS MINOR SUBDIVISION PETITION #23-07, IS HEREBY GRANTED PRIMARY AND SECONDARY REPLAT APPROVAL ON THIS 4TH DAY OF APRIL, 2023.

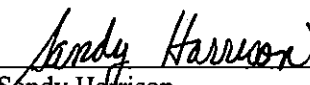
Motion made by Mike Watson, Seconded by Sandy Harrison.

Vote tally: Yes: 5 No: 0

  
\_\_\_\_\_  
Mike Watson

  
\_\_\_\_\_  
Jason Carnahan

  
\_\_\_\_\_  
Elysia Rodgers

  
\_\_\_\_\_  
Sandy Harrison

  
\_\_\_\_\_  
Jerry Yoder


Ms. Rodgers informed Mr. Funk and Mr. Gets in the audience that we would work with them to schedule a time to meet with the drainage board to present their discussion.

Chris Gaumer discussed back and forth between Mr. Funk and Mr. Gets to determine which meeting that they could both attend at the same time.

**ADJOURNMENT:**

There being no further business to come before the Plat Committee, the meeting was adjourned at 9:20 a.m.

  
\_\_\_\_\_  
Elysia Rodgers

  
\_\_\_\_\_  
Andrea Noll - Secretary