

Decatur County Area Plan Commission
Minutes February 1, 2017
1st Floor Meeting Room of Decatur County Courthouse

The regular scheduled meeting for the Decatur County Area Plan Commission was called to order by Albert Armand at 7:00 p.m. on Wednesday, February 1, 2017. There were 8 voting Board members present at the meeting in addition to Krista Duvall – Decatur County Area Plan Director, Debbie Martin – Administrative Assistant, Melissa Scholl – BZA & APC Attorney, Kenny Buening – Decatur County Building Commissioner and Kevin Fleetwood – President, Greensburg APC.

A copy of the meeting agenda and the attendance registrar is attached to these minutes and incorporated by reference. By consensus, the APC Board approved the minutes for the meeting on December 7, 2016 as written and mailed.

*** APC Petition 2017-1 – Daniel & Lindsay Jones** are petitioning to “**subdivide**” approximately 3.4 acres out of 52.11 acres and to “**rezone**” 2.99 acres out of the approximate 3.4 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. The property is **owned by Menkedick LLC and is located just south of 4654 S CR 60 E, Greensburg, IN 47240, Marion Township.**

Daniel Jones stated that they would like to build a house on the property, towards the north end. Its about 90 feet from the center of the road to the front of the house, close to 90 feet from the back side of the property on the east and 200 feet from the cemetery on the north side and 300+ feet down to the southern part of the property. We will leave a 40’ right of way access to the land in case it ever gets sold.

Board; is that access point where it comes out on the road a good spot to get in and out? **Daniel;** there is a hill at the cemetery that comes down and drops in elevation. **Board;** no blind spot? **Daniel;** no. **Board;** looks like it scores pretty good.

Jay Hatton moved to vote on APC Petition 2017-1, Jeff Hermesch seconded the motion. There was one member who abstained and the remaining 7 members present voted yes.

*** APC Petition 2017-2 – Matthew & LeeAnn Gauck** are petitioning to “**subdivide**” and “**rezone**” 2.0 acres out of 302.04 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. The property is **owned by Hunter Robbins Farms LLC and is located just north of 2045 S CR 180 E, Greensburg, IN 47240, Washington Township.**

Matthew stated that he and his wife wish to build a home and the driveway will be placed appropriately according to Mark Mohr with the Highway Dept.

Board; are you using the Rural Water tap on or will you drill a well? **Matthew;** yes.

Tom Hunter made a motion to vote on APC Petition 2017-2; Jeff Hermes seconded. There was one member who abstained and the remaining 7 members present voted yes.

* **APC Petition 2017-3 – Walter & Barbara Herbert** are petitioning to “rezone” 2.99 acres out of 11.955 acres from an A-1 zoning classification to an A-2 zoning classification for construction of a single family detached dwelling. The property is owned by the petitioners and is **located at 4941 S CR 240 W, Greensburg, IN 47240, SandCreek Township.**

Walter Herbert stated that he would like to build a home for he and his wife. We would enter through county road 240W. We will eventually place a pole building as well on the property.

Board; where the road ends you are going to make that a public.... **Walter;** my property entrance goes right off the end of the cul-de-sac. **Board;** the only thing that we ask is that you build that wide enough to get emergency vehicles back there. **Walter;** it’s probably roughly near 100’ wide. **Board;** will you have plenty of room back there to turn around fire trucks? **Walter;** yes. **Board;** it fits in the neighborhood. **Alan Stuart;** I am the President of the Cottonwood Lake Homeowners Assoc. We are good with them building a single resident home, the issue or concern that we have is the road that we are calling 240 W really hasn’t been platted as an actual road yet so we had to pay to surface it all the way from 500 S down to this point so we just needed to be sure that we get the Herbert’s and Mozingo’s to work with us to get it platted. We also have concerns should they own a business that there would be additional wear and tear on the road surface. **Krista;** presented a copy of an Addendum that stated that they can use that road to access the property. **Board;** is there any talk of future business at this residence? **Walter;** no. **Board;** I know things can change but at this time....**Walter;** as far as the road goes they formed an Economic Improvement Development group and we were included in that. And the county accesses our taxes to pay for that roadway to use. **Board;** and you already have a right to use that access? **Alan Stuart;** he is part of the EID so he is paying 1/24th of the share that paved the roads for Cottonwood. They have an easement that was filed at the time that should be invalid because it was filed after I purchased the property and gave them an easement across my property. That’s a moot point but we just need to have the cooperation so that we can get everyone’s signature to get it platted so then we can do the next step and get the county to take over the roads. **Board;** have you seen the addendum that was recorded in 2012. **Alan;** yes and I purchased my house from in June 2009, so they posted this 3 years after I purchased my property. So that easement cannot be enforced because I was the owner of record. That easement should have been bought at the time of sale before I bought my property. **Larry Colson;** I was one of the developers and what he is talking about it the surface. The roadway was there platted as Cottonwood Drive. **Andy;** that’s what I remember. All the lots out there,

the lot lines stop at the 50' right of way or easement as I remember it when it was originally platted. **Larry**; Fleddermans driveway is actually the access into all of that property originally. And being that he has heavy equipment and so forth the board at that time decided we would widen that and put our own drive in, and so we did at our expense. **Andy**; I see the effective date on this addendum is 2006 but it was not recorded until March 21, 2012. **Alan**; so legally speaking they cannot back date it. When I did a title search when I was buying my property it did not show an easement. They did not do this until after I purchased the property. I'll be honest, as long as we get this worked out and we can get the county to take over the roads we need their cooperation to sign the required paperwork to get this completed. **Andy**; so you'll need the signatures from all the homeowners within Cottonwood? **Alan**; All of the homeowners on CR 240 W, including the Herbert's and Mozingo's. **Walter**; I own all of the property, I purchased Mozingo out, I know you didn't know that. I thought that they were going to be county roads from the get go. There is no reason why I wouldn't sign on and get it platted. **Board**; have you started collecting signatures to get what you want accomplished? **Alan**; we already formed an EID, we have a couple of property owners to chase down. That is separate from the HOA. **Melissa**; I have looked at the addendum, it was referenced in the survey and I think what happened is when the deed was prepared it wasn't carried over from the survey. If they have moved the location of the road from where it shows on the survey, I don't know. It appears that probably what the gentleman is proposing would help to clear all of this up. It doesn't sound like there is opposition. **Board**; the big question would be is there a reason that we should not vote on this, maybe table it or do you feel that it is appropriate for us to vote on this? **Melissa**; I don't see that there is any reason to not vote on this. There could be legal action that could take place between the two parties but we are not hearing that. **Board**; so it's just a matter of getting things cleared up. **Jay**; so is that part of our motion with the understanding that they participate in trying to get the roads taken over by the county? **Melissa**; I think it could be shown that the parties are in agreement. **Board**; is there any heavy equipment that goes back this lane to farm or do anything else? **Walter**; no, at one time we had to put a roadway in and we had fill brought in, but everything is in place. **Albert**; so these crop field in the back have access that doesn't include this road? **Larry Colson**; yes, that is Dan Fledderman over there. His farm is everything west of CR 240W. **Walter**; I won't have too much more than the typical traffic to get my house built. **Board**; should the county not adopt that road, and it sounds like you are in the process of, will you continue to pay HOA fees to maintain this road, is that agreed upon? **Alan**; it's EID. **Walter**; yes, the way it is set up is the county actually raises our tax rates for the people who use the road. **Board**; so the HOA does not re-distribute any kind of maintenance funds for that road? **Alan**; no, but the HOA does bill for the maintenance, snow removal. We have annual dues. The Herbert's have been participating in paying their portion of the maintenance fees, but the way our by-laws are written, it is optional for them to participate. **Board**; my only concern is, it sounds like the county probably as long as you have the signatures, and if you guys have a verbal agreement and handshake I think that will go through fine. Should something hiccup in that process I think there needs to be some kind of an in lieu of agreement that you will continue to assist with HOA for snow removal, should the county not

adopt that road. **Alan**; inaudible. **Board**; if the county doesn't, more than likely it sounds like it will, but if it doesn't, there could be something to resolve. **Walter**; I didn't have to get a driveway permit because they are not county roads yet, I did not know about the platting being done but I don't see any reason not to pursue that. I think the roads are all done now. **Alan**; yes they are now, the county came out and inspected them and gave us the documents saying it met county standards and that was part of our agreement with the county to get Napoleon State Bank to pay. **Walter**; I don't see any reason why we wouldn't support the efforts to get them platted. **Board**; do you foresee any issues with your other signatures? **Alan**; no.

Paul Stone made a motion to vote on APC Petition 2017-3; Bill Dieckman seconded. All members present voted yes.

Albert welcomed two new members to the board; Paul Stone and Tom Hunter.

Krista presented and updated Ordinance to Section 8 of our ordinance book. The Flood Ordinances were updated a while ago but never made it to the books. We want to be sure that you all have the correct section. Krista also passed out the draft plan of the County Comprehensive Plan. We are hoping that next month we will review this.

With no other business to come before the board the meeting was adjourned at 7:27 p.m.

Respectfully submitted by Debbie Martin, Administrative Assistant.

ATTEST

Secretary, Andy Scholle

Decatur County Area Plan Commission

President, Albert Armand

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