

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

20-W-SUBD-1 PRIMARY PLAT APPROVAL

Pamela Hitzeman Living Trust

Pamela P. Hitzeman Estates, 7228 E. State Road 14

FEBRUARY 19, 2020

AGENDA ITEM: 1

SUMMARY OF PROPOSAL

Current zoning:	AG, Agricultural		<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	3.28 acres	Lot size:	1.837 acres	3.00 acres
Number of lots:	1 lot	Lot width:	225'	254'±
Dedicated ROW:	0.28 acre	Lot frontage:	50'	307.68'

The petitioner, owner of the subject property, is requesting primary plat approval for Pamela P. Hitzeman Estates, a proposed one-lot subdivision located on the south side of State Road 14, approximately 1/3 mile west of 800 East in Section 12 of Jefferson Township. The site is currently an unimproved agricultural field. An existing residence and multiple outbuildings are approximately 500' southeast in the northeast corner of the parent tract. Floodplain exists on the southwest corner of the lot and is noted in the plat text.

Proposed are one lot and dedicated right-of-way for the state road. A 60' wide access gap is to be retained between the proposed lot and the existing parcel to the east. This would permit access to the remainder of the field at a point outside of the current floodplain. Platting is required due to previous splits from the parent tract. This is the first lot platted from this parcel since 2018, so no rezoning is required.

The proposed plat appears to comply with the development standards of the zoning code as shown in the above table. Note that the front setback of 40' instead of 50' applies as SR 14 is classified on the Comprehensive Plan as a major collector, not an arterial road.

Comment letters received (as of date of staff report)

Electric	X	Health	X	Cable TV		INDOT	X
Gas	X	Co. Highway	X	Sanitary Sewer	NA		
Telephone	X	SWCD	X	Water	NA		

A 40' wide right-of-way for the state road would be dedicated. No drainage and/or utility easements are shown on the lot. At the time of this writing, the comment letters received have stated that the proposed plat is generally adequate. INDOT will require a driveway permit.

The Parcel Committee requested that the plat name be changed to use only the last name, e.g. "Hitzeman Estates," to avoid confusion when indexing a person's full name. Alternatively, a new name could be used.

Separate restrictive covenants have been submitted for review.

WAIVER REQUESTS

There are no waiver requests.

REVIEW CRITERIA

Subdivision primary plats are reviewed for compliance with the standards of Subdivision Control Ordinance and the Zoning Code. Staff finds that the proposed primary plat appears consistent with the standards, with the following condition(s):

1. Revise plat name to address Parcel Committee request.
2. Secondary plat approval delegated to the Plan Commission Staff.

Date report completed: 2/10/20, MC; reviewed 2/13, NB.

PLAN COMMISSION ACTION

Motion:	By:				Second by:			
<i>Vote:</i>	Hodges	Johnson	Mynhier	Western	J. Wolf	B. Wolfe	Woodmansee	Wright
<i>Yes</i>								
<i>No</i>								
<i>Abstain</i>								

PAMELA P. HITZEMAN ESTATES (PRELIMINARY)

SITUATED IN THE WEST HALF OF THE NORTHEAST QUARTER OF SECTION 12, TOWNSHIP 30 NORTH, RANGE 10 EAST, WHITLEY COUNTY, INDIANA

DESCRIPTION

Part of the West half of the Northeast Quarter of Section 12, Township 30 North, Range 10 East, Whitley County, Indiana (This description prepared by Kevin R. Michel, LS80870006, as a part of original Plat of Pamela P. Hitzeman Estates completed by J.K. Walker and Associates, P.C., dated January 13, 2020), being more particularly described as follows, to wit:

Commencing at an iron pin found at the Northwest corner of said Northeast Quarter; thence S00°22'-05"W (deed bearing and used as the basis of bearings for this description), on and along the West line of said Northeast Quarter, a distance of 29.17 feet to the point of intersection with the centerline of State Road Number 14; thence Southeasterly, on and along said centerline, being defined by a regular curve to the right, having a radius of 1909.85 feet, an arc length of 201.72 feet (the chord of which bears S72°29'-32"E for a distance of 201.63 feet), to the point of intersection with the centerline of an open ditch; thence continuing Southeasterly, on and along the centerline of said State Road Number 14, as defined by said curve, an arc length of 331.98 feet (the chord of which bears S64°29'-26"E for a distance of 331.56 feet), to the POINT OF BEGINNING; thence continuing Southeasterly, on and along said centerline, as defined by said curve, an arc length of 132.29 feet (the chord of which bears S57°31'-35"E for a distance of 132.26 feet), to the point of tangency; thence S55°32'-30"E, on and along said centerline and tangent to said curve, a distance of 174.37 feet; thence S00°22'-05"W, a distance of 482.78 feet to a 5/8-inch iron pin capped "Walker"; thence N84°37'-00"W, a distance of 257.43 feet to a 5/8-inch iron pin capped "Walker"; thence N00°22'-05"E, a distance of 628.31 feet to the point of beginning, containing 3.28 acres of land, more or less, subject to legal right-of-way for State Road Number 14, subject to all legal drain easements and all other easements of record.

FLOOD HAZARD STATEMENT

The accuracy of any flood hazard data shown on this report is subject to map scale uncertainty and to any other uncertainty in location or elevation on the referenced Flood Insurance Rate Map. Low-lying areas in the Southwest part of the surveyed tract appear to be situated in Zone "A", which is in a flood plain. The remainder of the surveyed tract appears to be situated in Zone "X", which is not in a flood plain, as said land plots by scale on Map Number 18183C0280C of the Flood Insurance Rate Maps for Whitley County, Indiana, dated May 4, 2015.

THEORY OF LOCATION

This is an original boundary survey of part of the West half of the Northeast Quarter of Section 12, Township 30 North, Range 10 East, Whitley County, Indiana, located on State Road Number 14. The surveyed tract is part of a larger tract of land recorded in Document Number 2016040214 in the records of Whitley County, Indiana. The surveyed tract was created as directed by a representative of the owner.

Multiple GPS observations utilizing a WGS84 signal and a local coordinate grid were utilized this survey.

The Northwest corner of said Northeast Quarter is county referenced. A Mag spike was found at this corner and was held this survey.

The Northwest corner of said Northeast Quarter is county referenced. An iron pin was found at this corner and was held this survey.

The Southwest corner of said Northeast Quarter is not county referenced. A wood post was found acquiescing the position of the Southwest corner of said Northeast Quarter. It was apparent that the wood post had been accepted for a substantial number of years and was the best available evidence in perpetuating the corner location. Said wood post was held this survey.

The centerline of State Road Number 14 was established using recorded distances and bearings.

The Northwest corner and Northeast corner of the surveyed tract were established on the centerline of State Road Number 14 as directed by a representative of the owner.

The Southeast corner and Southwest corner of the surveyed tract were established as directed by a representative of the owner.

A 5/8-inch iron pin capped "Walker" was set at each of these corners.

See survey for other monuments found near the surveyed tract.

See survey for monuments found that are referenced.

SURVEYOR'S REPORT

In accordance with the Title 865 IAC 1-12 "Rule 12" of the Indiana Administrative Code, the following observations and opinions are submitted regarding the various uncertainties of the location of the lines and corners established on this survey as a result of:

(A) Availability and condition of referenced monuments.

See comments above concerning monuments set or found and held this survey. The monuments found are in good condition unless otherwise noted. Certain monuments are referenced as shown.

(B) Occupation or possession lines.

None

(C) Clarity or ambiguity of the record description used and of adjoining descriptions and the relationship of the lines of the subject tract with adjoining lines.

None

(D) The relative positional accuracy of the measurements.

The Relative Positional Accuracy (due to random errors in measurements) of the corners of the subject tract established by this survey is within the specifications for Suburban surveys: 0.13 feet (40 millimeters) plus 100 parts per million as defined by IAC 865.

NOTES

- This survey is subject to any facts and/or easement that may be disclosed by a full and accurate title search. The undersigned should be notified of any additions or revision that are required. The undersigned was not provided with a current title commitment for use on this survey.
- For monuments found and set, see survey. All pins set are #5 Rebars with caps marked "Walker".
- Origin of monuments unknown unless noted on survey.
- Measurements of this survey are based on aforesaid G.P.S. and/or E.T.S. traverse measurements.
- Ownership research of the subject tract, and adjoining tracts, was obtained from current tax records on file in the Offices of the county Auditor and Recorder.
- Reference survey(s) by J.K. Walker & Associates, P.C., dated 06-30-00, 06-20-01.

DEVELOPER

Pamela P. Hitzeman
7702 E Sl Rd 14
Columbia City IN 46725

REDACTION STATEMENT

I affirm, under the penalties for perjury, that I have taken reasonable care to redact each Social Security number in this document, unless required by law. - Kevin Michel

SURVEYOR'S CERTIFICATION

I, the undersigned Registered Land Surveyor licensed in compliance with the laws of the state of Indiana, hereby certify the herein Plat to correctly represent a Survey of the real estate described above as made under my direction, that all the monuments shown thereon actually exist, that lots and streets shown in the Plat have been established in accordance with true and established boundaries of said Survey, and that this Survey and accompanying report has been completed in accordance with Title 865-IAC 1-12 and all other amendments thereto.

I hereby certify that to the best of my knowledge the above Plat and Survey are correct.

Prepared by:


Kevin R. Michel, Professional Surveyor



PLAN COMMISSION CERTIFICATION OF APPROVAL

Primary approval granted on this _____ day of _____, 20____ by the Whitley County Advisory Plan Commission.

Douglas Wright, Plan Commission President

John Johnson, Plan Commission Secretary

COUNTY COMMISSIONERS CERTIFICATION OF APPROVAL AND ACCEPTANCE

Approved and accepted this _____ day of _____, 20____ by the Board of Commissioners of the County of Whitley, State of Indiana.

George Schrumpt

Don Amber

Thomas Western

PLAN COMMISSION STAFF CERTIFICATION OF APPROVAL

Secondary approval granted this _____ day of _____, 20____ by the Staff of the Whitley County Advisory Plan Commission.

Nathan Bilger, Executive Director

DEED OF DEDICATION

I the undersigned, Pamela P. Hitzeman, Trustee of the Pamela P. Hitzeman Living Trust dated March 10, 2016, owner of the real estate shown and described herein by virtue of a certain deed recorded as Document Number 2016040214, do hereby certify that I have laid off, platted and subdivided, and hereby lay off, plat and subdivide, said real estate in accordance with this plat.

This subdivision shall be known and designated as PAMELA P. HITZEMAN ESTATES, a subdivision in Whitley County, Indiana. All rights-of-way of public roads, streets, and alleys shown and not heretofore dedicated, are hereby dedicated to the public. Front yard building setback lines are hereby established as shown on this plat, between which lines and the property lines of the street, there shall be erected or maintained no building or structure, except as in conformance with the requirements of the Whitley County Zoning Ordinance.

A perpetual easement is hereby granted to any private or public utility or municipal department, their successors and assigns, within the area shown on the plat and marked "Utility Easement," to install, lay, construct, renew, operate, maintain and remove conduits, cables, pipes, poles and wires, overhead and underground, with all necessary braces, guys, anchors and other equipment for the purpose of serving the subdivision or adjoining property with telecommunication, electric, gas, sewer, and water service as a part of the respective utility systems, and the right is hereby granted to enter upon the lots at all times for all of the purposes aforesaid.

The owners of land over which a Regulated Drain Easement right-of-way runs may use the land in any manner consistent with Indiana Code 36-9-27 and the proper operation of the drain. Permanent structures may not be placed on any right-of-way without the written consent of the Whitley County Drainage Board. Temporary structures may be placed upon or over the right-of-way without the written consent of the Board, but shall be removed immediately by the owner when so ordered by the Board or by the County Surveyor. Crops grown on a right-of-way are at the risk of the owner, and, if necessary, in the reconstruction or maintenance of the drain, may be damaged without liability on the part of the surveyor, the Board, or their representatives. Trees, shrubs, and woody vegetation may not be planted in the right-of-way without the written consent of the Board, and trees and shrubs may be removed by the surveyor if necessary, to ensure the proper operation or maintenance of the drain.

Areas designated on the plat as "Drainage Easement" are hereby reserved to the County, or subsequent governmental authority, for the purpose of constructing, maintaining, operating, removing, and replacing stormwater drainage facilities, be it surface or subsurface, in accordance with plans and specifications approved by the Whitley County Engineer, or comparable agent of a subsequent governmental authority. No plantings, structures, fill, or other materials shall be placed in the Drainage Easements so as to impede the flow of storm water. Drainage Easements shall not be disturbed in a manner as to interfere with the flow of storm water and all grades shall be maintained as constructed. Responsibility for the maintenance of Drainage Easement stormwater facilities, including but not limited to periodic removal and disposal of accumulated particulate material and debris and mowing of common stormwater detention areas, shall remain with the owner or owners of property within the plat, and such responsibility shall pass to any successive owner.

The removal of any obstructions located in any Utility Easement or Drainage Easement by an authorized person or persons performing maintenance or other work authorized herein shall in no way obligate the person in damages or to restore the obstruction to its original form.

No owner of any Lot or any other parcel within this Plat shall at any time remonstrate against or attempt to cause the cessation of any farming operation, whether now existing or existing in the near future which interferes with the residential use of the Lot or tract owned by the person or the tract owned by the person or persons remonstrating. Any person accepting title to a Lot or tract within this Plat, acknowledges that general agricultural areas exist adjacent to or near this Plat, and that activities on such agricultural areas may result in normal farm interference such as noise, odor, dust, agricultural implement traffic, unusual hours, and other normal agricultural uses.

In addition to the Lots, Rights-of-way, Easements, and Building Lines dedicated on the face of this plat, the property is also subject to additional "Protective Covenants and Restrictions" that may be recorded together with this plat.

The foregoing covenants, or restrictions, are to run with the land and shall be binding on all parties and all persons claiming under them until January 1, 2046, at which time said covenants, or restrictions, shall be automatically renewed for successive periods of ten years unless amended through the Plan Commission. Invalidation of any one of the foregoing covenants, or restrictions, by judgment or court order shall in no way affect any of the other covenants or restrictions, which shall remain in full force and effect.

The right to enforce these provisions by injunction, together with the right to cause the removal, by due process of law, of any structure or part thereof erected, or maintained in violation hereof, is hereby dedicated to the public, and reserved to the owners of the lots in this subdivision and to their heirs and assigns.

Witness our hands and seals this _____ day of _____, 20____.

Pamela P. Hitzeman, Trustee

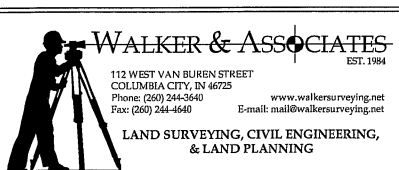
State of Indiana)
County of Whitley)

Before me, the undersigned Notary Public in and for said County and State, personally appeared Pamela P. Hitzeman, and each separately and severally acknowledge the execution of the foregoing instrument as his or her voluntary act and deed, for the purposes therein expressed.

Witness my hand and notarial seal this _____ day of _____, 20____.

Notary Public

My Commission Expires



Pamela P. Hitzeman

Pamela P. Hitzeman Estates

These are hereby created and are to run with the land and shall be binding upon the parties hereto and their successors in title, as follow:

1. Said real estate shall be used for residential and agricultural purposes only.
2. No dwelling house shall be erected on said real estate which has a ground floor area of less than 1000 square feet for a single story house, exclusive of garages and porches; no less than 1200 square feet for a one and one-half story house, exclusive of garages and porches; and no less than 1400 square feet for a two story house; exclusive of garages and porches.
3. There shall be no manufactured or mobile homes allowed on the lot(s) within this subdivision.
4. Said real estate shall be kept neat and presentable and mowed so weeds do not go to seed.
5. No house shall be constructed with siding of insulation shingles, composition shingles, rolled roofing or rolled siding as siding materials.
6. All buildings constructed on said lot(s) shall be within all building setback lines and shall not encroach on any utility, drainage and ingress and esgress easements.
7. There shall be no two-family or multiple-family dwellings.
8. There shall be no outside toilets maintained or erected upon said lot(s). All water and sewage installation shall fully comply with the regulations and ordinances of the Indiana State Board of Health and the Whitley County Board of Health and shall be maintained in accordance therewith.
9. Said lot(s) shall not be used for the storage of unlicensed automobiles, junk, scrap material or waste of any kind, or for any commercial activity of any kind.
10. The purchaser of any lot in this addition is hereby advised that there may be a charge for electric service depending on the location of the house on the lot.
11. Owners of said lot(s) and their successors in title are on notice and understand that this subdivision is in a predominately agricultural area and

that farming operations, to include livestock operations, will be practiced in the area of this subdivision. With this understanding, all owners of the lot(s) in this subdivision forego their right to bring claim against any farmer in the area who are practicing normal, reasonable and necessary farming and livestock operations.

