

**WHITLEY COUNTY ADVISORY PLAN COMMISSION
STAFF REPORT**

19-W-VAC-3 PLAT VACATION
R&E Fahl Farms, LLC
Vacation of part of Magic Hills Estates

**SEPTEMBER 18, 2019
AGENDA ITEM: 1**

SUMMARY OF PROPOSAL

The petitioner is seeking to vacate a part of Magic Hills Estates, located on the northwest corner of the intersection of State Road 9 and CR 500 North. The vacated land would then be combined into one unplatted parcel.

The Magic Hills Estates plat was recorded in 1989. As platted, the subdivision was comprised of 29 lots, four new streets, and a block for the Magic Hills Golf Club. The subdivision and golf club were mostly developed, but lots 23-27 and 29 and Deborah Drive were not fully developed.

In 2016, the golf course closed, and in 2017 a replat of a portion of the golf club block was recorded to create two new lots and extend several existing lots. The remainder of the golf club block and undeveloped lots remained in the original plat. The petitioner cleared the golf course, lot area, and Deborah Drive right-of-way for use as agricultural field, extending their adjacent field to the north.

This proposal is to vacate the remaining portion of Magic Hills Golf Club block, and Lots 23-25 and 27, all of which are owned by the petitioner. The Deborah Drive right-of-way is also requested to be vacated, but Staff will confirm that the Plan Commission has the authority to vacate ROW as part of a plat vacation instead of a right-of-way vacation through the Commissioners.

Note that the plat does not appear to have dedicated any public rights-of-way along CR 500N east of Virginia Trail or along SR 9 at all, and instead only indicated the existing right-of-way easement. Since they were not dedicated by the plat, this requested vacation should not affect the rights-of-way of those two roads.

Planning staff have received one comment from the public that supported maintaining the agricultural nature of the properties in question.

REVIEW CRITERIA

Indiana Code §36-7-4-711, the Subdivision Control Ordinance, and the Zoning Code provide standards for plat vacations, including a requirement to make determinations regarding the criteria listed below. Staff's comments are under each criterion.

1. Conditions in the platted area have changed so as to defeat the original purpose of the plat;

As stated above, the platted area in question has been converted to agricultural land from the intended golf course and lots, and the petitioner has no intention to develop the property in the manner depicted on the Magic Hill Estates plat. Additionally, the replat of 2017 also changed the nature of the original plat by dividing up the golf club block. Thus, the conditions of the area have changed so as to defeat the intended purpose of the plat.

2. It is in the public interest to vacate all or part of the plat; and

Since the area in question is not likely to be developed, the platted lots may eventually become nonconforming as zoning code regulations change. Where possible, prevention or elimination of non-compliant parcels is typically in the public interest. Additionally, it is likely that when/if the property is developed, it would not be in conformance with the existing plat, so a vacation or replat would be necessary at that time. Vacating the property now would set the expectation that development must occur in conformance with the current regulations.

3. The value of that part of the land in the plat not owned by the petitioner will not be diminished by the vacation.

The vacation does not change the permissibility of any uses under the zoning code, nor is any change of use proposed. The greatest potential effect on the surrounding property values occurred when the golf course closed and was replaced with a field. No subdivision process would have prohibited that land use change. Therefore the vacation is not expected to diminish the value of the remaining parts of the subdivision.

SUGGESTED CONDITIONS

Staff finds that the proposed vacation appears consistent with the standards, with the following condition(s):

1. Any rights-of-way for CR 500 North and State Road 9 are not vacated.

Date report completed: 9/10/19

PLAN COMMISSION ACTION

Motion:

By:

Second by:

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



Nine-Bear, LLC

Fitch, Jerry D & Soncerra, E

Richter, Lynn David

Wilcoxson, Donald E Revocable Living Trust

Herbert, J

Whitley County REMC
Indiana & Michigan Electric Co

DB Stein Properties LLC

Conrad, Keith A & Mary E

Conrad, Jason J & Amy J

State Of Indiana

5432

5355

5215

5145

1621

1631

1706

Fahl Family Legacy Farms, LLC

Miller, B Virginia & Miller, Kent A

R & E Fahl Farms, LLC

R & E Fahl Farms, LLC

R & E Fahl Farms, LLC

R & E Fahl Farms, LLC

R & E Fahl Farms, LLC

Miller, Kent A

Miller, Kent A & Deborah S

Hines, Travis J & Amanda M

Genth, Noah D & Danielle R

Miller, Kent A

Wilcoxson, Donald E Revocable Living Trust

Wilcoxson, Donald E Revocable Living Trust

Townsend, Robert D & Tammy L

R & E Fahl Farms, LLC

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Miner, Travis J & Nicole A

Lecklider, Daniel J & Stacie J

Swihart, Randy J & Quinn Colleen T

Swihart, Randy J & Quinn Colleen T

R & E Fahl Farms, LLC

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R & E Fahl Farms, LLC

Bolander, Kelly L

Dietrich, Stanley C

Swihart, Randy J & Quinn Colleen T

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Dietrich, Stanley C

Swihart, Randy J & Quinn Colleen T

Swihart, Randy J & Quinn Colleen T

Columbia City Municipal Electric Department

St Mathews United Methodist Church Of Whitley Co

Bonham, Craig & Amy D

Evans, Kenneth B

Thorncreek Twp

Davison, Kent A Jaralee

Fahl, Gregory A

Reed, Jeffrey L & Monica R

Davison, Joshua W & Abbe C

Tomaszewski, Debra J

Evans, Kenneth B

Shumaker, John D & Tephania J

Conrad, Jason J & Amy J

Conrad, Keith A & Mary E

Reed, Jeffrey L & Monica R

Tomaszewski, Debra J

Evans, Kenneth B

Shumaker, John D & Tephania J

Evans, Kenneth B

Shumaker, John D & Tephania J



TO: Whitley County Plan Commission

FROM: Mark Cullnane, Planner I, Columbia City/Whitley County Joint Planning & Building
Department

SUBJECT: Comment RE: 19-W-VAC-3

To whom it may concern,

I received a telephone call from Danielle Genth, 5050 N. Virginia Trail, Columbia City, IN 46725, at 11:20 A.M. on Wednesday, September 11, 2019 concerning the potential vacation of lots associated with 19-W-VAC-3. Ms. Genth expressed her support of keeping the land as farmland and stated that she did not want to see the land developed.

Mark Cullnane