

**WHITLEY COUNTY ADVISORY PLAN COMMISSION  
STAFF REPORT (REVISED)**

**22-W-SUBD-1 PRIMARY PLAT APPROVAL**  
Triple R Development, LLC  
Estates of Legacy Woods

**JANUARY 19, 2022  
AGENDA ITEM: 1**

**SUMMARY OF PROPOSAL**

Current zoning:	RR, Rural Residential	<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	46.24± acres	Lot size: 15,000 sq. ft.	0.49 ac. (21,344± sq. ft.)
Number of lots:	27 lots	Lot width: 100'	100'±
New street ROW:	3.1± acres	Lot frontage: 50'	130'±
Perimeter ROW:	NA	35' (cul-de-sac)	40'±
Common area:	3.51± acres	Avg. lot area: NA	1.44± acres

The petitioner is requesting primary plat approval for Estates of Legacy Woods, a proposed 27-lot subdivision located on the north side of State Road 14, approximately ½ mile west of 800 East in Section 1 of Jefferson Township. The site is currently an unimproved property, largely wooded.

The following table lists current surrounding zoning classifications and land uses:

	<i>Current zoning</i>	<i>Current land use</i>
<i>North</i>	AG	[Railroad], woods, agricultural
<i>East</i>	RR	Residences (Donatello's Village, Bel Sogno subdivisions)
<i>South</i>	AG	Residence, [SR 14], residence, agricultural
<i>West</i>	RR	Residences (Legacy Preserve subdivision)

Proposed are 27 lots of sizes varying from 0.49 acres to 3.45 acres in size, generally in an X-shaped street layout, to be developed in a single phase. Several of the lots have wetlands, floodplains, and detention basins that reduce their buildable area, but none appear to be irregular enough to be problematic. As a reminder, the lot layout may change slightly between this primary plat and the final secondary plat.

There are two common areas proposed, totaling 3.5± acres, located at the front of the subdivision along SR 14. Other ponds and drainage infrastructure are within easements on individual lots.

**ZONING STANDARDS**

This property was rezoned to Rural Residential in 2021. There were two zoning commitments required to be recorded: the first that the development was limited to eight lots unless access to SR 14 was obtained, and the second being that stormwater management facilities are required. These commitments were recorded as Instrument #2021040326 and are binding upon the developer and subsequent owners.

The intended use for the lots is single-family residential, which is a compliant use in Rural Residential zoning. As the zoning district permits major residential subdivisions, no rezoning is required.

The proposed front building lines for most lots are shown at 50' or more, which exceeds with the RR zoning requirement of 40' for lots with sanitary sewer and wells. Seven lots are proposed at 35' front setbacks; these need to be amended to 40' unless public water is supplied.

The minimum lot widths and frontages appear to be compliant, as indicated above, although staff did approximate a few measurements. This will be verified at the secondary plat stage. Otherwise, the proposed lots appear to comply with the lot development standards of the zoning code.

The subdivision does include designated floodplain and floodway along the Taylor B drain in the southwest. The approximate location of the floodplain is shown on the plat, and the proposed covenants explicitly state that any construction in the floodplain must meet the flood protection grade.

### ***Section 5.22 Standards***

This is a summary of the applicable standards of Section 5.22 of the Zoning Code.

The nearest Confined Feeding Operation is located approximately 12,000' away from the subject property to the west. This is more than the 1,320' or 2,640' required.

A stormwater management plan is required, and there are provisions for stormwater management shown on the primary plat, which will be more fully engineered with the subdivision development plans. Water quality management will also be required, as referenced in the comments from the SWCD.

The Drainage Board will be involved with reconstructing the legal drain located through the property.

The proposed plat accesses State Road 14, a paved public road, and Heritage Trail, a mostly-finished subdivision road. There are no new stub streets proposed on the plat. The properties to the east are already developed and have no available connections. The north property line is bounded by the railroad and extending a stub street would exceed the maximum block length permissible, as well as create a new grade crossing. A stub street to the 10-acre single-family property to the southeast would involve crossing a waterway and floodway. Therefore, stub streets to the north or southeast may have more disadvantages to public safety than benefits.

A traffic study and/or management plan may be required by the Plan Commission prior to or as a condition of primary plat approval. The petitioner is preparing a traffic study for the INDOT permit.

No landscaping is shown on the primary plat, as is typical. The code requires a 20' wide landscape area adjacent to perimeter roads, which may be an easement incorporated into lot area. In this case, perimeter landscaping will be required on Blocks A and B. The petitioner proposes to maintain existing trees to satisfy this requirement.

Individual lot landscaping is also required. Section 7 of Article IV of the proposed covenants specifies that at least four trees are required per lot. This would be compliant with the zoning code minimum.

The proposed primary plat shows a general layout for sidewalks, including accessibility ramps at the intersection. Section 15 of Article IV of the covenants provides that 5' sidewalks will be constructed by the lot buyers. The final layout and details will be reviewed with subdivision development plan review.

### **SUBDIVISION STANDARDS**

Both the Subdivision Code and Indiana Code require that proposed subdivisions be reviewed in conformance with the Subdivision Code, and by reference the Zoning Code and Highway Standards and Specifications.

Subdivision Code §501 refers to consistency with the Comprehensive Plan, so the Commission needs to consider this request with respect to the Plan recommendations and objectives. However, case law dictates that the Commission must base its determination of subdivision compliance upon "concrete standards." Since the Plan is primarily a guiding document, not regulatory, the application of its recommendations to subdivision requests is difficult. Much discussion of the Comprehensive Plan's recommended land use for this property occurred at the rezoning hearing, with the RR zoning being adopted.

15' front yard easements are proposed throughout the plat, with additional easements for drainage infrastructure. At a primary plat stage this appears compliant, but further refinement of easement locations will occur as design occurs with respect to utility and infrastructure needs.

The internal roads being proposed would be within 50' rights-of-way, which are compliant for subdivision streets. There are no through roads proposed, so no increased specifications would be needed unless a through road is recommended by the Commission.

Given the layout of the plat, block lengths are within the maximum length in the Subdivision Code.

The length of the proposed cul-de-sac for Woodland View Place is 1,120', which exceeds the maximum of 500' permitted in the Subdivision Code or 1,000' permitted by the County Highway Specifications. The number of lots on the cul-de-sac, 14, is less than the maximum of 20 permitted by the highway manual. The deviation in the length has been requested as a waiver.

#### **UTILITY AND REVIEWING AGENCY COMMENTS**

*Comment letters received (as of date of staff report)*

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

Comments from the electric, gas, sanitary sewer utility, and Parcel Committee stated that the plat was generally adequate at this stage. The Health Department indicated that wells would require permits.

Lumen, the telephone company, indicated that they would not be able to provide fiber optic service. This may be taken to mean that copper service may not be feasible as well.

INDOT provided comment that further information was required to review the proposed entrance onto SR 14. The petitioner is working to assemble such information. It is understood that without INDOT permitting, any subdivision plat approval would be voided.

The Soil and Water Conservation District had several comments regarding several topics, including the Construction Stormwater General Permit (CSGP), which replaced Rule 5 in December. These comments should be addressed with development plans.

The Engineering department confirmed that the petitioner has begun discussing the requirements of the Drainage Board for reworking the legal drain through the site.

In the pre-filing meeting, prior to his departure, the County Engineer expressed concerns about the road specifications, the island in the cul-de-sac, development meetings, and the potential for encroachments into the wetlands and legal drain easements in the future.

Draft restrictive covenants have been submitted. Some highlights of the proposed covenants include:

- Article IV, Section 1: Minimum of 2,750 sq. ft. for one-story dwellings; 3,000 sq. ft. for multi-story
- Section 2: Minimum 750 sq. ft. garage (roughly 3-car or larger)
- Section 3: No street-facing garages
- Section 5: Front façade to be minimum 70% masonry materials (including Hardi-plank)
- Section 7: As discussed above, the landscaping exceeds the minimum zoning requirements. Existing trees are to be preserved to the greatest extent possible.
- Section 15: Sidewalks required

- Article V, Section 21: Further subdivision of lots is not permitted
- Article VI: Establishment of a homeowner association, including provision for levying assessments

### **WAIVER REQUESTS**

Section 104 of the Subdivision Code states, “where, owing to special conditions, a literal enforcement of this ordinance would result in unnecessary hardship, the Commission may make such reasonable exceptions thereto as shall not be contrary to the public interest.” Thus, the Commission must make findings when considering a waiver of the Code standards.

The petitioner requests a waiver of the 500’ maximum cul-de-sac length (or 1,000’ by the Highway Specifications) for the proposed Woodland View Place street. The property is roughly 700’ wide, which could be feasibly developed with a loop street, avoiding the long cul-de-sac. However, the extensive wetlands on the property impede construction of a loop street, making a cul-de-sac the only option to serve the northern part of the property. Stub streets (temporary dead ends) could be used to avoid cul-de-sacs (permanent dead ends), but as discussed above, stub streets may create greater issues than benefits. Finally, the lot areas for the northernmost lots could be increased so as to shorten the cul-de-sac length; the petitioner has done this, making lots 18, 19, and 20 significantly larger than the nominal lot area.

### **REVIEW CRITERIA**

Subdivision primary plats are reviewed for compliance with the standards of Subdivision Control Ordinance and the Zoning Code. If the application and plat are found to be in compliance with these standards, the primary plat should be granted.

It is staff’s opinion that the proposed primary plat meets the minimum requirements with the following conditions:

1. The requested waiver for the longer cul-de-sac be granted.
2. Building line setbacks be revised per zoning code. Landscape easement to be added along SR 14.
3. Formal Technical Review of development plans and pre-construction meetings are required.
4. Construction inspections are required as per the requirements of the County Highway and Engineering departments, and other departments, agencies, or utilities.
5. Drainage Board approval is required for the reconstruction of the legal drain.
6. A covenant needs to be included that any improvements to be located in the legal drain easement, other than the original dwelling, must have consent from the Drainage Board.
7. Compliance with CSGP rules and address SWCD comments.
8. Secondary plat approval be delegated to staff unless performance sureties are proposed.

Date report completed: 1/14/21

### **PLAN COMMISSION RECORD OF ACTION**

Motion:	By:	Second by:
Approve _____	_____	_____
Approve w/conditions _____	_____	_____
Deny _____	_____	_____

  

<b>Vote:</b>	<b>Drew</b>	<b>Emerick</b>	<b>Hodges</b>	<b>Johnson</b>	<b>Kurtz-Seslar</b>	<b>Schrumpf</b>	<b>J. Wolf</b>	<b>Wright</b>	_____
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									