

**WHITLEY COUNTY ADVISORY PLAN COMMISSION  
STAFF REPORT**

**23-W-SUBD-4    PRIMARY PLAT APPROVAL**

Todd & Joheine Clingerman  
Grady's Landing  
South side of 200 South, 3,200' west of 425 West

**APRIL 19, 2023  
AGENDA ITEM:    2**

**SUMMARY OF PROPOSAL**

Current Zoning:	AG, Agricultural		<u>Code Minimum</u>	<u>Proposed Minimum</u>
Area of plat:	4.46 acres	Lot size:	1.837 acre	4.31 acre
Number of lots:	1 lot	Lot width:	225'	225'
Dedicated ROW:	0.15 acre	Lot frontage:	50'	225'

The petitioner, owners of the subject property, is requesting preliminary plat approval for a one lot subdivision to be named "Grady's Landing". The proposed plat is located on the south side of 200 South, about 3,300' west of 425 West/Whitley Road in Section 24 of Richland Township. The property to be platted is currently unimproved; a house is located on the remainder tract.

The proposed plat would split off one lot, intended to construct a residence. The subdivision is required due to prior splits from the 1979 parent tract. No rezoning is required as this would be the first platted lot from the 2018 parent parcel.

The proposed plat appears to comply with the development standards of the zoning code as shown in the above table. An existing shed would be moved to comply with the required setback from the new lot line.

**UTILITY AND REVIEW COMMENTS**

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

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

A 30' wide right-of-way for the county road would be dedicated. 10' drainage and/or utility easements are shown on the perimeter of the lot.

There is an off-site ingress/egress easement proposed that would share the existing driveway on the parcel being retained by the petitioner.

No covenants were submitted. Being that the driveway is to be shared, having covenants at least to provide for its maintenance are advisable.

The electric utility requested additional easement width along the east lot line that would reflect the location of their existing electric service.

Other comments received stated the proposal was adequate.

**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. It is advised to have covenants and restrictions recorded to provide for the shared maintenance of the driveway.
2. Adjust easements as requested in the utility comment.
3. Requirements of the Health Department to be met prior to issuance of building permits on the lot.
4. Secondary plat approval delegated to the Plan Commission Staff.

Date report completed: 4/11/23

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

Motion:

By:

Second by:

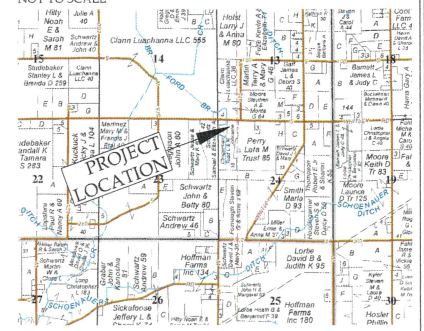
Approve

Approve w/conditions

Deny

<b><i>Vote:</i></b>	<b>Baker</b>	<b>Drew</b>	<b>Emerick</b>	<b>Green</b>	<b>Hodges</b>	<b>Johnson</b>	<b>Kurtz-Seslar</b>	<b>Schuman</b>	<b>Wolf</b>
<i>Yes</i>									
<i>No</i>									
<i>Abstain</i>									

SITUATED IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA



# GRADY'S LANDING (PRELIMINARY)

SITUATED IN THE NORTHWEST QUARTER OF SECTION 24, TOWNSHIP 31 NORTH, RANGE 8 EAST, WHITLEY COUNTY, INDIANA

## DESCRIPTION

Part of the Northwest Quarter of Section 24, Township 31 North, Range 8 East, Whitley County, Indiana (This description prepared by Kevin R. Michel, LS80870006, as part of original survey Plat of Grady's Landing completed by J.K. Walker and Associates, P.C., dated March 22, 2023), being more particularly described as follows, to wit:

Commencing at a Mag nail found at the Northwest corner of said Northwest Quarter; thence N90°-00'-00"E (deed bearing and used as the basis of bearings for this description), on and along the North line of said Northwest Quarter, a distance of 424.00 feet to a Mag nail at the Northeast corner of a certain 4.669 acre tract of land as recorded in Document Number 99-11-492 in the records of Whitley County, Indiana, said Mag nail also being at the POINT OF BEGINNING; thence continuing N90°-00'-00"E, on and along said North line, being within the right-of-way of County Road 2005, a distance of 225.00 feet to a Mag nail; thence S01°-47'-15"W, a distance of 882.90 feet to a 5/8-inch iron pin capped "Walker"; thence N69°-21'-30"W, a distance of 289.98 feet to the Southeast corner of said 4.669 acre tract of land, said corner being on the centerline of an open ditch, said corner also being situated N69°-21'-30"W, a distance of 83.0 feet from a 5/8-inch iron pin capped "Walker", said corner further being situated S16°-21'-00"W, a distance of 22.0 feet from a 5/8-inch iron pin capped "Walker"; thence N16°-21'-00"E, on and along an Easterly line of said 4.669 acre tract of land, a distance of 197.00 feet to a 5/8-inch iron pin capped "Walker" found at an Easterly corner of said 4.669 acre tract of land; thence N01°-47'-15"E, on and along an Easterly line of said 4.669 acre tract of land, a distance of 591.50 feet to the point of beginning, containing 4.46 acres of land, more or less, subject to legal right-of-way for County Road 2005, subject to all legal drain easements and all other easements of record.

TOGETHER WITH an ingress and egress easement as recorded in Document Number 95-6-14 and Document Number 99-11-492 in the records of Whitley County, Indiana, said easement being more particularly described as follows, to wit:

Part of the Northwest Quarter of Section 24, Township 31 North, Range 8 East, Whitley County, Indiana, more particularly described as follows, to wit:

Commencing at the Northwest corner of said Northwest Quarter; thence N90°-00"E (recorded East), on and along the North line of said Northwest Quarter, a distance of 351.0 feet to the true point of beginning; thence continuing N90°-00"E, on and along said North line, being within the right-of-way of County Road 2005, a distance of 73.0 feet to a P.K. nail; thence S01°-47'-15"W, a distance of 200.1 feet; thence N90°-00"W, a distance of 63.7 feet to a survey stake; thence N00°-52"W, a distance of 200.0 feet to the true point of beginning.

TOGETHER WITH an ingress and egress easement, being part of the Northwest Quarter of Section 24, Township 31 North, Range 8 East, Whitley County, Indiana, being more particularly described as follows, to wit:

Commencing at a Mag nail found at the Northwest corner of said Northwest Quarter; thence N90°-00'-00"E (deed bearing and used as the basis of bearings for this description), on and along the North line of said Northwest Quarter, a distance of 424.00 feet to a Mag nail at the Northeast corner of a certain 4.669 acre tract of land as recorded in Document Number 99-11-492 in the records of Whitley County, Indiana; thence continuing N90°-00'-00"E, on and along said North line, a distance of 225.00 feet to a Mag nail; thence continuing N90°-00'-00"E, on and along said North line, a distance of 134.20 feet to the POINT OF BEGINNING of said ingress and egress easement; thence continuing N90°-00'-00"E, on and along said North line, being within the right-of-way of County Road 2005, a distance of 43.02 feet; thence S21°-35'-20"W, a distance of 449.09 feet; thence S01°-47'-15"W, a distance of 474.43 feet; thence N69°-21'-30"W, a distance of 26.42 feet to a 5/8-inch iron pin capped "Walker"; thence N01°-47'-15"E, a distance of 514.53 feet; thence N21°-35'-20"E, a distance of 395.96 feet to the point of beginning of said ingress and egress easement.

## 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. 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 18183C0140C 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 Northwest Quarter of Section 24, Township 31 North, Range 8 East, Whitley County, Indiana, located on County Road 2005. The surveyed tract is part of a tract of land as recorded in Document Number 95-6-14 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 Northwest Quarter is county referenced. A Mag nail was found at this corner and was held this survey.

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

The Northwest corner of the surveyed tract was established on the North line of said Northwest Quarter, a deeded distance of 424.00 feet East of the Northwest corner of said Northwest Quarter. A Mag nail was set at this corner.

The Northeast corner of the surveyed tract was established on the North line of said Northwest Quarter as directed by a representative of the owner. A Mag nail was set at this corner.

The Westerly lines of the surveyed tract were established using existing monuments found and recorded distances and bearings. A 5/8-inch iron pin capped "Walker" was found at a Westerly corner of the surveyed tract and was held this survey.

A 5/8-inch iron pin capped "Walker" was set on a Westerly line of the surveyed tract and was held this survey.

A 5/8-inch iron pin capped "Walker" was set on the Southerly line of the surveyed tract and was held this survey.

A 5/8-inch iron pin capped "Walker" was set at the Southeast corner of the surveyed tract and was held this survey.

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.

Open ditches exist as shown on this survey.

Stone drive exists as shown on this survey.

(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 were observed.

(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 revisions 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.
- The Whitley County Surveyor's Legal Drain Map shows two (2) legal open drains, one in the Northwest part of the surveyed tract and one in the Southwest part of the surveyed tract. Per Indiana Code 36-9-27 legal open drains have 75-foot wide drainage easements from the top of each bank. These open drains are shown on this survey. Prior to any construction of a permanent structure near the legal drain easements, the locations of the tops of the banks should be verified by the Whitley County Surveyor.
- The Plat of Lighthouse Pointe was used as a reference.
- Reference survey(s) by J.K. Walker & Associates, P.C., dated 05-23-95, 11-11-99, 08-23-00, 09-27-04.
- The Whitley County Auditor and Recorder will require that a copy of this survey be recorded with the new deed.

## PLAN COMMISSION CERTIFICATION OF APPROVAL

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

Mark Johnson, Plan Commission President

Troy Joe Wolf, 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.

Chad Banks

Theresa Baysinger

Rob Schuman

## 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

## 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 hereon Plat to correctly represent a Survey of the real estate described above as made under my direction, that all the monuments shown therein 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

## DEED OF DEDICATION

We the undersigned, Todd L. Clingerman and M. Johneine Clingerman, owners of the real estate shown and described herein by virtue of a certain deed recorded as Document Number 95-6-14, do hereby certify that we 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 GRADY'S LANDING, 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 within 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, 2049, 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\_\_\_\_.

Todd L. Clingerman

M. Johneine Clingerman

State of Indiana )

)


County of Whitley )

Before me, the undersigned Notary Public in and for said County and State, personally appeared Todd L. Clingerman and M. Johneine Clingerman, 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



**WALKER & ASSOCIATES**  
EST. 1984

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