

# Wells County Area Plan Commission

223 W. Washington St. Bluffton, IN 46714

PH: (260) 824-6407 FAX: (260) 824-6415

E-MAIL: GIS@wellscounty.org

## Requirements for Vacating All or Part of a Major Subdivision

**Filing and Meeting dates are available at the Area Plan Commission Office and the Wells County Area Plan Commission Web Site (<http://www.wellscounty.org/apc.htm>)**

**Copies of the Wells County Zoning Ordinance and Wells County Subdivision Control Ordinance are available for purchase at the Wells County Area Plan Commission Office or may be viewed and printed online at the Wells County Area Plan Commission Web Site (<http://www.wellscounty.org/apc.htm>)**

### 1. FEES

- a. Filing Fee \$300.00 + \$10.00 per lot (payable to the Wells County Area Plan Commission)
- b. Public Advertisement Sign Fee \$15.00 (payable to the Wells County Area Plan Commission)
- c. Legal Advertisement \$114.00 (payable to the Bluffton News-Banner)

### 2. Filing

- a. Filled Out and Signed Petition
- b. 5 copies of the plat **Must Be 24" x 36"** depicting the area to be vacated.
- c. Copy of the signed Written Instrument to Vacate Plat by the petitioner's attorney at least 2 weeks prior to the meeting date.
- d. If petition is not signed by legal owner(s) then applicable Power of Attorney, Trust documents, and/or death certificate(s) are required.

### 3. APPEAL PERIOD: **30 days**

### 4. **Recording a. A copy of the Area Plan Commission's Petition form and Written Instrument to Vacate Plat shall be recorded after the appeal period. (Petitioner's Expense)**

\* All Fees Are Not Refundable

\* As A Petitioner You Are Responsible For Reviewing The Wells County Zoning Ordinance And Subdivision Control Ordinance Requirements For Your Petition. The Area Plan Commission Office Staff Will Be Available To Answer Any Questions You May Have.

\* A COMPLETE FILING DOES NOT GUARANTEE APPROVAL. (THE FILING MUST MEET THE APPLICABLE REQUIREMENTS OF THE WELLS COUNTY ZONING AND SUBDIVISION CONTROL ORDINANCE TO BE APPROVED.)

Vacating All or Part of a Major Subdivision Petition

**PETITION FOR VACATING ALL OR PART OF A MAJOR SUBDIVISION: (APC OFFICE)** \_\_\_\_\_

Owner of Real Estate (Petitioner): \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Plans Prepared By: \_\_\_\_\_

Address: \_\_\_\_\_ City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_

Phone #: \_\_\_\_\_ E-Mail: \_\_\_\_\_

Property Location: \_\_\_\_\_

Property Description: \_\_\_\_\_

Proposed Vacating All or Part of a Major Subdivision: \_\_\_\_\_

\_\_\_\_\_

Current Zoning Classification: \_\_\_\_\_

Comes now the Area Plan Commission and in support of granting "Petitioner's" Petition for Vacating All or Part of a Major Subdivision makes the following Findings of Fact, to wit:

"Petitioner" filed a Petition for a Vacating All or Part of a Vacating All or Part of A Major Subdivision as to the following described real estate located in \_\_\_\_\_ Township, Wells County, Indiana; more particularly described on Exhibit A attached hereto.

The sign as required by the Plan Commission has been duly posted in accordance with the Rules of Procedure of the Plan Commission more than fourteen days prior to the Plan Commission hearing.

On \_\_\_\_\_, the Area Plan Commission conducted a public hearing on the Petition in accordance with the Rules of Procedure of the Area Plan Commission and the following evidence was heard.

**Indiana Code Requirements IC 36-7-3-10**

(1) All the owners in the plat must declare the plat or part of the plat to be vacated in a written instrument.

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**Indiana Code Requirements IC 36-7-3-11**

(1) The petition must state the reasons for and circumstances prompting the request to vacate the plat.

c. Does The Petition Meet the Requirement? (YES or NO)

d. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(2) The petition must specifically describe the property in the plat proposed to be vacated.

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(3) The petition must give the name and address of each owner of land in the plat.

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(4) Is the petition including a request to vacate recorded covenants or commitments?

a. Does the Petition include the vacating of covenants and commitments? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(5) The conditions in the platted area have changed so as to defeat the original purpose of the plat.

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(6) It is in the public interest to vacate all or part of the plat.

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

a. Does The Petition Meet the Requirement? (YES or NO)

b. Explain \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

**IC 36-7-3-13 Vacation proceedings; filing of remonstrances and objections; grounds**

Sec. 13. A remonstrance or objection permitted by section 11 or 12 of this chapter may be filed or raised by any person aggrieved by the proposed vacation, but only on one (1) or more of the following grounds:

- (1) The vacation would hinder the growth or orderly development of the unit or neighborhood in which it is located or to which it is contiguous.
- (2) The vacation would make access to the lands of the aggrieved person by means of public way difficult or inconvenient.
- (3) The vacation would hinder the public's access to a church, school, or other public building or place.
- (4) The vacation would hinder the use of a public way by the neighborhood in which it is located or to which it is contiguous.

*As added by Acts 1981, P.L.309, SEC.22. Amended by Acts 1981, P.L.46, SEC.7; Acts 1982, P.L.211, SEC.3; P.L.353-1983, SEC.1.*

**PETITIONER'S SIGNATURE:**

_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date
_____ Signature	_____ Date	_____ Signature	_____ Date

(This petition must be signed by 100% of the owners/sellers. If the power of attorney or the trustee is filing this petition then the proper paperwork shall be submitted proving their title to the Area Plan Commission)

Board of Zoning Appeals Variance(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Area Plan Commission Waiver(s): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Conditions or Commitments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Wherefore, based upon the above findings of fact and upon the Motion of \_\_\_\_\_, duly seconded by \_\_\_\_\_, the Petition for a Vacating of all or part of a Major Subdivision by "Petitioner" is hereby granted by a vote of \_\_\_\_\_ in favor and \_\_\_\_\_ opposed.

Granted this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Area Plan Commission President

\_\_\_\_\_  
Area Plan Commission Secretary

**NOTICE OF AGRICULTURAL ACTIVITY**

TO: ALL PETITIONERS IN AGRICULTURAL ZONED AREAS OF **WELLS** COUNTY, INDIANA

This notice is given to you because of your petition to move into an area of **Wells** County that is zoned for Agriculture.

The purpose of this notice is to assure you are aware that all agricultural operations are allowed in this area.

Agricultural activity may include, but is not limited to, grazing of livestock, confined feeding of livestock, application of animal manure to land, application of herbicides and pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations which includes the drying and transportation of grain, sometimes with machinery that has a "Slow Moving Vehicle" emblem on it, meaning it is traveling at 25 mph or less.

People who choose to live in these areas must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "RIGHT TO FARM" law that protects farm operations from unwarranted nuisance suits by neighbors who move next to an existing farm operation. Farm operations do not constitute a nuisance so long as they are not negligently maintained, do not endanger human health and do not cause bodily injury to third parties.

By signing this notice form you verify that you have received it, read it and understand it. You are not giving up the right to seek redress for negligence by individuals associated with a farm operation or by other residents of the area.

I, \_\_\_\_\_ CERTIFY THAT I HAVE RECEIVED THIS NOTICE. I HAVE READ IT AND I UNDERSTAND IT.

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date