

ORDINANCE 2015 - 04

AN ORDINANCE AMENDING THE
CASS COUNTY SUBDIVISION CONTROL ORDINANCE

WHEREAS, Cass County, Indiana adopted the Cass County Subdivision Control Ordinance which became effective on May 6 1988, and has had subsequent amendments as listed on the title page of the Cass County Subdivision Control Ordinance; and

WHEREAS, The General Assembly of the State of Indiana granted powers to counties to amend the text of an adopted subdivision control ordinance according to IC 36-7-4-602 (b), and Section 607 of the Cass County Subdivision Control Ordinance allows for the amendment of said Ordinance; and

WHEREAS, the Cass County Plan Commission held a public hearing on the proposed textual amendments to the Cass County Subdivision Control Ordinance on Tuesday April 7, 2015 and voted to certify the amendments with a favorable recommendation to the Cass County Board of Commissioners; and

WHEREAS, the Cass County Board of Commissioners believes there is merit in amending the Ordinance, as attached, in order to promote the public health, safety, comfort, morals, convenience and general welfare of the community; now therefore, be it

ORDAINED by the Cass County Board of Commissioners of Cass County, Indiana, as follows:

SECTION 1: That the Cass County Zoning Ordinance be amended according to the amendments as follows:

- 103 AUTHORITY: This Ordinance was enacted pursuant to Indiana home rule and planning enabling legislation, IC 36-1-3-4 and IC 36-7-4-700 series, as amended, which authorizes the Cass County Plan Commission to review and approve or disapprove plats for subdivision within its jurisdiction which show lots, blocks, or sites with or without new streets or highways. This authority extends to the development or replatting of portions of already recorded plats. This ordinance applies to all land transactions whether public or private.
- 114 ZONING ORDINANCE CONFORMITY: All land subdivided or platted under the terms of this Ordinance shall comply with the minimum standards prescribed in the Cass County Zoning Ordinance. The Commission, plat committee or its staff shall not have the authority to approve any subdivision as a buildable lot, unless it which does not complyes with said Zoning Ordinance. ~~For subdivisions of land within the zoning jurisdiction of another unit of government, the Zoning Ordinance of the unit having such jurisdiction shall apply.~~ It is the intent of these regulations that subdivision review may be carried out simultaneously with the review of development plans and planned unit developments as permitted by the Zoning Ordinance. The plans required for development plans and planned unit developments may be submitted in a form to satisfy the requirements of the subdivision regulations.
- 116 RECORDATION PROHIBITION: Pursuant to IC 36-7-4-710, a plat of a subdivision may not be filed with the County Auditor, and the County Recorder may not record it, unless it has been granted secondary approval and signed and certified by the Administrator. The filing and

recording of the plat is without legal effect unless approved by the Commission or Plat Committee. The County Auditor shall not accept a deed for property to be entered for taxation unless the property complies with the requirements of this Ordinance. Any split that is not considered a subdivision by this ordinance must receive a sign-off from the Subdivision Administrator. The County Auditor and County Recorder may not accept or record such a split without an attached sign-off from the Subdivision Administrator.

119 RESUBDIVISION (REPLATTING) OF LAND: All resubdivisions (replattings) must undergo the same subdivision process as the initial approval, unless it falls under 119.03.

119.01 For any change in a map of an approved or recorded subdivision plat, if such change affects any street layout shown on such map, or area reserved thereon for public use, or any lot line change that creates an additional buildable lot, or if it affects any map of plan legally reached prior to the adoption of any regulations controlling subdivisions, such parcel shall be approved by the Commission by the same procedure, rules, and regulations for a subdivision.

119.03 Any resubdivision of a recorded secondary plat approved pursuant to this Ordinance which involves only the changing of the notations written on the plat or correction of errors thereon, which involves only the removal or relocation of easements on the property, or which involves only the removal of interior lot or parcel lines provided the outside perimeter of the property remains unchanged and that fewer parcels result than were contained in the original plat may receive approval from just the the Subdivision Administrator for such changes.

120 FINDINGS OF FACT: applications shall be approved or denied based of the consideration of the following findings of fact.

1. Do the materials presented meet the requirements of the applicable Subdivision Control Ordinance?
2. Does the design of the subdivision meet the requirements of the applicable Subdivision Control Ordinance for Utilities?
3. Does the design of the subdivision meet the requirements of the applicable Subdivision Control Ordinance for Lot Design?
4. Does the design of the subdivision meet the requirements of the applicable Subdivision Control Ordinance for Drives/Lot Access/Streets/Easements?
5. Does the design of the subdivision meet the requirements of the applicable Subdivision Control Ordinance for Drainage?
6. Does the division interfere with the goal to preserve prime farmland?
7. Does the division have proper documentation for the County Health Department soil/septic/other sewage alternatives?

Access Easement: A private way which a property owner for the use by another property owner to provides access to lots, tracts, or parcels of land and which meets the minimum standards set

forth in this Ordinance. All access easement(s) must be described in any deed or contract and must be shown on any plat related to such easement.

Drive, Private: Driveways ~~and access easements~~, paved or unpaved, which are wholly within private property, not maintained by the public, providing vehicular access to no more than four lots or parcels.

Easement: A grant by a property owner for the use by another of any designated part of his or her property for a clearly specified purpose. All easements must be shown on the plat and mentioned in each deed or contract.

Exempt Division: See definition of Subdivision, Exempt.

Lot(s), Pipestem: (aka flag lot): One ~~or two~~ lots deriving access from a single ~~or shared~~ access easement or a single private drive and not having frontage on a public street.

Plat, Primary: The preliminary drawing or drawings, described in these regulations, indicating the proposed manner or layout of the subdivision to be submitted to the Commission or Plat Committee for primary approval.

Right-of way: A strip of land, other than an easement, occupied or intended to be occupied by a street, pedestrian way, crosswalk, railroad, electric transmission line, oil or gas pipeline, water main, sanitary or storm sewer main, special landscaping, drainage swale, or for another special use. The boundaries of such right-of-ways are considered to be the lot lines of adjoining property from which setback distances are measured and must be shown on the plat.

Street: A right-of-way dedicated or otherwise legally established which affords the principal means of access to abutting property. A street may be designated as a highway, thoroughfare, parkway, boulevard, road, avenue, lane, drive or other appropriate name. A street ~~may~~ shall be public ~~or private~~.

~~Street, Private: A right of way or easement which serves the same function as a local street but which are not dedicated to nor maintained by any unit of government. Any such street constructed after the effective date of this amendment shall be required to be constructed in accordance with the standards prescribed in this Ordinance. See definition for (Drive, Private) for private access serving no more than four lots.~~

Subdivision: The division or partial division of a parent tract (as defined) or any parcel of land into one or more lots, parcels, sites, units, plats, or interests for the purpose of offer, sale, lease, transfer of ownership, or development. It also includes resubdivision and the grant of an easement, which is needed to provide legal access to any property under the terms of this Ordinance. Divisions of parent tracts, which meet the definition of an exempt division, shall not be counted in determining whether or not a further division qualifies as an exempt subdivision. However, an exemption allowing land being divided which results in no more than one lot, parcel, etc.(See Subdivision, Exempt, definition letter G.) may be applied only once to a parent tract. No division shall create a non-conforming lot from the original parcel.

Subdivision, Exempt: Any subdivision of land that includes the following.

A. Any land that is being divided for agricultural purposes (as defined) and not for the purpose, whether immediate or future, of use, building development, or other improvement for residential, commercial, industrial, recreational, or other non-residential purpose; or any land being divided as a farm (as defined by the Cass County Zoning Ordinance) that is at least 20 acres in size. These divisions are considered non-buildable, except agricultural structures, and do not have to comply with lot area or lot width of the Zoning Ordinance.

B. Any land being divided for sale or exchange between adjoining land-owners or for the combining with an existing adjacent parcel, ~~provided no additional building sites are created and that all involved parcels comply with the Cass County Zoning Ordinance.~~ such divisions are considered non-buildable and do not have to comply with lot area or lot width of the Zoning Ordinance. Unless they are combined with an existing parcel and meet all standards of the Zoning Ordinance, in such instance the exempt parcel may not be sold off separately from the adjoining land-owner or existing adjacent parcel.

C. Any land being divided which had an existing residence or business structure located on the parcel on the effective date of this Ordinance, May 6, 1988, and which meets the Cass County Zoning Ordinance standards and regulations.

D. Any land being divided pursuant to court decree, such divisions are considered non-buildable and do not have to comply with lot coverage, lot area, lot width or setbacks of the Zoning Ordinance.

E. Any land being divided or acquired by a public agency or utility for a street or utility right-of-way or easement or any essential service, other than those required for a subdivision as defined in this Ordinance. These divisions are considered non-buildable and do not have to comply with lot area or lot width standards of the Zoning Ordinance. Divisions for public use may create an adjoining parcel to become a legal non-conforming parcel, such parcels do not have to comply with lot coverage, lot area, lot width, lot area per family, or setbacks of the Zoning Ordinance.

F. Any land being divided into cemetery plots. These splits will be considered non-buildable and do not have to comply with lot area or lot width of the Zoning Ordinance.

G. Any land being divided from the parent tract, as of May 5, 2003 see definition, which results in no more than one lot, parcel, site, unit, plat, or interest for the purpose of offer, sale, lease, transfer of ownership or development. These divisions must comply with all standards of the Zoning Ordinance or be recorded as non-buildable lot.

H. Any land being divided for the paramount purpose of establishing a site for a radio or television tower, telecommunications antenna, cell towers, wind towers or facility provided such use has zoning approval. These lots are considered buildable lots and must comply with all standards of the zoning ordinance except for lot area and lot width.

- I. Any other land being divided that is not a major or minor subdivision (as defined), which may or may not comply with the standards of the Zoning Ordinance will be a non-buildable and be recorded as such.

Subdivision, Major: Any subdivision of land that includes the following:

- A. Any land being divided which involves the construction, ~~or extension, substantial realignment of any street of public streets, private streets, or access easements,~~ other than one ~~or two~~ pipestem lots ~~using an access easement.~~

Subdivision, Minor: Any subdivision of land that includes the following.

- A. Any land being divided into four or fewer lots or the combined and cumulative total of four or fewer lots from an original parent tract which does not involve the construction, ~~or extension, or substantial realignment of any street, of public streets or private streets or access easements, except for two pipestem lots sharing a common access easement.~~

- ~~B. Any land being divided into four or fewer lots or the combined and cumulative total of four or fewer lots from an original parent tract that under the terms set forth in this Ordinance does not involve the substantial improvement or realignment of any street or road.~~

- ~~BC.~~ Any resubdivision of a recorded secondary plat approved pursuant to this Ordinance which involves only the changing of the notations written on the plat or correction of errors thereon, which involves only the removal or relocation of easements on the property, or which involves only the removal of interior lot or parcel lines provided the outside perimeter of the property remains unchanged and that fewer parcels result than were contained in the original plat.

- ~~D. Any division of land into one or two pipestem lots using an access easement.~~

Waivers: The Plan Commission may give waivers to subdivisions and/or splits that can't meet certain development standards see Section 604.

306.01 Exempt Division approval procedure shall be as follows:

- A. An exempt division plat must be submitted with the following items to the Subdivision Administrator

1. Legal description

2. Names and addresses of the owner, subdivider, and consulting engineer, land surveyor, or planning firm who prepared the plan.

3. Legend and notes, including the scale, north arrow, and date.

4. County parcel tax identification number(s).

5. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners, closing with an error of not more than 1 foot in 5000 feet.

6. Layout of lots showing dimensions and numbers and square footage or acreage of each lot excluding area within rights-of-way.

7. Showing the closest building to the newly created line with setback dimensions unless setback is greater than 50ft.

8. Existing streets and rights-of-way on and adjoining the site of the proposed subdivision showing the names, roadway widths, types and widths of pavements

9. Existing and proposed easements, including the location, width, and purpose of such easements must be shown on plat.

10. Location of all other natural features.

11. Boundary lines or elevations for approximate limits of floodway and floodway fringe areas on each lot as scaled from the flood plain district maps and regulations of the Zoning Ordinance.

12. Location, type, material, and size of all monuments and markers

13. The surveyor's certificate must be located on the plat.

B. The Subdivision Administrator will review a complete application and will provide a sign-off for the exempt subdivision within 2 business days. Prior to review by the Subdivision Administrator the Auditor's Office will review the legal description(s) for completeness.

C. Subdivision Administrator sign-offs must be recorded with all deeds and plats.

306.0402 However, ~~before any permit of shall be granted for any~~ buildable Exempt Division, the subdivider shall certify to the satisfaction of the Administrator that the following requirements for exemption have been met.

~~A. The property involved meets the definition of exempt division.~~

~~B. The property involved meets all applicable zoning standards of the Cass County Zoning Ordinance.~~

~~C. The property involved will be divided by metes and bounds descriptions.~~

DA. The property has either access to public sewers or complies with the Cass County Health Department sewage disposal regulations before receiving a permit, except structures that will not have sewage disposal.

~~EB.~~ The property has proper access and a driveway which meets Section 510 of this Ordinance and complies with the Highway Access and Road Cut Ordinance.

C. Exempt lots shall meet Section 509: Lot Design, unless conflicting with other exempt division standards. In such cases the exempt standards will be adhered to.

402 PRIMARY APPROVAL – MINOR SUBDIVISIONS: The following materials must be submitted for primary approval of a minor subdivision plat. The Subdivision Administrator shall specify at the advisory meeting how many copies of the application materials and additional materials may be specified in the Bylaws and Rules of Procedures-Developer Guidebook.

402.01 An application on a form provided by the Subdivision Administrator.

402.02 A filing fee as established by the adopted fee schedule.

402.03 A primary plat including supporting plans drawn according to generally accepted professional drafting standards, consisting of the following items.

A. Legal description and/or subdivision name and lot number of the subdivision.

~~B. Proposed name of the subdivision followed by the words “Primary Plat”.~~

G. Tract boundary lines showing dimensions, bearings, angles, and references to section, township, and range lines or corners, closing with an error of not more than 1 foot in 5000 feet.

K. Layout of lots showing dimensions and numbers and square footage or acreage of each lot excluding area within rights-of-way.

L. Building lines showing setback dimensions throughout the subdivision within 50 feet of a newly created property.

M. Existing streets and rights-of-way on and adjoining the site of the proposed subdivision showing the names, roadway widths, ~~approximate gradients~~, types and widths of pavements, ~~curbs, and sidewalks.~~

N. Existing and proposed easements, including the location, width, and purpose of such easements must be shown on plat.

P. Identify and locate general surface drainage flow areas. For a plan describing the ~~surface and subsurface~~ drainage system to an approved outlet, including data showing that said outlet is adequate to accommodate the drainage requirements of the finished subdivision. Arrows designating the general drainage of all streets and lots shall be included. ~~The description of the drainage system shall be sufficient to verify compliance with IC-36-9-27-69.5 and subsequent amendments (see Section 519.01 of this Ordinance for details). The drainage plan should be on a separate sheet with topographic contours and accompanied by a Certificate of Sufficiency as per Appendix A-12.~~

R. Boundary lines or elevations for approximate limits of floodway and floodway fringe areas on each lot as scaled from the flood plain district maps and regulations of the Zoning Ordinance.

U. If the ~~primary plat~~ subdivision is to be divided into sections or phases of development, the boundaries and numbers of such sections, or phases, shall be shown.

S. Location, type, material, and size of all monuments and markers

T. The certificates listed below and all other applicable certificates and notations as shown in Appendix A.

1. A-2, Surveyor's Certificate

2. A-3, Owner's Certificate

3. A-4, Additions to Owner's Certificate

4. A-5, Notarized Signature Required

5. A-6, Primary Approval Certificate

403.01. Proposed name of the subdivision followed by the words "Primary Plat".

403.02. A drainage flow areas plan describing the surface drainage system to an approved outlet, including data showing that said outlet is adequate to accommodate the drainage requirements of the finished subdivision. The description of the drainage system shall be sufficient to verify compliance with IC-36-9-27-69.5 and subsequent amendments (see Section 519.01 of this Ordinance for details). The drainage plan should be on a separate sheet with topographic contours and accompanied by a Certificate of Sufficiency as per Appendix A-12.

404 ~~PRIMARY/SECONDARY APPROVAL – CERTAIN RESUBDIVISION OF MINOR~~
SUBDIVISIONS: For ~~certain subdivision~~ of minor subdivisions described below, only the following information is necessary for both primary and secondary approval and may be in lieu of all other information specified in this Ordinance.

~~404.01 For resubdivision of a recorded secondary plat approved pursuant to this Ordinance the following materials shall be submitted.~~

~~404.01A. An explanation of the changes and why they are necessary.~~

~~404.02B. A revised plat showing changes.~~

~~404.03C. For resubdivisions involving relocated and/or removal of easements, written approval of affected utilities and interested parties must also be submitted.~~

~~404.02 For two pipestem lots and/or for minor subdivisions which will not have more than two lots at a time, a survey on sheets no less than 8 ½ by 14 inches may be submitted in lieu of a complete plat, provided all applicable information required by Sections 402 and 405 is~~

~~adequately shown including the Primary and Secondary Plat Certificate(s). An application and filing fee must also be filed. 404.04 This procedure may be used no more than two times by any applicant after such all information in Section 402 and 405 will be necessary. from any parent tract.~~

405 SECONDARY APPROVAL – MINOR SUBDIVISIONS: The following materials must be submitted for secondary approval of a minor subdivision plat. Primary plat approvals maybe used as secondary plat approvals if no changes have occurred and as long as the following is provided. If changes have been made to primary plat approval then a secondary plat will be done with all elements of Section 402 and the following. If a primary approval has been heard by the Plat Committee the secondary approval shall not be given till after the 5 business day appeal period.

405.01 A secondary plat consisting of the following items:

- ~~A. Name of subdivision followed by the words “Secondary Plat”.~~
- ~~B. Name and address of the owner and subdivider.~~
- ~~C. North point, scale, and date.~~
- ~~4 5~~
- ~~DA. Certification by a registered land surveyor or engineer.~~
- ~~E. Accurate boundary lines, with dimension and angles, which provide a legal survey of the tract, closing with an error of not more than 1 foot in 5000 feet.~~
- ~~F. Accurate distances and directions to the nearest official monument. Reference corners shall be accurately described on the plat.~~
- ~~G. Accurate locations of all existing and recorded streets intersecting the boundaries of the tract.~~
- ~~H. Accurate metes and bounds description of the tract boundary.~~
- ~~I. Source of title of the applicant to the land as shown by the last entry in the books of the County Recorder.~~
- ~~J. Existing street location and all street names. Private streets shall be labeled “Private Street not to be dedicated to the public.”~~
- ~~K. Complete curve notes for all curves included in the plat.~~
- ~~L. Lot numbers and dimensions, including the square footage of each lot.~~
- ~~M. Accurate locations of easements for utilities and any limitations on such semi-public or community use.~~
- ~~N. Building lines and setback dimensions throughout the subdivision.~~

~~O. Location, type, material, and size of all monuments and markers.~~

PB. The certificates listed below and all other applicable certificates and notations as shown in Appendix A.

1. ~~A-2, Surveyor's Certificate~~

~~2. A-3, Owner's Certificate~~

~~3. A-4, Additions to Owner's Certificate~~

~~4. A-5, Notarized Signature Required~~

5. A-7, Secondary Approval Certificate

6. A-9, Board of County Commissioners Certificate or A-10, Subdivisions Containing No Dedication Certificate

7. A-11 Recording Certificate

~~Q. All secondary plats having within their boundaries areas whose elevation is below that of the regulatory flood shall show and label the regulatory flood boundary and elevation, as of the date the secondary plat is drawn.~~

405.02 Plans and specifications for the improvements required in this Ordinance.

~~405.03 Protective covenants and maintenance agreements as approved with the primary plat.~~

509.11 Except where otherwise provided in Section 510, each lot shall have at least 40 feet frontage on either a public road or a private road.

509.12 Lots shall be platted exclusive of right(s)-of-way (as defined).

510.01 In the Agricultural Zoning District lots in subdivisions consisting of more than one lot shall derive access from either access easements or newly platted private or public streets. However, ~~two~~ one lots may derive individual access from existing public streets provided the lot width is at least twice the minimum lot width required in the Zoning Ordinance or three lots provided lot width is three times the required minimum. No more than three lots in any subdivision in the Agricultural Zoning District shall derive access from existing public streets.

510.02 In residential zoning districts, lots in subdivisions containing more than four lots shall derive individual access from either access easements or newly platted private or public streets.

510.04 To achieve more creative planning and preservation of natural property features, pipestem lots are permitted provided each has exclusive unobstructed private access easement or private driveway of at least 20 feet width to a public road. ~~Two pipestem lots with no more than one dwelling on each lot may share a common access easement of at least 24 feet width.~~

510.06 Access easements providing legal access to more than ~~2~~ 1 pipestem lots or more than one regular lot shall be at least 50 feet in width and shall have the capability of providing suitable locations for future public streets meeting the standards set forth in this Ordinance. Generally, up to 4 lots may receive access from a private access easement per subdivision. The subdivision plat shall be properly noted that the access easement is private and a plan for maintenance shall be filed with the plat. The Commission shall approve a plan for maintenance of the proposed access easement road improvements.

510.07 An access easement serving more than 4 lots shall be considered a street and must be constructed according to the street standards in Section 511, ~~even if the street remains private~~. In this case the subdivider must submit a plan for maintenance for approval by the Commission.

510.08 Except as provided in Section 510.01 and 510.02, lots in residential subdivisions shall not in general have access directly from existing public streets. Where subdivision borders on or contains an existing public street the Commission may require that access to such streets be limited by one or more of the following means.

A. The subdivision shall be designed so that residential lots face a parallel newly platted public street. No access shall be permitted to the existing public streets from any residential lots, and screening may be required in a planting strip inside the rear property line of such lots.

B. A series of cul-de-sacs, U-shaped streets, or short loops entered from and designed generally at right angles to the existing public streets.

C. An access easement serving up to ~~two~~ one pipestem lots or up to four regular lots.

D. A common driveway between two adjoining lots as provided by Section 510.05 of this Ordinance.

511 STREETS: All public streets and ~~all private streets~~ providing access to more than 4 lots shall be designed and constructed according to the standards of this section. This section does not apply to minor subdivisions.

~~511.23 Privately owned subdivision streets are allowed but they must meet the following conditions.~~

~~A. Private streets must be built according to all specifications in this Ordinance except as approved by the Commission.~~

~~B. A plan for maintenance must be submitted and approved by the Commission with the primary plat.~~

~~C. The primary and secondary plat must include a statement that the streets are privately owned and maintained.~~

~~D. Private streets shall be maintained by the subdivider or by the homeowners association, so that fire, police, health, school, and sanitation vehicles and public utility vehicles have adequate access. Adequate access includes an adequate turning area.~~

~~E. Applicable performance guarantees as required by this Ordinance shall be filed.~~

522 FLOODPLAINS AND AREAS OF POOR DRAINAGE: Subdivisions which have land within floodplains or land subject to flooding shall meet the following design standards.

522.01 The following sources of floodplain information shall be used for the purposes of this Ordinance.

B. The Federal Insurance Administration report entitled, "The Flood Insurance Study for the County of Cass, Indiana" dated ~~February~~ September 3, 1981 2014 with the accompanying Flood Insurance Rate Maps and Flood Boundary-Floodway maps, along with subsequent revisions to the text or maps.

603 APPEAL: Any final decision of the Subdivision Administrator may be appealed to the Commission. The appellant has the burden of notification costs in all cases. The notice of final decision shall contain the date of mailing thereon. Said appeal may be initiated by the subdivider or any property owner affected by such final decision. The appeal shall be directed to the Commission and shall be filed with the Department. Such appeal must be made within ~~ten~~ five days of the mailing of such final decision to the subdivider.

603.03 Any appeal that has been filled in subdivisions that hearings are not required must go through the same process as subdivisions that have gone through a formal hearing.

604 MODIFICATIONS ~~WAIVERS~~: The Commission or Plat Committee may grant such ~~modifications~~ waivers to the requirements and standards of this Ordinance as will not be contrary to the public interest, where owing to extraordinary conditions, fully demonstrated by the subdivider on the basis of facts presented, strict compliance with the provisions of this Ordinance will result in practical difficulties or misuse of property.

604.01 In the exercise of its authority under this section, the Commission or Plat Committee shall grant ~~modifications~~ waivers only upon finding all of the following.

A. The ~~modification~~ waivers will not be detrimental to the public health, safety, or general welfare.

B. The ~~modification~~ waivers will not adversely affect adjacent property.

C. The ~~modification~~ waivers is justified because of exceptional topographic or other physical conditions unique to the property involved and is not to correct mere inconvenience or financial disadvantage.

D. The ~~modification~~ waiver is consistent with the intent of this and other applicable ordinances or the Comprehensive Plan.

E. The condition necessitating the ~~modification~~ waiver was not created by the owner or applicant.

F. The ~~modification~~ waiver will not conflict with the powers and duties of the Board of Zoning Appeals as defined by the Zoning Ordinance.

604.02 Any request for ~~modifications~~ waivers from the standards of this Ordinance shall be submitted in writing as part of the application for approval of a subdivision. Such request shall make specific reference to the section of the Ordinance from which such ~~modification~~ waiver is requested and shall state the reasons for the request, addressing the criteria in this section.

604.03 In approving or denying a ~~modification~~ waiver request, the Commission or Plat Committee shall make specific findings on each of the criteria in this section. If the Commission or Plat Committee approves a ~~modification~~ waiver request, it may impose such conditions as it deems necessary and proper to carry out the intent and purposes of this Ordinance.

604.04 All waivers must go before the Commission or Plat Committee for a public hearing within 30 days of application and notifications shall be given by publication pursuant to Indian Code 5-3-1 and to all interested parties by certified mailing post marked 10 days prior to hearing and shall be given by and at the cost of the petitioner

SECTION 2: That this amendment be in full force and effect upon its passage.

Adopted this 20 day of April 2015.


Jim Sailors, President


Ralph Anderson


Jeff LeDonne

ATTEST:


Vaneen Ide, Cass County Auditor