



LAPORTE COUNTY PLAN COMMISSION

Government Complex 5th Level
809 State Street, Suite 503 A
LaPorte, Indiana 46350-3391
(219) 326-6808 Ext. 2591, 2563, & 2221
Fax: (219) 362-5561

ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES May 22, 2012

MEMBERS PRESENT: TONY HENDRICKS GLEN MINICH
 GENE JONAS RITA BEATY KELLY
 JIM PRESSEL HAROLD PARKER
 GENE MATZAT MATT BERNACCHI

OTHERS PRESENT: Annemarie Polan, Recording Secretary, Doug Biege, attorney, Darlene Pavey, Secretary.

PLEDGE OF ALLEGIANCE

Matt Bernacchi asked for approval of the May 22, 2012 Agenda.

Jim Pressel made a Motion to approve the Agenda. Rita Beaty Kelly seconded. All approved. Motion carried 8-0.

Matt Bernacchi asked for approval of the April 24, 2012 minutes.

Harold Parker made a Motion to approve the minutes. Jim Pressel seconded. All approved. Motion carried 8-0.

Public Comment:

Matt Bernacchi said hearing none. Public comment closed.

PETITIONS:

- A) **The Owner/Developer Holliday Properties** is requesting primary approval for a Planned Unit Development to be known as Life Works Business Park and also to show the Plan Commission the proposed exit road off this property. The proposed development will be located on approximately forty (40) acre parcel of land at the northeast corner of the intersection of Interstate 94 and US Highway 421 and Frontage Road, Michigan City, Indiana, Coolspring Twp. The development would consist of approximately twelve (12) develop uses; professional office, medical

office, fitness and wellness establishments, restaurants and hotel. **(This Petition was tabled from April 24, 2012 meeting.)**

Matt Bernacchi asked if he had a Motion to remove this from the table.

Tony Hendricks made a motion. Rita Beaty Kelly seconded. All approved. Motion carried 8-0.

Mike Mika said that he is with Holliday Properties out of Portage, Indiana. Mr. Mika said that he is here on behalf of the developer and the land owner of the project known as Life Works Business Park. Mr. Mika said that he came before this body in March of last year. Mr. Mika said during that time they submitted their development plans of the park for the Planned Unit Development. Mr. Mika said that during that meeting, it was approved condition upon the petitioners being required to furnish a written commitment for property rights to allow alternate road access for additional means of ingress and egress acceptable to the Commission.

Mr. Mika said that when he was before the board last year, the only ingress and egress of this park was on Frontage Road. Mr. Mika said that they had a traffic study done that this road is enough to supply the park, but they're looking at the larger development of those surrounding areas, so it was asked that we be able to provide some type of secondary ingress and egress.

Mr. Mika said that during the last year they have worked with the adjacent landowner and have finally secured an agreement from them to dedicate a right-of-way across their property going to the east, which would be 950 west. Mr. Mika said that would provide for the secondary ingress and egress. Mr. Mika said that he supplied the letter to Doug and he thinks that Doug circulated the letter, which is the agreement that is signed between them and the adjacent landowner.

Mr. Mika said that the timing is up in the air of when the road would be built. Mr. Mika said that it was never brought to them that says it needs to be built by this period, but he knows there is a grant in place right now for work being done and this would be a good time to get the road in place if there is grant funding, because as other projects are happening, sometimes the bulk of work you might be able to get the road done for a little cost.

Mr. Mika said that they have been on the agenda for the past couple of months, but they finally were able to get an agreement from the land owner to dedicate the right-of-way.

Matt Bernacchi said that last night at the council meeting they approved the half of million dollar funding for the contract with Beam, Longest and Neff and money for acquiring the right-of-way from the landowners to get the 950 road put in. Matt said that Jeff Wright is currently working on the utilities that were done years ago by Beam, Longest and Neff. Matt said that there are some revisions since we moved the right-of-way lines, but Tonn & Blank and Holliday Properties have been with them through the entire process. Matt said that they plan to put the utilities out for bid around the August deadline. Matt said that once the utilities are in probably late fall, or earlier spring, the 950 road will be run and hopefully we're going to have a couple alternates on the bid running up to 94 and running a road up to the back of the property.

Mr. Mika said that the approval from this side would help them, because right now they're a two lot subdivision and this would allow them to be able to get the PUD for the next step to get approved and that would allow for them to start marketing the properties a little bit more based upon their development.

Matt Bernacchi asked if there were any questions from the Plan Commission.

Jim Pressel asked Mr. Mika if he had any drawings where the road is coming in and out.

Mr. Mika said that the development that they're specifically talking about is where the IU Medical Building is built. Mr. Mika said that is part of their forty acre development.

Mr. Mika is up at the bench showing the board where Frontage Road is and the existing building. Mr. Mika said that they've proposed dedicating their easement, which would tie to the property owner to the east, and they would just continue their right-of-way going to the east from 950. Mr. Mika said that it hasn't been dictated exactly where this road would go. Mr. Mika said that it would be in a way that makes the most sense, depending on the types of soil.

Harold Parker asked Mr. Mika who is paying for this.

Mr. Mika said that has never been discussed. Mr. Mika said that he was asked to get the information to get a secondary access on ingress and egress.

Matt Bernacchi said that there is currently in place a one point three million dollar grant. Matt said depending on how much road we can get in for that. Matt said there is also a 20/80 match with the utility company. Matt said that the county pays twenty (20%) percent and the feds pay eighty (80%) percent. Matt said that another option out there they've talked about since it's only twenty (20%) percent, maybe if we can get some road put in at Holliday Properties along with Tonn & Blank Property, maybe they could pitch in if they are getting a road for twenty (25) percent of the costs. Matt said that there is definitely a payment plan figured out.

Attorney Biege said that he has some exhibits that Matt Readron introduced at last night's council meeting.

Jim Pressel asked Mr. Mika the results of the traffic study that was done. Jim asked if there was going to be any ingress egress slow down lanes on 400.

Mr. Mika said not on 400. Mr. Mika said that there was some suggestions on 400 to add that, but they never suggested anything about a secondary ingress or egress needed from this part.

Jim Pressel asked if that road is currently feeding that from 400 to the proposed PUD. Jim asked if they were going to upgrade that road.

Mr. Mika said that is a State road and it's kind of a chore trying to get that upgraded. Mr. Mika said that they've gone through and made some improvements to it, but they are limited on what they can do for a State road. Mr. Mika said that they've reached out to them a couple of times

and asked for some help. Mr. Mika said that they're going to continue to fill holes because it helps their development.

Matt Bernacchi said that we've tried to obtain that road in the county. Matt said that it has been working between the State and county; it's just for them to initially come and pave it and then the county takes over. Matt said that it has been big talk.

Glen Minich asked how far they're going to go east before you get to 950.

Tony Hendricks said probably about fifteen hundred feet. Tony said a quarter of a mile.

Gene Jonas asked Mitch or Annemarie if they've any comments, or anything to bring out.

Annemarie Polan, Building Commissioner asked how many buildings would go up before you're thinking about putting in that access road.

Mr. Mika said that his thought on that is while the grant is in place, if any excess funding from the grant, he wouldn't necessarily tie it to the buildings, he would look at the grant first and scope it in with that work that is being done. Mr. Mika said that with the amount of work that is being done, maybe it would get the construction cost down a little bit. Mr. Mika said that if it doesn't happen with this round especially with the 20/80, that's up in the air. Mr. Mika said that the only thing that was asked of him was that he needed a written agreement from somebody that we would have access road when it's needed.

Mr. Mika said that he thinks it's kind of going to depend on what's going on with the Tonn & Blank property to the east. Mr. Mika said that we all travel this road and we will all know when this access road is really needed. Mr. Mika said again, they're trying to develop lots, sell lots and get users out there.

Mitch Bishop asked Mr. Mika if they've sold any of the lots.

Mr. Mika said that they can't; they're kind of in limbo because he's afraid to make any commitments on selling a lot right now not knowing for sure what he can build on.

Mitch Bishop asked Mr. Mika if they've interest.

Mr. Mika said that they do have interest. Mr. Mika said that there is a very significant user right now looking at a ten thousand square foot product, similar to the existing building that is already there. Mr. Mika said that they're kind of taking it slow with them as well.

Tony Hendricks made a Motion to approve the primary approval the planning and development for Holliday Properties, known as Life Works Business Park.

Matt Bernacchi asked if there was a question on the motion. Matt asked if there was a second.

Gene Jonas seconded. All approved. Motion carried 8-0.

A copy of said agreement is attached and incorporated herein.

Old Business:

Matt Bernacchi asked if there was any old business.

Attorney Doug Biege said that there should be a Sexual Orientated Business Appointment on the Agenda.

Matt Bernacchi said appointment of a member for the committee on Sexually Orientated Businesses. Matt asked if there has been any applicant.

Attorney Biege said that there was an applicant who is in favor of some of these businesses and his name is Jason Schadt, whose name was supplied by the attorney for the petitioner. Attorney Biege said that he thinks the thought was that we would have one civilian member that was in favor, however Barbara Huston has resigned from the committee so she wasn't allowed to make the appointment. Attorney Biege said that he would ask the commission to make the appointment for Mr. Schadt if it chooses to do so and appoint a new member to replace Ms. Huston and then we can move forward.

Matt Bernacchi asked if we have the old list of applicants who were interested last time.

Attorney Biege said that he doesn't actually think we had a list. Attorney Biege said that he thinks that we had two people who we thought had diverging views and we're lacking one person. Attorney Biege said that Ms. Huston was going to be on the commission and obviously from the County Commissioners and the Plan Commission, but Mr. Hogan from the BZA, Ms. Mischke from the BZA, Ms. Beaty from the Plan Commission and the other three would be civilian members. Attorney Biege said that his thought would be one additional Plan Commission member might be approved.

Matt Bernacchi asked if there was anybody from this board interested in that position. Matt said, come on, we need a farmer on here.

Glen Minich said that he's already on the BZA and there are already two members on the BZA.

Attorney Biege said that it does not necessarily need to be a Plan Commission member. Attorney Biege said that we need one more person so we can get to work.

Tony Hendricks made a Motion to appoint Mr. Schadt to the Sexual Orientated Business. Rita Beaty Kelly seconded. All approved. Motion carried 8-0.

Matt Bernacchi said that if there is no one from this commission, he would suggest that we put it off for advertisement.

Attorney Biege asked Annemarie if we re-advertise to include the agenda.

Annemarie Polan stated yes. Annemarie asked if we need one more person to total seven.

Attorney Biege said that we need a replacement of Barbara Huston.

Glen Minich said that he would serve on it if it's okay to have three BZA members.

Attorney Biege said that is a little heavy from a BZA standpoint.

Jim Pressel stated that he would do it.

Rita Beaty Kelly said maybe we can get moving on this and thanked Jim.

Harold Parker nominated Jim Pressel. Gene Matzat seconded.

All approved. Motion carried 8-0.

Annemarie Polan told Matt that we talked about pricing the permits last month and it's supposed to go through the council. Annemarie said that we wrapped that all up except for the signs and billboards and we can't move forward until we do that.

Matt Bernacchi asked Annemarie if she would like to address that.

Annemarie Polan said that she talked to Gene Jonas after the last meeting about the city's fees, but La Porte recently updated their fees and they do the fees by assessed value. Annemarie said that Michigan City does it the same way.

Annemarie Polan said that we've pretty much taken care of the fees except for the signs and billboards. Annemarie said that we could leave the signs as is and just change the billboards and make it separate.

Harold Parker asked how much that is.

Rita Beaty Kelly said that it says \$75.00 for signs.

Annemarie Polan said that it depends on the size. Annemarie said that up to 25 square feet for signs is \$15.00, 26 to 100 square feet is \$20.00, 101 to 350 square feet is \$50.00 and 351 square feet and over is \$75.00. Annemarie said that is what we currently have on signs and billboards. Annemarie said that was linked together as one.

Annemarie Polan said that in the other counties they are charging \$300.00 and \$100.00 dollars for billboards.

Matt Bernacchi asked if that was also for signs.

Annemarie Polan said that they left those together with the billboards. Annemarie said that she thinks the signs should stay the way they are and maybe just do \$200.00 for the billboards. Annemarie said that would be in keeping with everyone else.

Jim Pressll asked if the billboards are reassessed every year.

Annemarie Polan stated that it is a one time fee.

Gene Jonas asked Annemarie what her recommendation is.

Annemarie Polan stated \$200.00, or if you guys think more.

Annemarie Polan said that Porter County has \$300.00 and Starke County has \$100.00.

Gene Jonas made a recommendation for \$200.00 as a motion.

Tony Hendricks seconded.

Matt Bernacchi asked if there were any questions from the board.

Glen Minich asked if that was just billboards.

Annemarie Polan stated just billboards.

All approved. Motion carried 8-0.

Annemarie Polan thanked the board.

Matt Bernacchi asked Annemarie if she would get in contact with Mary Ray and have that put on the council's agenda next month.

Annemarie Polan stated yes.

Attorney Biege said that we're going to draft an ordinance as county council attorneys do. Attorney Biege said that Indiana Code has a certain procedure that we have to require. Attorney Biege said they'll have that ready for the next meeting.

Gene Jonas said that under old business on the letter to hand out to people that are purchasing land in Agricultural Zoning.

Attorney Biege said that he has the draft, but he's not sure if it went anywhere after that.

Gene Jonas asked if we should talk about that and get that done.

Attorney Biege said that to refresh everyone's recollection. There is some discussion in front of the Plan Commission for notice of agricultural activity to residential homeowners or purchasers

in residential areas. Attorney Biege said that we had a suggested format from Farm Bureau and he made some changes to make sure it would comply with Indiana Code and sent that letter to them. Attorney Biege said that Farm Bureau was fine with what he had. Attorney Biege said that he thinks they had some language concerning pesticides and also an affirmative decision as to how this may be distributed and the commission hasn't gone any farther than that.

Matt Bernacchi asked attorney Biege if this has been revised.

Attorney Biege stated correct. Attorney Biege said that he only has one copy and he will circulate what he has so far.

Matt Bernacchi asked attorney Biege if he wanted this letter back for record.

Board members reading the Notice of Agricultural Activity.

Matt Bernacchi asked that once this letter is passed around if he should read this for the record.

Attorney Biege said that it is the commission's pleasure how you want to proceed with it, and if so, how it will be distributed.

Glen Minich said that the way this would address, it will be signed by anyone looking for permanent residency in Agricultural Zoning. Is that correct?

Attorney Biege said that he thinks that the commission was at that point where a decision needed to be made as to what the requirements would be and how it would be distributed to homeowners and which department would handle that.

Matt Bernacchi said that this is a notice of information of what's happening behind them.

Attorney Biege said that there is really no enforcement mechanism.

Matt Bernacchi said that he would read it.

Notice of Agricultural Activity:

To: All applications for location improvement permits for homes in a zoned agricultural areas of La Porte County Indiana.

This notice is given to you because of your application for a Location Improvement Permit to build or move a home into an area of La Porte County that is zoned A for Agriculture. The purpose of this notice is to assure you are aware that agricultural operations are allowed in this area.

An "agricultural operation" is defined as any facility used for the production of crops, livestock, poultry, livestock products, poultry products, or horticultural products or for growing timber. Indiana Code 32-30-6-1.

Agricultural activity may include, but is not limited to, grazing of livestock, application of animal manure to land, application of pesticides to fields and growing crops, creation of dust from field operations and noise from livestock and machinery operations at all hours.

Single family dwellings are permitted uses of land in an Agricultural Zone. However, people who choose to live in an Agricultural zone must understand that agricultural operations may be occurring nearby.

You must also understand that Indiana has a "Right to Farm" law that limits nuisance actions concerning farming operations so long as farm operations are not conducted in a negligent manner and pre-existed any change in the vicinity of the farming operation.

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.

Matt Bernacchi said that this is to be signed by the landowner, their address, the date and the permit number.

Matt Bernacchi asked if there were any questions.

Jim Pressel said that it is only going to apply to somebody that is going to be building in an Ag. Zoning.

Rita Beaty Kelly asked if this is going to be signed at the Building Commissioner's Office.

Annemarie Polan, Building Commissioner, said that it's more an educational tool than anything. Annemarie said that they would just sign this and be added to the record with their permit.

Mitch Bishop, County Planner, said that none of the counties have anything like this. Mitch said that they're pretty much protected by the "Right to Farm Act".

Mitch Bishop said that it is fine, but it's just a piece of information and doesn't mean much.

Glen Minich said that he thinks that this should also be printed in the joint zoning ordinance under A-1 that this is a requirement.

Attorney Biege asked Glen if a notice be provided.

Glen Minich stated yes.

Attorney Biege said in the notice itself.

Glen Minich stated correct.

Attorney Biege said that we could include it in the joint zoning ordinance, but his only concern with that would be if there's any change in the "Right to Farm Act". Attorney Biege said that we're going to have to keep track to make sure that there aren't any changes. Attorney Biege said that the language that they use tracks the Act itself. Attorney Biege said that he thinks it is a bit redundant because that "Right to Farm Act" is there, so no additional rights are given and no additional rights are taken away. Attorney Biege said that the purpose of it is notice.

Attorney Biege said that there is some language in the Act that references nuisance and defenses to nuisance action, but that's it. Attorney Biege said that's not going to affect anything in the long term other than simply providing a new homeowner with notice.

Matt Bernacchi said that he can honestly say when someone builds a new home and they're signing forty pieces of paper, nine out of ten aren't going to go through this and read it. Matt said that it's kind of common sense if you live in a field you're going to have corn and poop.

Matt Bernacchi asked if there was a Motion.

Harold Parker said he would make a motion to adopt it, but we still haven't put it anywhere yet.

Annemarie Polan asked if you want them to sign this when they get their permit, or were you looking for something different.

Harold Parker said that's fine.

Attorney Biege said that the commission could direct the Building Commissioner to distribute one copy to a homeowner upon permit issuance and require notice. Attorney Biege said that the notice could be attached to the building permit file.

Harold Parker said that he would go with that.

Tony Hendricks seconded that motion.

All approved. Motion carried 8-0.

Matt Bernacchi asked if there was any more old business before this commission.

Attorney Biege said to update the commission, said that they're up to chapter twenty and making progress on the new zoning ordinance.

Matt Bernacchi asked if there was any new business before this commission.

Matt Bernacchi asked for a motion to adjourn.

Tony Hendricks said so moved.

There being no further business, meeting adjourned at 6:45 p.m.

BARBARA HUSTON, President

ANNEMARIE POLAN, Rec. Secretary