



LAPORTE COUNTY PLAN COMMISSION

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ANNEMARIE POLAN
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES October 27, 2015

MEMBERS PRESENT: HAROLD PARKER JIM PRESSEL
GENE MATZAT GLEN MINICH
ANTHONY HENDRICKS
RITA BEATY KELLY

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

PLEDGE OF ALLEGIANCE

Anthony Hendricks said that before we get into the agenda, there was a workshop posted on the agenda that has been cancelled. Anthony Hendricks handed this over to attorney Biege to discuss some of the ramifications of the workshop and possible public comment at the end of the meeting.

Attorney Biege said that we're going to have a workshop to discuss some changes in the code, including the need to address the pond/borrow pit definitions in the code, however we have learned that there may be litigation, so that we don't influence any of that, inadvertently we're going to cancel and postpone that discussion until we know there is resolution.

ROLL CALL

Anthony Hendricks, President, asked Darlene Pavey for roll call.

APPROVAL OF AGENDA

Anthony Hendricks asked for a motion to approve the agenda. Jim Pressel made a motion to approve the agenda with the workshop rescheduled. Harold Parker seconded. All approved. Motion carried 6-0.

APPROVAL OF MINUTES

Anthony Hendricks asked for a motion to approve the minutes. Jim Pressel made a motion to approve the minutes as presented. Rita Beaty Kelly seconded.

Anthony Hendricks asked if there are any additions, changes, deletions, or corrections.

All approved. Motion carried 6-0.

1. The undersigned, IU Health La Porte Hospital, Inc. by counsel has filed an application for preliminary approval of an Overall Planned Unit Development (PUD) plan as well as preliminary and final approval for Phase One of a three phased PUD, under current rules and regulations of the Joint Ordinance of La Porte County, on the following described properties, both zoned B2 (General Commercial District), and both located in La Porte County, Indiana. Said property is commonly referred to as 7007 West Johnson Road, Michigan City, La Porte County, Indiana, Coolspring Twp., zoned B2.

Attorney Biege said that notice is adequate.

Jim Kaminski said that he is general counsel for IU Health for La Porte Hospital. They're asking for a request for overall preliminary approval of a Plan Unit Development and for preliminary and final approval of Phase 1 of the Plan Unit Development. Attorney Kaminski said that this did come before the Plat Committee before this meeting and he would like to introduce some people that are here and might help to answer any questions you might have.

Jerry Nix from MKM, Architect and Design is the lead architect on the project. Sharron M. Hannon from IU Health La Porte Hospital the Practice Director for IU Health, La Porte Physicians and Hospital. Mark Reinhard is here and he is with Engineering Resources Incorporated and they're the engineers on the project and can answer any questions you might have on the engineering for the proposed development. Attorney Kaminski said also present is Anthony Novak who has assisted him on this petition.

Attorney Kaminski said that you can recall two months ago or maybe three months ago, La Porte Hospital had acquired a second parcel leading to this overall approximate fifteen acre parcel that it now owns near the intersection of Johnson Road and 400 North in La Porte. Attorney Kaminski said that they had asked that the project be rezoned to B2 Business because of a number of contemplating uses that they had for the project. Attorney Kaminski said at that time they indicated to the Commission and the Board of Commissioners that there was an overall theme for this area to have a wellness village; not just traditional medical offices, but offer for the residence in the area and for the general community an athletic field, outdoor activities for children, walking trails in addition to of course some facilities that offer wellness.

Attorney Kaminski said that also the hope was that there would be interest with other organizations within the community to have a general village where people who when they're not at home and not at work have another place to go to do something that is hopefully healthy and enjoyable.

Attorney Kaminski said that to that end, the project is moving quicker in some respects that they had anticipated. Attorney Kaminski said that they come before you with a Planned Unit Development because there is an offering of mixed uses which IU Health Hospital La Porte Hospital would like to engage in relatively short order.

Attorney Kaminski said that first of all they're presenting the overall Planned Unit Development, which is in the packet that was presented to the Commission. Attorney Kaminski is showing the board members the proposed entire site. Attorney Kaminski said that the proposed outdoor areas including the playground area, and athletic fields are showing on 400 and Johnson Road.

Attorney Kaminski said that there have been a lot of discussions with the county over that intersection and the development of what might happen to the intersection of Johnson Road and 400 and to accommodate those future plans have been adjusted accordingly to allow flexibility for county on changes that they might have at that intersection.

Attorney Kaminski said that the plan shows for Phase 1, a medical office building to be constructed. Attorney Kaminski said that would be IU Health La Porte Hospital constructing that facility. Attorney Kaminski said that it's approximately eleven-thousand square feet; its intention is one half of the building to have four primary care physicians and providers, and on the other half of the building there would be an after hour care offering for people who need walk in medical services. Attorney Kaminski said that generally those hours for that clinic would be from 7:00 a.m. to 7:00 p.m. and its anticipated seven days a week. Attorney Kaminski said that there would be one practitioner on that half of the building.

Attorney Kaminski said that basic medical care would be offered, including some diagnostic imaging and at this time there is no anticipation there would be any rotating specialists in the building. Attorney Kaminski said that you will note that there is a Phase 2 which is planned and that is a community center building

Attorney Kaminski said that the hospital has reached a preliminary understanding with the La Porte County Library to relocate its Coolspring facility to that building. Attorney Kaminski said again, it's in the spirit of general wellness and education that this development is moving forward and negotiations continue with the Library, but they hope that will happen relatively quickly to reach a conclusion.

Attorney Kaminski said Phase 3 of the project they have what they call a fitness and convention center. Attorney Kaminski said that the hospital does want to offer fitness alternatives to members of the public so the thought was that facility would include some rehabilitation services, probably a rehab pool and usual nautilus equipment that you often see in a fitness center. Attorney Kaminski said that the thought is not just to have it for rehabilitation, but for the general public and it very well could be twenty-four seven with certain key cards for people to come.

Attorney Kaminski said that the Planned Unit Development code provides for a number of restrictions on greenspace, buffering and drainage. Attorney Kaminski said that their architects and engineers have looked at this closely and worked with the county and they believe this plan meets all requirements for the Planned Unit Development. Attorney Kaminski going over the site plan with the Plan Commission. Attorney Kaminski said that in most respects this plan meets the overall Planned Unit Development area.

Attorney Kaminski said that Planned Unit Developments are intended by their nature to offer development in a flexible manner and the regulations of land development. Attorney Kaminski

said that it's to encourage innovation and use; it's to allow for a variety of ownerships and varieties of designs, layouts and type of characters of the buildings constructed; it's also designed to achieve economy and efficiency and the use of land. Attorney Kaminski said that they believe that this fits into that definition of Planned Unit Development and is an ideal Planned Unit Development for this county.

Attorney Kaminski said that they're asking the Commission tonight to give a favorable recommendation preliminary to the overall Planned Unit Development.

Attorney Kaminski said more immediately Phase 1 of the Planned Unit Development they were also asking for also final approval so that it can come before the Board of Commissioner and then the final blue prints can come back to the Building Commission when construction is ready to begin to show compliance. Attorney Kaminski said that initial plan would be for Phase 1 of the medical office building, the walkways and also possibly they would like approval for the Library facility so it can get underway. Attorney Kaminski said that although their petition stated final approval for Phase, they have it marked as Phase 2, but under their petition Phase 1 would include the potential library facility. Attorney Kaminski said that the walkways and drainage and everything else would have to be accompanied in that part of the plan.

Attorney Kaminski said that they're requesting that approval per the ordinance and they delivered written requests for the approval from the County Engineer, the local Fire Department, MS4, Health Department and Highway, they've received written acknowledgment and approval from the engineer, Fire Department and MS4. Attorney Kaminski that they haven't heard back yet from the Health Department or the Highway Department, but likewise they have not heard any objections to the plan.

Attorney Kaminski said that they appreciate the recommendation as requested to the Board of Commissioners.

Attorney Kaminski told the board members if they have questions he has all the different people that he introduced.

Attorney Biege asked attorney Kaminski that in the ordinance you're asking for a deviation on a few things. Attorney Biege said that if that is it, he asked him to explain those deviations to the Plan Commission.

Attorney Kaminski said that they're listed. Attorney Kaminski said that the deviation was ---

Attorney Biege told attorney Kaminski its page 4 of the ordinance.

Attorney Kaminski asked attorney Biege if he means page 4 on the petition.

Attorney Biege said that he thinks that he's looking at the ordinance that you attached to the petition.

Attorney Kaminski is asking Mark Reinhard to explain the deviations on the green built and buffer zone.

Mark Reinhard Engineering Resources Civil Engineer on the project. Mr. Reinhard said that where the site lays out in the zoning, there is a green built requirement along the street frontage, which requires street trees every forty feet. Mr. Reinhard said that on the east of the property where they're showing the septic field, just south of there is a pretty solid stream line of trees already there today, so the intent in that location is to leave them there in lieu of planting any trees in that space.

Mr. Reinhard said that the buffer zone to the north is Wolf Creek and it's heavily wooded already and their intent and understanding is that the existing environmental conditions meet the intent of the ordinance. Mr. Reinhard said that the buffer zone actually requires a three foot tall berm, or six foot wall or screen fence. Mr. Reinhard said that they think that they would be duplicating the intent if they had that in that heavily wooded area already there.

Harold Parker asked Mr. Reinhard if he didn't want to put a buffer in.

Mr. Reinhard said that they're asking if they can waive the buffer.

Anthony Hendricks told Mr. Reinhard that he just listed on the east side and north side, are those ownership, or do you have controlling interest in the north side. Anthony said that he thinks that he has controlling interest in the east side, but is there something that you're going to put in there for an easement or some protection in the covenants or restriction to not take those trees out.

Attorney Kaminski said that they certainly can. Attorney Kaminski said that they did not include that in the final ordinance, but they can do that.

Anthony Hendricks asked Mr. Reinhard if on the north side if they have ownership to that buffer the one that you're asking not to put the berm in – is that along the creek

Attorney Kaminski stated yes. Attorney Kaminski said that they're asking for the walking path to be able to come at a close distance then the ordinance allows because it's a little close to the flood plain if he's correct.

Mr. Reinhard said that there is a seventy-five per foot ordinance setback from any streams, but it does say in the ordinance that it does allow when circumstances permit to be located from that seventy-five feet. Mr. Reinhard said that the drive that goes around the north side of the property there is a little pinch point where they follow that seventy-five foot setback. Mr. Reinhard said that where we need this is a little area where the environmental setback they can't meet, so they're asking to allow this use in that one area.

Mr. Reinhard is going over the site plan with the board members.

Mr. Reinhard said that they're meeting the twenty foot buffer yard around the entire site. Board members speaking amongst themselves.

Anthony Hendricks asked if there is an easement, or something that they could put on that. Mr. Hendricks said that he assumes that Mr. Brinkman does not want to cut those trees down. Mr. Hendricks said that it is under private ownership right now. Anthony said that the green screen is not owned by this development. Anthony asked if there is a way to legally protect that. Anthony said that he's not sure what the rules are, but it becomes an out lot, and without taxable income, it's probably owned by the county.

Attorney Kaminski said that all we can tell you is what we're intending to do with this portion of the property that is on our property.

Harold Parker asked attorney Kaminski if they have talked to the landowner on the other side of that property.

Attorney Kaminski stated no.

Harold Parker told attorney Kaminski isn't that the first thing that you would want to do.

Attorney Kaminski said that they got notice of the hearing and they haven't heard any objections on what they're trying to do in that corner. Attorney Kaminski said that you will note that the development itself, other than the walking path and the one access drive, the development is in the center.

Anthony Hendricks said that he guesses the quick solution is before he dedicates that to the county, could he legally put an easement on there to protect the green screen.

Mr. Brinkman said that he has no intentions of cutting the woods down because they do protect that subdivision. Mr. Brinkman said that they're in there right now taking dead wood trees --- small trees that are dead underneath the large oak trees.

Harold Parker said that we don't all live forever and he thinks that we need some protection for the next people.

Glen Minich said that he thinks that what we're asking for is not necessarily to give it to the county, but to create an easement that would be untouched and leave the trees remaining.

Mr. Brinkman said that right now there are about a half dozen oak trees that blew over into the creek and they're lying in there dead at this point because they came down in a storm six months ago.

Jim Pressel asked attorney Kaminski if he's waiting on the Health Department for soil borings.

Attorney Kaminski said just the approval. Attorney Kaminski said that the Planned Unit Development petition and ordinance says to give them notice and hopefully get the approval, but they just haven't heard yet.

Mark Reinhard said that there are soil scientist that are doing soil samples up there, and because the commercial has to go through the State Department of Health, as well as the local Department of Health, the balls rolling, but it just takes a little while to get to the finish line.

Anthony Hendricks said that he guesses he has a procedural question. Anthony said that this meeting is for the overall Planned Unit Development approval if so granted, and also the final approval for Phase 1. Anthony said that different entities will own different pieces of ground in a Planned Unit Development.

Attorney Kaminski said that as of right now the tentative understanding with the Library it would acquire the land where the building is and not lease it from La Porte.

Anthony Hendricks said that they're going to the Commissioners for a secondary plat approval.

Attorney Kaminski stated yes.

Anthony Hendricks said that procedural question is, if this board grants final secondary approval to Phase 1 Planned Unit Development, the motion has to be that the county engineer approves the construction plans, or bonds to development prior to the Commissioners signing a plat.

Attorney Biege said that the overall PUD would be one vote. Attorney Biege said that if we take another vote it will be approval on Phase 1. Attorney Biege said that the decision will be made on the approval of Phase 1 would just be on the Plat. Attorney Biege said that any requirements from the engineer or bonding are automatically in place with the Building Commissioner. Attorney Biege said that he doesn't think that is anything the Plan Commission needs to consider, because rules are already in place for that.

Attorney Biege said that he took a look at that code and he thinks although out of the ordinary, they followed all the steps in the Plat Committee. Attorney Biege said that he thinks that they're okay to go ahead with approval on the overall on Phase 1.

Anthony Hendricks asked if anyone else has any comments.

Harold Parker asked if we fixed the trees, or not.

Anthony Hendricks said that the owner of public record said that he's willing to give them an easement to protect the trees.

Anthony Hendricks asked Mr. Brinkman if that is correct.

Mr. Brinkman stated yes.

Anthony Hendricks said that he's the owner.

Anthony Hendricks said that first the motion is to approve the entire Planning Unit Development. Anthony Hendricks said that the second approval if the board so chooses is Phase 1.

Anthony Hendricks said that he will open public comment for anyone to remonstrate for or against.

Remonstrator:

Mike Grant said that he lives on Schultz Road & 35. Mr. Grant said that he didn't come to comment because he didn't know that you were going to discuss the IU Health Care expansion, or the proposal of that property. Mr. Grant said that you have an IU Health Care Center on Frontage Road that parallels Highway 421. Mr. Grant said that it is a massive building. Mr. Grant said that there are two doctors in there and one x-ray machine. Mr. Grant asked if we had that much power to approve this kind of stuff to be built when you're not utilizing a brand new facility that could be used for the same purposes. Mr. Grant said that he goes by this property quite often and it's a beautiful piece of property. Mr. Grant said that it's also listed residential R1 area, but to completely build another facility when you have one that has an eye, ears, nose and throat specialist in there and maybe one other doctor. Mr. Grant said that there are like twenty offices in the huge structure that is not being utilized. Mr. Grant asked what happens to buildings like that, or do we just throw something like that up and raise Center Twp. taxes to pay for it.

Anthony Hendricks told Mr. Grant that we can have them respond.

Shannon Hannon from IU Health La Porte Hospital and she actually operates the Life Works Building. Ms. Hannon told Mr. Grant that there are quite a few corrections to his statements.

Ms. Hannon said that they currently have an ear, nose and throat physician in that building; a pain management physician, two orthopedics physicians, an ophthalmologist, an audiologist, a cardiologist, as well as wellness and rehab and lab and diagnostic imaging. Ms. Hannon said that they're actually getting ready to do some additional modifications to that building to fully occupy the entire building. Ms. Hannon said that they have done quite a bit of work to fill that building and that is all specialists.

Ms. Hannon said that the intention for this building here is to be the primary care generator essentially for that part of the county, which will then feed the specialty clinic right down the road.

Anthony Hendricks asked if there is anyone else remonstrating for, or against this petition.

Anthony Hendricks asked if there are any other comments from the board.

Anthony Hendricks asked if there are any comments from our attorney.

Attorney Biege said that if the board chooses to approve this, we're going to talk about one motion on our plat, and then if the board chooses to approve Phase 1, he would suggest that if you approve Phase 1, that's fine, however if you are going to approve the deviations requested, then he would segment that from your motion. Attorney Biege said that the green built issue goes to the deviations and not approval to Phase 1 and specifically reference the deviation.

Anthony Hendricks asked attorney Biege if that is the deviations in the entire approval.

Attorney Biege said the green built deviation. Attorney Biege said that if you choose to approve, make the motion to approve Phase 1 and condition upon if they want to grant on the deviations, a green built would be necessary.

Anthony Hendricks said that the green built is defined within our ordinance.

Attorney Biege said that is the whole point. Attorney Biege said that they're asking for a deviation from the green built requirements and they're going to cut an easement agreement. Attorney Biege asked Mr. Brinkman what is the width of the property that we're talking about for the trees.

Mr. Brinkman said that the area that they're talking about he doesn't know. Mr. Brinkman said that he's to the west of the plan area. Mr. Brinkman told attorney Biege that they're talking about 675 going right to the creek.

Glen Minich asked Mr. Brinkman to come up to the podium and show the board members where they're looking at the green built being insufficient.

Mr. Brinkman is going over the site plan with the board members.

Attorney Biege said that he thinks that we're getting a little far a field with the Plan Commission function. Attorney Biege said that you're not going to be able to force a hand of a non-adjointing neighbor, and if you choose to deny the petition based upon the fact that they cannot obtain an easement, that's a bit of a stretch. Attorney Biege said that he thinks that the core issue is can you live with the deviation from the green built as written.

Glen Minich told attorney Biege that he agrees with what he's saying, because all he can do is protect the point that they own.

Anthony Hendricks asked if they have a deviation distance of the green built. Anthony asked how many feet are we asking to deviate.

Mark Reinhard said that he thinks that technically along the road frontage. Mr. Reinhard said that the buffer yard is against a residential.

Attorney Kaminski said that there is the green built and the required buffer zone. Attorney Kaminski said that the required buffer zone is what they were discussing in the upper right hand corner and the required green built is down along the roadway. Attorney Kaminski said that his

suggestion if the commission is so inclined to grant the deviations, they do it per the petition submitted. Attorney Kaminski said that they did give the details of the requested deviations on pages three and four.

Attorney Biege said that he has to agree with attorney Kaminski. Attorney Biege said let's make a distinction between a green built and a buffer zone. Attorney Biege said that a green built is in the front on the road side so that we don't have the requirements to have woods or trees in the interior boundary lines of the property at all.

Anthony Hendricks asked if this is the Natural Resource Protection buffer zone.

Attorney Biege stated no. Attorney Biege said that this is out of the site provisions and there is a table with the required buffer zones around the edges of the property. Attorney Biege said that this is really landscaping and screening requirements. Attorney Biege said that we already have trees and a nice creek, which is a little nicer. Attorney Biege said that he thinks that their point is what is there is nicer than what the code requires.

Attorney Biege said that he thinks that it is ten (10') feet. Attorney Biege said that there are multiple tables that you have to go through and it's either ten (10') feet or twenty (20') feet, but the berm is only three (3') feet tall.

Mr. Reinhard said that they're actually twenty (20') feet and he could commit to a twenty (20') foot buffer space along the north property line. Mr. Reinhard said that Article 22 (d) and that is written into that natural resource setback and he believes what it states that they will be within fifty (50') feet instead of the seventy-five (75') feet which is required. Mr. Reinhard said that for the buffer on the north side between the residential he thinks that they will be able to commit to the twenty (20') foot buffer space, so they're just asking to deviate from any fencing or berms there because they don't want to block that view; they're also asking that they can be closer to seventy-five (75') feet from the high water by Wolf Creek.

Anthony Hendricks said that the motion needs to include not to be less than fifty (50') feet on the Natural Resource Protection buffer and not less than twenty (20') feet on the buffer between zoning.

Attorney Biege said that if there is a motion and were not going to vary from the motion that they're making from their request, say pursuant to the petition. Attorney Biege said that way it's cleaner.

Jim Pressel made a motion that we approve the entire PUD Plat as presented. Rita Beaty Kelly seconded.

Anthony Hendricks asked if there is any other discussion, or comments.

All approved. Motion carried 6-0.

Anthony Hendricks asked for motion on Phase 1.

Glen Minich made a motion for final approval on Phase 1 of the 3 phased PUD development to be approved with applicants request for a deviation of Article 17.02 as far as the screening to the north and Article 17 (d) (2) (a) in requesting the green built narrowing towards the front and also deviation from Article 22.04 requesting that the width of the high water mark being lowered to fifty (50') feet. Harold Parker and Rita Beaty Kelly seconded.

Anthony Hendricks asked if there is any other discussions, or questions on that?

All approved. Motion carried 6-0.

Anthony Hendricks said that we're not having a workshop this evening, and Anthony asked attorney Biege under old business, do we allow some comment on the individuals that came here tonight as long as it's not specific or related to the litigation, or pending litigation before this board on issues that might have suggestions of the joint zoning ordinance whether it relates to ponds, mining, borrow pits, lots sizes and zoning.

Attorney Biege said that under old business there would be no reference to Plan Commission's previous decision. Attorney Biege said that is a closed issue.

Attorney Biege said that during public comment, the public can speak about these general issues. Attorney Biege said that he would suggest however, that the public come and discuss this with us because you can have an open discussion without the restrictions of this type of forum at the workshop. Attorney Biege said for example, sand mining is an issue, ponds are an issue, and definition of commercial activity is an issue. Attorney Biege said that when these current – this perhaps litigation is resolved, we can have more of a back and forth discussion and he thinks that it may be more productive. Attorney Biege said as a county, we're going to have to define these things. Attorney Biege said that this is going to get tightened up, but in all fairness to potential litigation, this is not the time.

Attorney Biege said that what his concern is that discussion would be much more productive when we're able to do it so we have input from everybody, just as we did when we drafted the zoning. Attorney Biege said that the public does have the right to speak at public comment so long as it's not specific to an individual property owner.

Anthony Hendricks said that we're going to have a committee meeting hopefully next month and schedule a workshop after the committee meeting.

Attorney Biege said that he thinks that we need to find out if we're going to have resolution to this current issue first.

Anthony Hendricks opened the floor up to public comment.

Patrick Meaney, Randall Veach and other adjoining land owners were present this evening to speak about ponds and borrow pits. There is pending litigation on a potential pond/borrow pit surrounding these land owners.

Attorney Biege told the remonstrators that they would be notified of a public hearing that will be scheduled and invited them to join in that public hearing with their questions and solutions.

Thomas Reiley was present tonight from Duneland Beach and was speaking at keeping the lots of record in Duneland Beach that were recorded 10,000 square feet buildable back in 1964. Mr. Reiley said that the new ordinance is non-forming and he wants this to stay as it was back in the old ordinance.

Attorney Biege asked Mr. Reiley to gather his information and what he thinks that this should be in Duneland Beach and submit that to his office. Attorney Biege invited Mr. Reiley to the public hearing to voice his concerns and attorney Biege told Mr. Reiley that he would notify him when such meeting is set.

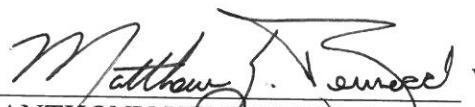
Anthony Hendricks asked if there is any other business before the Plan Commission this evening.

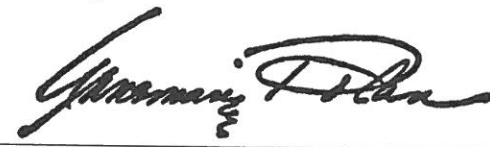
Anthony Hendricks asked for a Motion to adjourn.

Rita Beaty Kelly made a motion to adjourn. Harold Parker seconded

All approved. Motion carried 6-0.

There being no further business, meeting adjourned at 7:30 p.m.


ANTHONY HENDRICKS, President
Matthew E. Bernacchi, v.p.


ANNEMARIE POLAN, Rec. Secretary