



LAPORTE COUNTY PLAN COMMISSION

Government Complex, 5th Level
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Michael Polan
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES June 22nd, 2021

MEMBERS PRESENT: Rita Beaty
Joe Haney
Harold Parker
Glen Minich
John Carr
Annemarie Polan
Earl Cunningham
Adam Koronka
Azad Chahal

OTHERS PRESENT: Doug Biege, Attorney; Mike Polan, Recording Secretary; Ashley Kazmucha, Secretary.

PLEDGE OF ALLEGIANCE

Rita Beaty asked for approval of the agenda for the June 22nd meeting.

Harold Parker made a motion to approve the agenda as presented.

Joe Haney seconded.

All approved. Motion carries 9-0.

Anthony Hendricks asked for approval of the meeting minute May 25th, 2021.

Annemarie Polan made a motion to approve the minutes as presented.

Earl Cunningham seconded.

All approved. Motion carries 9-0.

Petitions:

1. Petitioners Infinite Development, LLC represented Chris Willoughby of Braje, Nelson, & Janes, LLP respectfully petitions the Plan Commission for final approval for a proposed 47-unit townhome development with a PUD overlay located immediately to the north of the Briar Leaf Golf Course, LaPorte, IN. Center Twp., zoned R2A consisting of 10.88 acres. (Parcel 46-06-14-300-045.000-042) Exhibits attached hereto.

Attorney Biege stated notice is adequate.

Chris Willoughby stated they are present tonight seeking final site approval and PUD approval for the Briar Ridge Partnership's proposed development. With that, they have also submitted for their consideration and favorable recommendation on the PUD Ordinance. They are essentially here because there is a two (2) step process with this being final and many details being filled in since they initially met with Mr. Polan and the other stakeholders and department heads that are required or otherwise interested in having input on the project. They have filled in and met the requirements in terms of Article 25 of the Joint Zoning Ordinance and specifically Section 25.02. They established at the preliminary level that they have the qualifying conditions. The procedure that allows them to be before the Plan Commission and what needs to be followed that qualifies them this evening to ask for final approval is set out in Section 25.06. They have submitted a PUD Ordinance as he previously mentioned that materially complies with the requirements set forth in Section 25.07 (e). The requirements and standards they are to consider tonight are set forth in Section 25.08. The documentation and/or records with regard to the plan and proposed development are set forth in their Petition. Tonight, he has the architect Jerry Fedorchak present who can answer any specific questions they may have with regard to details of the project. He respectfully requests that they approve the final site plan and vote to send the PUD Ordinance to the Commissioner with a favorable recommendation.

John Carr stated at the previous meeting, Mr. Polan mentioned that there were some items that he was concerned about. Have those been taken care of?

Michael Polan stated everything has been addressed since that time. He likes it and is comfortable with it.

Attorney Biege stated he received an email from Mitch Bishop today and he is good with it.

John Carr stated there are issues with water suppression; has that been taken care of?

Michael Polan stated they do need a letter from utilities and fire. Everything else has been met. Before they issue the building permit, they will receive the final construction plans and they will make sure that is addressed before they issue any permits.

Adam Koronka stated there is an easter egg that is in Note 8 on the Title Sheet of the drawings. It states that "*statements or attachments indicated that the Wastewater Treatment Plant and Collection System, and the Water Department have capacity available for this development. . . A lack of this information shall not constitute in itself justification for denial.*" He wants to assure that Note 8 does not cause them any issues of requiring that statement or letter before they issue a building permit.

Attorney Biege stated that is not a concern because they are running sewer and will be a requirement that Michael Polan will check before they go forward with a building permit. He would equate that to a septic permit. That is a given that it has to be presented at the time they apply for the permit.

Adam Koronka stated ok.

Jerry Fedorchak stated they have spoken with the City of LaPorte regarding sewer and water. Tim Werner from the Water Department said there is adequate volume and pressure for this project so it wasn't an issue. As far as the Conservancy, they paid one-hundred and fifty thousand dollars (\$150,000) to buy into the Conservancy so they have the right to tie in and assume de facto approval of tapping into it. They have spoken to them regarding the project.

Adam Koronka stated it should be no problem in terms of getting it in writing.

Jerry Fedorchak stated the Water Department is in writing. That is probably Jerry Jackson, which he does not have in writing, but he has forwarded them to the right people and the right time to approach that.

Joe Haney asked how quickly could they get it in writing from the Water Department that the volume will be sufficient.

Jerry Fedorchak stated they have it already. He believes he already forwarded it to Michael Polan. If not, there was an email from Tim Werner. They have it.

Joe Haney asked if he has a copy of it with him that he could provide or email right now.

Jerry Fedorchak stated he doesn't have it on him or his phone.

Attorney Biege stated that is Michael Polan's job. Right now, they are approving the subdivision. If it was a residential house, they would bring something from the Health Department for the septic as well as the water. He appreciates the Plan Commission's questions, but those are automatic and given that he will not issue a permit unless those things are supplied.

Earl Cunningham stated at the previous meeting there was some discussion about affordable housing. Some people think this is a little higher than affordable housing, but he wants to make sure that the public understands that there will be a whole bunch of contingencies or people selling lesser priced homes to move into the townhomes. The approximate real estate average of one (1) upscale home like the townhome could result in four to five (4 – 5) homes downscale opening up. The forty-seven (47) units might very easily be approximately two hundred (200) people changing homes and improving their own status. They need to understand that not everybody can afford this home, but a lot of people will be able to move into a home that is made available to them because somebody else moved up a step.

Jerry Fedorchak stated they will be staying in the community as well.

Remonstrators:

Lisa Pierzakowski stated she is the Center Township Trustee. She is not against the project; she thinks it's great because they need housing, but as the Center Township Trustee they have had other people come forward, like Ed Arnold and his senior citizen facility on 39, and there is a water issue. She is not sure how this was approved for water because when they have a fire on 39 North and they start the hydrants, Portofino's Restaurants and all the houses on the golf course

lose their water pressure. If they add forty-seven (47) more units to it, what will that do to the water pressure? She is all for it; they need the housing. They need affordable housing, but housing nonetheless. She wants to make sure that the water issue is taken into account. Right now, if they have a fire, they have to contact the City of LaPorte and say which hydrants they will be using and in turn have to notify everybody that they will be using it. It shuts down some of the other properties. She wants to make sure. Ed Arnold was told he couldn't build his unless he put a water tower up and now, they're adding forty-seven (47) units. That is her only concern.

Michael Polan stated the only thing holding up the other development is a letter from the Center Township Fire Department, not that he needs to put up a water tower. One is needed in that area greatly and that was the purpose for the 39 North Conservancy District to provide utilities and let development occur there, but the only thing holding that up is a letter from the Center Township Fire Department. If that is obtained, that can move forward. The townhomes development has different water specifications. This was specifically discussed at the Plat Committee with all the department heads and the County Engineer and they went over all of the information at that time.

Lisa Pierzakowski asked if it is coming from city water, 39 North, or both. Where is it coming from?

Michael Polan stated he still needs a letter from utilities, they don't have that. That will be required before any permits are issued during the final construction plan phase.

Lisa Pierzakowski stated she wants to make sure her firefighters are still going to have water out there.

Michael Polan stated absolutely.

Harold Parker asked why this wasn't brought out until now, the water problem there with the fire department.

Michael Polan stated it has been out for some time. Not just from this development, but from that last development and before he took office.

Attorney Biege stated Ed Arnold's specifications are much different than the single-family homes. Arnold had to have a complete sprinkler fire suppression system which he was going to supplement with a pond system rather than the tower. They worked the pressures out. His specs are much different than these specs are.

Harold Parker stated he didn't know about it.

Ed Arnold's development was approved via a Variance of Use from the Board of Zoning Appeals and did not require approval through the Plan Commission.

Chris Willoughby stated this issue was already brought up at the Commissioner's Meeting. Chief Novak brought it up as a concern and made sure that it was apart of the Plat Committee meeting. It was addressed during that meeting.

John Carr made a motion to make a favorable recommendation for the Petitioners Infinite Development, LLC represented Chris Willoughby of Braje, Nelson, & Janes, LLP for final approval for a proposed 47-unit townhome development with a PUD overlay located immediately to the north of the Briar Leaf Golf Course, LaPorte, IN. Center Twp., zoned R2A consisting of 10.88 acres. (Parcel 46-06-14-300-045.000-042)

Earl Cunningham seconded.

Adam Koronka stated it should be noted that the point from where the project begins is where the building permit is issued and the due diligence relative to water and everything else for the public's needs are at that point resolved before issuance.

Approved. Motion carries 9-0.

2. Petitioner Randall Vance represented by David Ambers respectfully petitions the Plan Commission to vacate the unimproved East Poppy Lane Between North Pine Lane and Bryar Lane located south of 7905 N. Pine Ln., New Carlisle, Hudson Twp., Zoned R1B. (Parcels 46-04-29-227-012.000-050) Exhibits attached hereto.

Attorney Biege stated notice is adequate.

David Ambers stated his address is 601 State Street, LaPorte, IN. He is representing Randall Vance. The attached exhibit shows a property highlighted in blue/green and is the property in question on the Beacon system. To the west is North Pine Lane. The roadway they are asking to vacate is East Poppy Lane between North Pine and Bryar Lane which is written in on the exhibit. East Poppy Lane was addressed a couple months ago when he was representing some clients remonstrating against it. That was right across the street from this. They are right back in the same area as where they were a couple months ago when the Board gave a favorable recommendation for that Petition. Statutorily they are here pursuant to IC 36-7-4-711 and under that statute they must prove that the reasons and circumstances for this request are that the roadway has never been improved and the Petitioner owns the adjoining property on each side of the roadway which makes it different from the last Petition. The conditions in the platted area have changes due to many roads being platted and never improved. The second (2nd) map provided shows Poppy Lane is a one-point-two (1.2) mile long unimproved roadway. Nothing was ever constructed of that roadway which makes it very unique. It is undeveloped from North Hudson Boulevard to North Spruce Lane; it was never constructed. Their opinion and the public interest to vacate this portion of the roadway will bring the property onto the tax rolls whereas now it is sitting earning the county nothing and providing no access. The adjoining property will not be diminished in value because there are others that have been vacated in the area and Mr. Vance owns both sides of the roadway. In fact, he didn't know he didn't own in the middle and constructed a building there. They are asking for a favorable recommendation to vacate that portion of East Poppy Lane.

Joe Haney asked if his client intends to join the properties into one larger plot.

Randall Vance stated he has a house on both sides and he will keep them separate.

David Ambers stated it nets the County a little more tax revenue by keeping them separate.

Joe Haney stated he can't get a homeowner's deduction on the middle part since there isn't a home there.

Earl Cunningham asked if the parcel will be split down the center and give half to each property.

Randall Vance stated if he sells a lot eventually, he will.

Earl Cunningham stated he would do that in the future, but he doesn't intend to do that now.

Randall Vance stated that is correct.

Adam Koronka stated there is a concern about the building that has been constructed on what is now the unimproved land. Would be more associated to the property to the south or the property to the north? Currently, there are four (4) plots owned with the unimproved land in the middle. Where would that building be associated with, the north or south property?

David Vance stated the home on the southern side.

Adam Koronka stated at some point it would need to be surveyed and re-split to those properties on the south side.

Joe Haney asked if the Commission vacates this area, should there be some sort of easement in there to make sure there is driveway access for both houses maintained in the future. He understands he owns both now, but if something were to change in the future, both houses will still need access to the driveway.

Attorney Biege stated if there is an easement of record for utilities, that will remain whether it is vacated or not.

Joe Haney stated ok.

Glen Minich stated Attorney Biege's answer wasn't clear to him. If the two (2) properties were sold, each one (1) would still be able to claim access through there?

Attorney Biege stated no. If a utility easement exists that will remain. Vacating that does not remove any existing easements. The Plan Commission does not have the authority to create easements to begin with. They have the authority to vacate or not vacate.

Glen Minich stated it is more uncommon because there is not a split here as the owner owns both properties. The future of where it goes is uncertain. He sees Commissioner Haney's point.

David Ambers stated pursuant to IC 36-7-4-711 the Board may impose reasonable conditions upon the Petitioner in granting the request. He asked his clients if he were to sell would he guarantee that both properties would have access whether it be through an easement or whatever he may need to do and he said yes. The title company is not going to insure it without access so if they wish to put a condition upon approval if they are so inclined, they could say if the property is ever subdivided it is up to the Petitioner to make sure each property continues to have access through East Poppy Lane. They have no objections to that and could write it for their attorney to look at.

Glen Minich stated some stuff can get lost so he thinks it is a good idea.

Earl Cunningham agreed.

Attorney Biege stated the findings will be recorded so it will be there for good.

David Ambers stated the public record will reference both legal descriptions so it will always tie up and come up in anybody's title search on either side.

Attorney Biege stated in his opinion, there is nothing there. There are already improved roads on the east side going north and south and is probably where the existing utilities lie already.

David Ambers stated he will make sure there is access.

Glen Minich stated David Ambers made the point very well earlier that even the owner didn't know he didn't own it.

Attorney Biege stated he is just making the point that when there is an unimproved roadway, easements remain.

Glen Minich stated he certainly owns the driveway to his house, but maybe he doesn't.

Rita Beaty stated they need to make sure the southeast side is not land locked at some point in time.

David Ambers stated he would be happy to draft that accordingly if they approve the vacation.

Remonstrators:

Attorney Steve Bom stated he is there on behalf of his son, Robert Bom, Jr. He owns fifteen (15) lots in the general area, at least one (1) of which is serviced by this lane. Vacating that lane would adversely affect the access to his plots as well as depreciate the value of his lots. He is very much opposed to vacating that lane.

Glen Minich asked Attorney Bom to indicate where his son owns land.

Attorney Bom stated he cannot point to the lot in question. His son was going to be present, but he is stuck in Bristol and asked his father to attend. They had spoken about it prior to the meeting.

Rita Beaty can see on the Beacon map that Robert Bom's property is all to the east of the Petitioner's lots just on the other side of Bryar Lane. It is to the east and north of those and she sees three (3) at least.

Attorney Bom stated he couldn't tell you. They go out there for cookouts and whatever, but it is essentially unimproved except for family get togethers when they go out there.

The Board deliberates amongst themselves for a few minutes.

Attorney Bom stated the properties out there are developing and as they develop the way the lanes and streets are laid out are going to be important. Once it is vacated, it will be hard to take it back later. The lanes and so forth were laid out in a clear pattern. They are there for future development. He would hate to see it vacated and then later on they have to do something different because they can't just take it back.

Harold Parker asked what the building on the unimproved way is.

Randall Vance stated it is an eight-foot by eight-foot (8' x 8') shed.

Harold Parker asked if it was used for storage.

Randall Vance stated yes, it's a wood shed.

David Ambers stated Mr. Vance has never seen anybody use, basically his driveway, any of that portion of Poppy Lane to get to the west.

Joe Haney asked if the structure they were referring to is located to the east of the property on Bryar Lane.

David Ambers stated yes. Mr. Vance will move that if need be. With the present building and vehicles on Poppy Lane, it would be just about impossible to pass through that as it is right now anyway.

Earl Cunningham asked Attorney Biege if it is State law that they cannot landlock a property.

Attorney Biege asked what property he is referring to.

Earl Cunningham stated he doesn't think they are, but he believes that is Attorney Bom's concern that they will not have access to his property.

Attorney Biege stated they cannot landlock the property, but they aren't. There is Bryar Lane that runs north and south.

David Ambers stated from East Lilly Lane north is Bryar Lane all the way until Emery Road. That looks clearer than the property his client is asking to be vacated.

Harold Parker stated because there's a building on it.

Glen Minich stated the only way Attorney Bom's son would have access is because Mr. Vance developed the driveway. Otherwise, there wouldn't be passage through there anyway. It is undeveloped. The only way it looks like there is access is because of Mr. Vance's improvement, not the County's.

David Ambers stated or the original developer.

Adam Koronka stated that looking at Mr. Bom's property, each one (1) has access whether it be Pine Lane, Bryar Lane, Lilly Lane, and the segment of Poppy Lane to the east of where they are considering vacating. There are at least two (2) ways in and out of every property that they are looking at.

Earl Cunningham thanked Adam Koronka.

Rita Beaty stated his biggest concern is if they are passable which unfortunately, they are not sure which way his is accessing it if he is coming from Emery south or if he was utilizing the area where they are asking to vacate. That is the concern.

Harold Parker stated they're lucky there isn't a building on it.

Rita Beaty stated that is the biggest concern; are the other areas passable, or could be for the future. The north end off of Emery Road on Bryar Lane has a house sitting in the middle of that area making it not passable.

There are no building structures in Bryar Lane except Mr. Vance's shed that he has offered to move.

David Ambers stated it looks very clear from East Lilly Lane north. That looks like it is being mowed as somebody's yard and is quite passable.

Rita Beaty stated the southern part of it, correct. She was looking for something passable from Emery.

Earl Cunningham stated this is an easier vacation than the one (1) they did because it is a contiguous owner on both sides.

David Ambers stated that is correct.

Earl Cunningham made a motion for a favorable recommendation for Petitioner Randall Vance represented by David Ambers to vacate the unimproved East Poppy Lane Between North Pine

Lane and Bryar Lane located south of 7905 N. Pine Ln., New Carlisle, Hudson Twp., Zoned R1B. The shed must be moved out of Bryar Lane. If the property should ever be subdivided an easement shall be included for access to both the north and south properties.

Annemarie Polan seconded.

Approved. Motion carries 8-1.

3. Solar Ordinance

Michael Polan stated we have been dealing with over the past several meetings. There has been a lot of Board member input. He likes where the Solar Ordinance is at and is ready to recommend that the Board take action tonight to approve their ordinance and get it on the books.

Harold Parker asked if the feedback from the last meeting was incorporated in the new draft. Are they good on the decommissioning aspect?

Attorney Biege stated he thinks so. He looked at the suggestions in the brochure and he thinks there is everything in this draft. They are a little broader on the vehicle that they use to ensure the money will be there. They can go with a bond, cash deposit, or letter of credit from the bank. He built more flexibility in to create other financial mechanisms for the potential clean up. Everything that was in the brochure is in the draft. He is comfortable with what they have now.

Harold Parker stated he has not had good luck with people after they build something to clean their mess up.

Attorney Biege stated he understands. They can require a bond, bank account, letter of credit from the bank because he was concerned about the County maintaining a bond for that period of time. He tried to create a couple different processes to make sure the money is there to clean it up.

Harold Parker stated thank you for taking care of that. He expressed his concern over it many times. Thank you.

Adam Koronka stated he was pleased to see that many of the things that came from the template along with their discussion regarding building mounted systems and making sure they don't extend them up to where they have billboards sticking out from the tops of folk's houses. They are considered here. He likes what he sees.

Rita Beaty asked what is needed from the Plan Commission.

Attorney Biege stated it would be a favorable recommendation to go to the Commissioner's. The way he drafted it is as a standalone, but with numbering it will be inserted into the Zoning Ordinance, but it will not be part of the zoning ordinance, it will be alone. It will be similar to how they did the Floodplain section. He did it this way because he suspects as they progress they

may learn and want to do amendments and it is much easier to amend this Ordinance rather than the entire Zoning Ordinance.

Adam Koronka stated you have to start somewhere.

Attorney Biege stated if the Board is so inclined, enter a resolution with a favorable recommendation to the Commissioner's to adopt.

Adam Koronka made a motion for a favorable recommendation for the Solar Ordinance as written as a Resolution to the Zoning Ordinance to be known as Section 14.15 Solar Energy Systems.

Joe Haney seconded.

All approved. Motion carries 9-0.

Rita Beaty asked if there is any old business.

Rita Beaty asked for any new business.

Harold Parker welcomed Annemarie Polan to the Board. She has a lot of experience and knowledge that can't be beat.

Rita Beaty stated she is sitting on the opposite side of the table now. Welcome!

Annemarie Polan stated it's a little weird.

Harold Parker stated he doesn't know if it pays as well though.

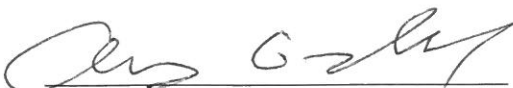
Rita Beaty asked for a motion to adjourn.

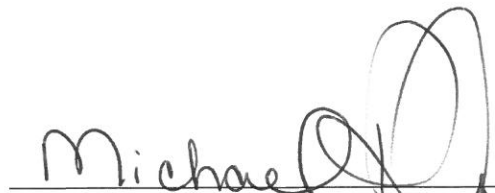
Annemarie Polan made a motion to adjourn.

Joe Haney seconded.

All approved. Motion carries 9-0.

There being no further business before the Plan Commission, meeting adjourned at 6:41 p.m.


Anthony Hendricks, President


Michael Polan, Recording Sec.