



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

Michael Polan
Building Commissioner

LA PORTE COUNTY PLAN COMMISSION MINUTES November 22nd, 2022

MEMBERS PRESENT: Anthony Hendricks Adam Koronka
 Rich Mrozinski Glen Minich
 Rita Beaty Harold Parker
 Earl Cunningham

OTHERS PRESENT: Doug Biege, Attorney; Mike Polan, Recording Secretary; Janet Cole,
Administrative Specialist Ashley Kazmucha, Administrative Coordinator;

PLEDGE OF ALLEGIANCE

Anthony Hendricks asked for approval of the agenda for the November 22nd meeting.

Rich Mrozinski made a motion to approve the agenda as presented.

Rita Beaty seconded.

All approved. Motion carries 7-0.

Adam Koronka asked for approval of the meeting minutes for September 27th, 2022.

Rich Mrozinski made a motion to approve both minutes as presented.

Adam Koronka seconded.

All approved. Motion carries 7-0.

Petitions:

- Petitioner Irish Rentals LLC represented by Wightman** would like to present to the Plan Commission a primary plat for an 18 Lot Subdivision to be known as "Wagner Estates II – Phase B" located between County Road East 800 North, and County Road North 125 East, and Fail Road, LaPorte, IN. Galena Twp. Zoned A consisting of 25.42 acres. There will be street construction required. (Parcels 46-03-20-400-025.000-048, 46-03-20-400-002.000-048, 46-03-20-300-009.000-048) Exhibits attached hereto.

Michael Polan stated their publication did not go in until November 17th, therefore it is not compliant with the ten (10) day rule and they cannot hear the case tonight.

Anthony Hendricks asked for a motion to table the petition.

Adam Koronka made a motion to table Petitioner Irish Rentals LLC represented by Wightman would like to present to the Plan Commission a primary plat for an 18 Lot Subdivision to be known as “Wagner Estates II – Phase B” located between County Road East 800 North, and County Road North 125 East, and Fail Road, LaPorte, IN. Galena Twp. Zoned A consisting of 25.42 acres. There will be street construction required. (Parcels 46-03-20-400-025.000-048, 46-03-20-400-002.000-048, 46-03-20-300-009.000-048)

Rich Mrozinski seconded.

All approved. Motion carries 7-0.

2. Petitioner Michael P. Turner represented by Ralph Howes of Howes and Howes, LLP respectfully petition the Plan Commission to vacate a triangular parcel of land located at the Southeast corner of Holton Road at the intersection of Johnson Road adjacent to 749 Holton Rd., LaPorte, IN. Center Twp. Exhibits attached hereto.

Attorney Biege stated notice is adequate.

Ralph Howes stated he swore about fifteen (15) years ago the he wasn't going to have to come back and do this kind of stuff, but Mike Turner is a really good friend of his and he will be hooking up with him Sunday down in Florida.

Anthony Hendricks stated they are glad to have him.

Ralph Howes stated he owns the Garage Mahal; it is the big pole barn at the intersection of Holton Road and Johnson Road. Frankly, he was surprised when Mike sent him a copy of the survey and it showed that in the very northwest corner where the intersection is, there is a triangular piece that he remembers as a youngster being a part of the inner urban track line that went around Pine Lake and then towards Michigan City. They have gone ahead and hired a surveyor who he won't mention who that might be. They do have a legal description. They would take the property subject to any easements or underground or overhead utilities. There are NIPSCO poles right at the corner there. It is something that isn't of any particular use to the County. If it is added to Mr. Turner's lot, then he will be subject to property taxes and will be of benefit to the County.

Anthony Hendricks stated for full disclosure, the document is from Charles Hendricks & Associates and they did work on it, but they have no per curiam interest in it. Also, this piece, if vacated, there are rules in the zoning ordinance about corner pieces and visibility limitations.

Michael Polan stated that is correct. That is also available online for anyone to check that. The notifications though, he has five (5) and he needs six (6).

Ralph Howes stated somebody obviously didn't sign and the Post Office seems to take forever this time of year to mail back the unclaimed envelopes. He can tell him to whom all was in the petition and adjacent property owners that were noticed.

Janet Cole stated they have the list; they are just missing Buckman.

Michael Polan stated five (5) out of six (6). Does he have the stub or anything for Buckman that was sent out.

Ralph Howes stated yes, he has a photo copy of the envelope with certified mail sticker.

Rita Beaty stated most everybody thought he already owned the whole thing and didn't realize it was the County's. He has always maintained it very well over there.

Rich Mrozinski stated Mr. Turner called him a couple months ago about this and he advised him how to go about getting it vacated. Rita is right; he has been taking care of it for a long time. It would have been part of a road that would have come from the west side, but that was already vacated to Legacy Hills. He sees no reason why they shouldn't give this a favorable recommendation.

Michael Polan stated notice is adequate.

No remonstrators present.

Anthony Hendricks stated Commissioner Mrozinski is right. If this had not been railroad back when they platted it, they would have given them that corner.

Rich Mrozinski made a motion for a favorable recommendation for the Petitioner Michael P. Turner represented by Ralph Howes of Howes and Howes, LLP to vacate a triangular parcel of land located at the Southeast corner of Holton Road at the intersection of Johnson Road adjacent to 749 Holton Rd., LaPorte, IN. Center Twp.

Adam Koronka seconded.

Glen Minich stated he knows it's a visibility issue and all that. Should they at least put something on there that it won't be developed or encroached on in any way?

Anthony Hendricks stated that their zoning ordinance does that.

Rich Mrozinski stated he doesn't think they can build that close to the road anyway.

Anthony Hendricks stated they have a corner lot visibility section of their ordinance. He believes it is twenty-five feet (25') or thirty feet (30').

Rich Mrozinski stated it's not very big.

Michael Polan stated even if this was approved, they would still have to abide by the JZO.

Anthony Hendricks stated everyone in the County is locked in by that.

Earl Cunningham stated he has done a great job of taking care of the property which is not his property. For corner visibility, He can't image he would do a poor job if he owned it.

Rich Mrozinski stated the only difference is that he will be paying taxes on it now.

Approved. Motion carries 6-1.

3. Petitioners Marianne Richey, Jerry Dean Williams, Phillip E. & Brenda L. Ragland, and Timothy Penvose represented by Andrew Voeltz of Howes and Howes, LLP respectfully petition the Plan Commission to vacate the undeveloped but plotted roadways and/or alleyways adjacent to and between their properties located at East Belmont Drive, East Sunnyside Drive, and North Lotus Drive located in Hudson Twp. Exhibits attached hereto.

Attorney Biege stated notice is adequate.

Andrew Voeltz stated he is an attorney with Howes and Howes in LaPorte. He is representing multiple Petitioners here. The reason for that is that as they look at what was presented to them as far as vacating the plotted, but undeveloped roadway, there are multiple parties that are adjacent landowners there. Timothy Penvose is present tonight. His primary client was Marianne Richey and Jerry Dean Williams; they own the property, if they look at the cross section, which he will call a cross, 46-04-28-453-009.000-050 is the property that is owned by Jerry Dean Williams. The property then adjacent to that and below it is owned by Marianne Richey. Then moving to the east, now they are talking about Phillip and Brenda Ragland, then Timothy Penvose owns multiple parcels over there. They are seeking to vacate the cross of a plotted, but undeveloped roadway in Hudson Township, County of LaPorte, State of Indiana. They provided information with regard to Petitioner 1, 2, 3, and 4. What they are trying to do there again is vacate the entirety of it and then the various Petitioners will work out on the back end on how it will be split up. The reality is that it could not simply be his primary clients Marianne Richey and Jerry Dean Williams because they don't own any of the land to the east, but that is why he is representing multiple parties here to try and get the whole thing cleared up and straightened out and then to vacate that entirety of what was previously referred to as either Lotus Drive, Belmont Drive, Sunnyside Drive, or anything like that. He knows that Mr. Penvose is here so he doesn't know if he would like to speak to this or anything like that. They had previously filed a petition to vacate on behalf of Marianne Richey for the property to the west which was approved. That was the one (1) located over on Belmont Drive. He thinks that the precedent has been set. He doesn't see any issue with this and he would ask for the Board's approval here please.

Earl Cunningham asked if it is subject to any easements.

Andrew Voeltz stated he doesn't believe there are any easements there, but certainly it would be subject to any easements.

Earl Cunningham stated none that he is currently aware of.

Andrew Voeltz stated not that he is aware of; no sir.

Rita Beaty stated she is curious about Villa Boulevard. It's a wetland down there on the south end of all this, but does anybody use that little area that they are getting ready to vacate to get to that little wetland to do anything other than these homeowners?

Andrew Voeltz asked Ms. Beaty which area she is speaking of.

Rita Beaty stated there is the cross, then the south that goes into the wetland area. There is a little area vacation there that they are getting ready to get rid of.

Andrew Voeltz stated correct, because the property to the west is owned by Marianne Richey and then the property to the east is owned by Timothy Penvose.

Rita Beaty stated correct, but does anybody use what would have been that roadway to get back there?

Andrew Voeltz stated he doesn't believe so. There has been no access there. The only use has been by Mr. Penvose with regards to what they can see on the aerial where there are actually some structures and whatever not in place where the roadway is now to the east moving towards Lotus Drive.

Anthony Hendricks stated this section is really an isolated wet area that isn't connected to Hudson Lake.

Andrew Voeltz stated no and the reality is that nobody has used it for anything. His clients are just trying to consolidate their ownership so that Villa Boulevard going to East Sunnyside Drive and then down to North Lotus Drive; nobody is going to try to take a straight bee-line shot towards the lake there through this area. They just want to close it up and be done with it.

Glen Minich stated in the future, if there would be a sewage line put in would they have full access to that yet?

Anthony Hendricks stated when they vacate, each owner gets half. After they get that, he presumes that Mr. Voeltz will work up documents so they get what they want from the other owner so they would never ask for sewer line to go across them anymore. It would always go down the road that is existing, the pavement that they actually drive on which is Sunnyside Drive.

Andrew Voeltz stated he doesn't ever see that there would be a sewer line going down that direction because they have access from Belmont Drive to the west, Villa Boulevard would be access, and Sunnyside Drive would be access. Mr. William's property could be, but that is coming down Villa Boulevard if there is a sewer line that is going to be put in there.

Anthony Hendricks stated it would amalgamate them into buildable pieces of ground that would no longer have access to sewer water, gas, or electric.

Andrew Voeltz stated that is correct. As Mr. Howes indicated previously, this would be a situation then where this vacant property, which isn't much, but every dime counts this day, would be added to the County tax records as far as for each individual land owner.

Anthony Hendricks stated they might extend Sunnyside over to Melrose as a sewer extension.

Andrew Voeltz stated yes because that's not been petitioned to be vacated.

Anthony Hendricks stated it is a through access for utilities.

No remonstrators present.

Rich Mrozinski made a motion for a favorable recommendation for Petitioners Marianne Richey, Jerry Dean Williams, Phillip E. & Brenda L. Ragland, and Timothy Penvose represented by Andrew Voeltz of Howes and Howes, LLP to vacate the undeveloped but plotted roadways and/or alleyways adjacent to and between their properties located at East Belmont Drive, East Sunnyside Drive, and North Lotus Drive located in Hudson Twp.

Adam Koronka seconded.

All approved. Motion carries 7-0.

4. Petitioners Dale A. Elkins and Samantha D. Elkins represented by Dave Ambers respectfully petition the Plan Commission to vacate unimproved Lilly Lane from North Hemlock Lane to North Walnut Lane Lots 4050, 4910, 4884, 4051-4055, 4511, 4612-4629 and North Spruce Lane from East Poppy Lane to East Lilly Lane Lots 4898-4910, 4911-4922 and North Hemlock from East Poppy Lane to East Lilly Lane Lots 4040-4050 and 3980-3989 located in New Carlisle, Hudson Twp. Exhibits attached hereto.

Michael Polan stated notice is adequate.

David Ambers stated he is here on behalf of Dale and Samantha Elkins to seek to vacate part of East Lilly Lane that runs from North Hemlock to North Walnut Lane, then North Spruce Lane from East Poppy to East Lilly, and North Hemlock from East Poppy to East Lilly. They have one (1) other adjoining landowner which is Mr. and Mrs. Obanion. They are on the Hemlock Lane on one (1) side of the road and they do not object, but did not join in the petition. Mr. and Mrs. Elkins own lots on both sides of the road on all three (3) of these sections of road. Again, this one (1) could end up with some sizable taxes as it is quite a bit of land. They ask that they have a favorable recommendation or if any of them have any questions they can answer them.

Harold Parker asked if they are still subject to right-of-way's and that stuff.

Anthony Hendricks stated Lilly Lane goes across a water body.

Glen Minich stated they own it all.

David Ambers stated he doubts that one (1) will be constructed. Actually, last year they vacated part of Poppy between Hemlock and North Pine.

Anthony Hendricks asked if the intentions is to amalgamate all of them into one (1) parcel?

David Ambers stated yes.

Anthony Hendricks asked if that includes the right-of-way.

David Ambers stated that is correct.

Anthony Hendricks stated he sees they have lots of tax ID numbers.

David Ambers stated he kind of has a little fiefdom there he has collected over the years.

Anthony Hendricks stated he asks because if they had one (1) tax ID number, they would only service one (1) with sewer with water.

David Ambers stated he may choose to have each section of the roadway taxed separately.

Adam Koronka stated the Obanion's were not a part of the petition, but they are seeing a lot of parcels such as 46-04-29-211-006.

David Ambers stated Obanion's own from East Lilly up to vacated East Poppy and they do not object and they were noticed.

Adam Koronka stated the other folks they have are Rose Kaecher.

David Ambers asked which side.

Adam Koronka stated it would be the west side of Spruce.

David Ambers stated they weren't on his list. Which parcel?

Adam Koronka stated the south west corner of Spruce and Poppy. Parcel 46-04-29-211-006.000-050.

Glen Minich stated they have road frontage.

Anthony Hendricks stated they have road frontage.

Glen Minich stated they have the right to have that easement, correct.

Anthony Hendricks stated he isn't vacating that easement.

Glen Minich stated they have the right to have that easement.

Anthony Hendricks stated yes, they would get half of that vacation.

The Plan Commission deliberated amongst themselves.

David Ambers stated they missed one (1).

Anthony Hendricks stated they missed a notice.

David Amber stated yes, it looks like it.

Anthony Hendricks asked Mike Polan if they noticed Rose Kaecher.

Michael Polan stated he only has notice from Obanion and that was apparently the only real estate parcel card that was provided.

Anthony Hendricks asked Attorney Biege if they should table.

David Ambers stated he thinks so.

Attorney Biege stated they should table it until next time and do the notice on the one (1) that is left out.

Adam Koronka made a motion to table the Petitioners Dale A. Elkins and Samantha D. Elkins represented by Dave Ambers to vacate unimproved Lilly Lane from North Hemlock Lane to North Walnut Lane Lots 4050, 4910, 4884, 4051-4055, 4511, 4612-4629 and North Spruce Lane from East Poppy Lane to East Lilly Lane Lots 4898-4910, 4911-4922 and North Hemlock from East Poppy Lane to East Lilly Lane Lots 4040-4050 and 3980-3989 located in New Carlisle, Hudson Twp.

Rita Beaty seconded.

All approved. Motion carries 7-0.

David Ambers asked if they are having a December meeting or if it will be January.

Anthony Hendricks stated January.

Old Business:

1. Discussion on Limiting Solar Panels

Anthony Hendricks stated he had a committee meeting consisting of Mr. Parker and Mr. Carr about the solar concerns. They met and the concerns were glare from solar panels. Those are things they need to look at if they are updating the solar ordinance. There are things they can do like make them spray anti-reflectivity on the panel, but they would have to put that in the ordinance. They discussed a decommissioning guarantee since they all know that it is a mechanical system that ends its life at some point. He spoke with Starke and Pulaski County's and they have huge solar farms about thirteen square miles (13²mi.) in size. Their decommissioning discussions went around between a bond, an escrow, or insurance, or cash. He understands that some of them would have liked to escrow it, but that didn't know how to escrow the money so if the entities were no longer around or bankrupt and the panels need to be decommissioned and disposed of, they would have the money to do that. Their questions were when would they pay the bond, the escrow, and the insurance: before the installation, after the installation, fifteen (15) years, thirty (30) years, when do they build up those funds and how does the County do that. That is the question they will leave for a future date. Some concerns about the labor. They would like to make sure that they have U.S. citizens installing these, they would like Indiana citizens, and they would like LaPorte County people working on these. They have people from all overseas coming over and installing the panels and they would like to have some of that work for their own citizens. There was some discussion about solar systems in commercial zones and whether they could have panels in front yards and maybe setback review on what they do in other counties and what we have in ours. There was some discussion about what other counties solar ordinances are updating their source because now they have been through Indiana and America has been through a lot of solar. He believes a lot of people understand what they are in for in location, in building, in bonding and decommissioning, and who owns them and what they get. Some of that is on the private side that people are doing it on their private land. Some of it is on their side, the public governmental side, of what updates have people started to look into that protect themselves better because Starke and Pulaski have been on the forefront about really understanding what happens when a solar farm comes into their community. The last thing they talked a little about was battery farms since they have those. There is nothing in their ordinance at all on them. Again, location, setbacks, and impacts and the number one (1) thing priority that he is hearing from the fire departments, volunteer or not, is the fire suppression. Since they can't physically get close to them to put them out and it takes thousands and thousands of gallons of water to put them out. Their people are looking at automatic fire suppression requirements so if they have a runaway cell, it automatically douses itself in some secondary containment and shuts it off and all they have to do is show up and make sure it's not catching back on fire. It's an extra cost, but he doesn't know if they have the ability in their volunteer fire departments alone to take care of any out of control battery run on a battery farm fire. They don't have the capability to bring that many thousands of gallons of water to it let alone keep putting it out. That's what they did for their Commission and he will leave it open to the floor for any discussion.

Michael Polan stated he agreed. It is definitely better to have the fire suppression within self-contained units so it can't spread to the other units. If they are self-contained and air tight it won't have oxygen to burn. Twenty-four-seven (24/7) redundant monitoring.

Anthony Hendricks stated automatic; they will put themselves out and somebody would come and clean it up. That is something they will have to work on a draft on how they look at some of these things and he thinks they need to start from other communities in both of these functions to see how they are updating their ordinances.

Attorney Biege stated on the solar side of it, some of them they have taken care of, some of them they need to re-examine. On the battery farm, he doesn't know if the Plan Commission is familiar with the strict conditions the BZA put on the developer. Their concerns on the fire suppression system have been addressed. He doesn't know that they have anybody in LaPorte County that is qualified to draft a local ordinance on a battery farm. He knows Jim Pressel told him that the State Legislature is going to pick this issue up. They all know that doesn't normally happen that quickly, but for now, since it is so new and he looked and couldn't find anything within hundreds of miles that anybody has a battery ordinance, yet. For now, he thinks they should go as they have. If they want to see the conditions that the BZA set for the last two (2) that were approved, the County is very well covered for now. Nothing is going to be put up unless it gets by the BZA. In fact, the BZA, the developers are paying an engineering firm to review the plans and inspect every year on the facilities that are going in. He doesn't know that they can do that in an ordinance right now so he thinks they are safer proceeding without one (1) for the time being.

Anthony Hendricks stated thank you.

Michael Polan stated he would like to add that there is money in that particular approval for the County to spend on a consultant of their choosing, a third party independent consultant, to review. It would be a professional in the field. Like Doug, he also looked and searched near and far for an ordinance and while they didn't find anything ordinance wise, he did find SOPs. He found several standard operating procedures from several private and public entities and they made those available. He thinks that was helpful to learn as they go. He agrees that the BZA took a good hard look at it with the restrictions that they put on their approval.

Adam Koronka stated having been part of both those discussions and proposals, looking hard at the NFPA spec that is defined for these battery energy storage systems and other recommendations from an incident in Arizona, if they want to put something into the ordinance, what he would basically do is cascade it down to the NFPA spec or at least reference certain sections. That way, as those specifications get updated, the JZO is immediately updated because it just cascades down to that document.

Anthony Hendricks stated that is a good idea.

Adam Koronka stated if it adds a level of comfort to this Board, then that might be the route to go. He's looking at it as an engineer and talking on it in legal terms, is that something that leaves them with potential pitfalls for the County?

Attorney Biege stated he agrees with what he has to say, but he thinks eventually yes. The problem is that in a County Government, in his opinion, they have no one with the knowledge base to say if it is good or bad. And from what he understands, there is a disparity and types of batteries for storage facilities because in some ways they are still getting developed. He is not competent to understand what the code sections are because this is an engineering journal. So, the question is, do they put an engineer on retainer to monitor this, or do they take it on a case-by-case basis because if the Plan Commission wants him to track the changes in this code, he doesn't have an engineering background so he isn't sure he can understand the ramifications of it. He can draft the legal

ordinances, but they are talking about specifications and engineering regulations which are beyond his ability or, in his opinion, anybody in the Building Department's ability. So, that is why he thinks it is premature to try draft an ordinance because there are so many variables out there now. Ultimately, he doesn't think it will be up to County enforcement at the end of the day anyway. He thinks it will be an issue for Indianapolis and the power grids.

Anthony Hendricks stated he thinks they will wait until the State weighs in, but when they do they need to respond quickly. He is only concerned, which is a good thing, they have a potential battery manufacturing facility going in to the County next door to us. They need to have themselves ready, if need be, to act quickly.

Attorney Biege stated nothing is going up unless it goes in front of the BZA. Any application goes in front of the BZA. The BZA can set conditions on any facility that goes in. He is extremely comfortable with the ten (10) conditions that they put out. They even have fire department training, for not only the volunteer fire department. He doesn't have them in front of him, but he can send it if any of the Commission members want to see it. But nothing is going up, unless it goes in front the BZA, and the BZA has been very thorough in the two (2) applications they have granted in protecting the County. He thinks where they should stay for now until they see what the State does because they are covered until the State does something because nothing is going up unless the BZA sees it.

Michael Polan stated yes. He would like to add that in the absence of a local ordinance, they are still going to require them to follow the NFPA. That standard is going to be in place regardless. Also, regardless of BZA approval, that is just step one (1). Before any shovels get in the ground, they still have to go through him so they are going to make sure the NFPA is followed. They are going to make sure that any permits that are issued, are in compliance with not just NFPA, but anything that has happened since then whether it be State legislation or otherwise. And they have the thirty thousand dollars (\$30,000) on the table that they can bring in third party.

Attorney Biege stated that is for the initial, but they have also reserved money that they will pay to the County to hire an engineer each year to ensure compliance and any changes in the NFPA. It's not only initial, but they are paying for the follow up. He was insistent that they pay for it so they can retain a firm that has the background and experience to do these inspections because they are not equipped to do so at the County level.

Anthony Hendricks asked for any other business.

Michael Polan stated he has new business. He doesn't know if he got the email out to the Plan Commission as he may have only sent it to the Commission and Council, but they are in the process of upgrading their software in their office. This week is the migration from the old system to the new system. So far, it has been very minor issues, fingers crossed, but two (2) years they have been working with their software vendor to get them to implement the improvements that they are looking for. Some examples would be ease of use for the public, online where they can start and finish completely online, more types of permits instead of just the simple ones. More than that, internally, staff, office and inspector side, there was a lot of room for improvement to be able to sift through what inspections are done, what still needed to be done, other facets of the permit. They are

also looking for the capability of adding custom fields. For the years, the department has been utilizing two (2) software programs where they would have to go back and forth between; it is not efficient. It has been one (1) of the priorities that he set to see that through. He called it moving from the Flintstones to the Jetsons when he was at Council. They are moving forward with that this week and his hope is when they finish the migration and work out whatever bugs they may find, that they can start to eliminate the second program that they are using and really have a flagship to operate from.

Anthony Hendricks stated thanks. This has been going on since Ray Hamilton.

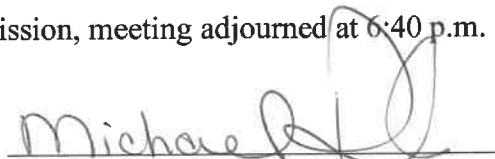
Rich Mrozinski stated he thought they were getting another new one (1), but this is still the same one. Wow!

Anthony Hendricks stated on a side note, he talked to some citizens this week and they were very happy with LaPorte County and the way they get their permits and inspections. They said it's not like any other County; they get things done. They were very happy with his office. Thanks for all they do.

There being no further business before the Plan Commission, meeting adjourned at 6:40 p.m.



Anthony Hendricks, President



Michael Polan, Recording Sec.