



# LAPORTE COUNTY PLAN COMMISSION

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Michael Polan  
Building Commissioner

## LA PORTE COUNTY PLAN COMMISSION MINUTES March 28<sup>th</sup>, 2023

MEMBERS PRESENT: Anthony Hendricks                      Joe Haney  
                                 Rita Beaty                                              Glen Minich  
                                 John Carr                                                      Earl Cunningham  
                                 Deb Vance                                                      Harold Parker

OTHERS PRESENT: Doug Biege, Attorney; Michael Polan, Recording Secretary; Ashley Kazmucha, Administrative Coordinator; Mitch Bishop, County Planner

### PLEDGE OF ALLEGIANCE

Anthony Hendricks asked for approval of the agenda for the March 28<sup>th</sup> meeting.

Joe Haney made a motion to approve the agenda as presented.

Harold Parker seconded.

All approved. Motion carries 8-0.

Anthony Hendricks asked for approval of the November 22<sup>nd</sup> meeting minutes.

Joe Haney made a motion to approve the minutes as presented.

Rita Beaty seconded.

All approved. Motion carries 8-0.

Anthony Hendricks asked for approval of the January 24<sup>th</sup> meeting minutes.

Joe Haney made a motion to approve the minutes as presented.

Rita Beaty seconded.

All approved. Motion carries 8-0.

### Petitions:

- 1. Petitioner Irish Rentals LLC represented by Wightman** would like to present to the Plan Commission the secondary/final plat for the final phase of Wagner Estates II subdivision consisting of 18 lots and a retention basin located near the intersection of County Road 800 North and County Road 125 East, 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.

Individual lots shall have on-site septic systems and private wells. The development of this site shall not constitute any major runoff to adjacent property. Any runoff created within the site shall be routed to the retention basins within Wagner Estates II, as previously approved. All street construction shall meet County Design Standards. Updated construction plans are currently on file.

Attorney Biege stated notice is adequate.

Nathan Flickner stated he is with Wightman located at 715 S. Michigan St., South Bend, IN. They are looking for secondary approval of the plat and review of the construction plans. He is here for any questions they have.

Anthony Hendricks asked if there is anything from the Building Commissioner from the Plat Meeting.

Michael Polan stated they did not actually have a Plat Committee for this, but they did communicate via phone and email. Since they were here last time, there have been several updates to the plans including the grade.

Anthony Hendricks stated the changes so far are the grade to the steep slope on the cul-de-sac.

Nathan Flickner stated yes. They brought the cul-de-sac end up a little bit and cut the hill down to soften the grade coming into the cul-de-sac.

Joe Haney asked Michael Polan or Mitch Bishop if the grade is sufficient now.

Michael Polan stated he believes so, yes. They made it better than what it was. It was steep the first go around.

#### **Remonstrators:**

Rich Mockler stated his address 8255 N. 125 E., LaPorte, IN. He is the property bordering this subdivision on the north side. He missed the first meeting, but he wasn't in the area. He is wondering what they will do with their drainage. Who follows up after the construction guys are gone through the years to take care of the drainage of the new yards being put in? Who does that?

Anthony Hendricks stated the LaPorte County Highway Engineer is a professional engineer and he reviews all the drainage to make sure they are retaining any water and releasing any stormwater after the hundred (100) years so there will actually be less water coming off. Who follows up would

be the Drainage Board. Their next meeting would be the Drainage Board for an Urban Drain petition so they can assess the lots and pay for any maintenance or updates they need for that drainage system that they install.

Rich Mockler stated he has been there about twenty-three years. He was there before the subdivision was put in. He has experienced a lot of soil erosion of his property since the subdivision was put in. He has talked to the County Highway through those twenty-three (23) years twice. That last time was about three (3) years ago. He doesn't have all the dates together. What's the idea behind a storm sewer drain? What is it supposed to do?

Anthony Hendricks stated the requirement for the Joint Zoning Ordinance are a hundred (100) year rain and a ten (10) year release rate so typically what is coming off that would have to be calculated for the stormwater drainage runoff for a hundred (100) year storm and then they would have to release it at a ten (10) year rate.

Rich Mockler asked what is the simplest way that thing should function?

Anthony Hendricks stated it should handle all the stormwater drainage and release it at a rate that is approximately a tenth ( $\frac{1}{10}$ ).

Rich Mockler asked what if it isn't handling any of the stormwater runoff?

Anthony Hendricks stated that should never happen. He was on his site about three (3) years ago.

Rich Mockler stated he can take him to two (2) of them if he wants to come knock on his door one (1) day. He can show them a picture from Google Earth on his phone and show all the members from when the house was put in on the southwest corner, all the dirt came right off the property and into the street. They brought sweepers out to clean it up three (3) times one (1) summer. That goes down the road and they bypass their pond because the people never tapered their yard to go to the manhole that is in the yard.

Anthony Hendricks stated that front phase on 125.

Rich Mockler stated what they did was cut the side of the road out and threw rock in it bypassing the retention pond instead of fixing it and putting a ditch in there. Now, it dumps straight on his property. It has gone so many years that you can't even tell there is rock there because it is all full of dirt and grass now, but it is in his ditch. He has cleaned it out twice.

Anthony Hendricks stated thank you for bringing this up. He was out there three (3) years ago and he knows. This retention drainage system will not flow into that one (1); this is a separate one (1) on the other side of the hill, but he is glad he brought it back up because he didn't know he was still having problems.

Rich Mockler stated they have a street drain right there.

Anthony Hendricks stated they have a controlled outflow of that pond that isn't getting to him.

Rich Mockler stated the one (1) on the north is controlled because it is higher than what the water level will ever reach so it comes down the street, out into the road, and then back down the road again and washed out his driveway and his neighbors driveway. It has been doing it for years. They say, "Oh, we'll come out and do it." All they needed was a few guys or a small piece of equipment and they could have put a trench to that manhole and picked up that yard. Do the new people that have moved in even know that manhole is there? Their back yard is the lowest lot in all of it. Google Earth shows how wet the soil is right there. Those people should have tapered their yard into the manhole to use it. It is going to be wet. Who follows up? Who watches these people after they have got up and left? He has called the County out a number of times and they say they will do something about it. Duane Werner came out and he asked him to put a ditch alongside the road there. He turned it into a thirty-thousand-dollar (\$30,000) job saying if he is going to put a ditch in, he will start it up on the hill and run it right on down. That was the end of that; nothing got done about it.

Anthony Hendricks stated they have a Commissioner here that can direct that and he can help direct that too. They will look at it. As a Drainage Board liaison, he can help that and Commissioner Haney can too.

Rich Mockler stated the street drain on the north side needs to be lower so it will pick up the water. It works great like it is because nothing comes up there. It comes out around the drain and dumps all the dirt right there. Then they don't have to do maintenance to clean the storm sewer out because the dirt isn't going into it. He has been going on twenty-three (23) years there talking to the County Highway and the storm drainage guy and he is here tonight. He doesn't want to see this keep going with nothing. Talk to anybody and they say they don't know who to get ahold of and they don't give them any money to take care of it; that there is no money to do anything with it. What is the ditch off the side of the road now? It's theirs to take care of, right?

Anthony Hendricks stated yes, that is County Highway.

Rich Mockler stated since that was turned over to him, has that been rezoned? It is no longer agricultural in there?

Anthony Hendricks stated it is residential.

Rich Mockler stated it is up to the County Highway to take care of that.

Anthony Hendricks stated yes, that's County Highway.

Rich Mockler stated why do they tell him they have no money to work on any of the stuff. That's what they tell him. That is the story he gets. They have some good guys there that save them money left and right especially if they are telling everybody in the County this.

Anthony Hendricks stated he understands they probably don't have any money, but they will look into it. This drainage is separate from the drainage that goes out to 125. This drainage will go in its' own pond so this shouldn't add any to his property.

Rich Mockler stated that's fine. Who is it going to dump on because it's going to have to dump on somebody. Is it going to dump on his neighbors then?

Anthony Hendricks stated the north.

Rich Mockler stated are they aware of what is going to happen to them.

Anthony Hendricks stated the calculations would be a ten (10) year release so they should see a reduction in drainage off the site.

Rich Mockler stated he was told that too and hasn't seen it yet.

Anthony Hendricks stated the County Highway Engineer is the PE that reviews those to make sure they are right.

Rich Mockler asked if anybody would like to see the pictures of that drainage and where it is draining at.

Anthony Hendricks stated that is not up for consideration because that is a different piece and different watershed.

Rich Mockler stated sounds about right. He kind of expected that.

Anthony Hendricks stated thank you.

Rich Mockler asked what is rezoned out there. Is his property also rezoned or is he still Agriculture.

Anthony Hendricks stated he would have to look at Beacon to see what the zoning is. He would presume he is still Ag.

Joe Haney asked if Rich Mockler could send him an email with his concerns in it; they have a new Highway Superintendent this year and he will make sure it gets into his hands and they get some fresh eyes to take a look at that.

Rich Mockler asked if he could give him his email.

Joe Haney stated he would be more than happy to.

Rich Mockler stated okay.

Earl Cunningham stated he doesn't want him to think that there's nobody up here that wants to hear that, but they don't have any authority over that issue. They are on a different issue. Mr. Haney has just stepped up to the plate to get with the Commissioners because they are taking care of the drainage problems.

Rich Mockler stated he has spoken to Mr. Mrozinski, but he was busy judging chickens and couldn't come out to his place so he sent someone else to him who said they would take care of it for him. He's seen what's going on. He's never had that kind of water running across his property before they put the subdivision in. He had to put rock in and everything else. They told him to put spillways in on his own property and wanted him to pay to fix the water problem they have out on the street. He wants to make sure that whatever they do out there that somebody keeps watching them and keeps track of it. He has a grass waterway through his yard that takes that off. He understands that, it's there and it feeds a wetland to the north of him. He can get back to his property and he put a culvert in that runs parallel with his neighbors driveway culvert and it is filled up with sand and silt. He has shoveled it out three (3) times. He fills a six-foot (6') pick up bed full of dirt both times that he has done it. The neighbor's is filled up also. The people can make money off putting in subdivisions, but he and his neighbors have to pay for new culverts in their waterways.

Anthony Hendricks stated they would hope the County Highway has been doing a good job the last three (3) months so they will see if they can get them back out there for him.

Rich Mockler stated thank you and he would appreciate it.

Joe Haney stated they have a new administration on the Commission this year as well as a new Highway Superintendent so they will come out and take a fresh look at it.

Anthony Hendricks stated they'll get out there.

John Carr made a favorable recommendation for Petitioner Irish Rentals LLC represented by Wightman for secondary/final plat for the final phase of Wagner Estates II subdivision consisting of 18 lots and a retention basin located near the intersection of County Road 800 North and County Road 125 East, 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)

Rita Beaty seconded.

Approved. Motion carries 7-1.

Anthony Hendricks stated this will be an urban drain at some point so as the liaison to the Drainage Board they will be looking to make sure they have some sort of safety shelf in the pond since it is deep.

Nathan Flickner asked if he was referring to the four-foot ledge.

Anthony Hendricks stated yes. If somebody somehow gets in the pond, they won't go deeper than three or four feet (3' - 4').

**2. Petitioner Love's Travel Shops & Country Stores, Inc (Love's) represented by CESO, Inc. (CESO) would like to present to the Plat Committee a proposed PUD with fueling stations,**

convenience store and restaurant, a truck tire repair facility, and truck wash located at the intersection of US Route 421 and County Road W. 300 N., Michigan City, IN. Coolspring Twp. Zoned B3 consisting of 56.397. (Parcels 46-05-17-400-005.000-046 & 46-05-17-400-008.000-046) Exhibits attached hereto.

This development will be known as Love's Travel Shop and will only utilize 17 acres and will be known as Phase 1. The remaining acreage will be used for future PUD developments (Phase 2).

Attorney Biege stated notice is adequate.

Frank Ille stated he has his civil engineer Dave Teyber who is going to do the presentation but he is there for Q&A when they have some questions.

Dave Teyber stated what they are bringing forward today is an addition to what they have approved in the past with the prior improvements for the Love's. The previous application they had had the country store what most people call the fuel station, the truck parking area in the back with truck fueling and a Speedco tire shop.; That application was approved last year and they have been working very patiently with everyone on this project. Since then, Love's would like to add a truck wash to the tire shop at the north end of the site. This is a newer amenity that Love's is starting to add to their sites. It does take away one (1) of the truck service bays, but does add two (2) truck wash bays so it is an additional service that Love's can offer to their travelers. That resulted in a change in floor area of the building so that is one (1) of the reasons that they are back before them today because that change required a PUD approval because it increases more than five percent (5%) of the floors area. The second change that they are going to have is they are looking to do a re-plat. At the far north corner of the site, they have the high-rise sign that fronts the interstate. There have been some changes in the Indiana State law that require one (1) contiguous parcel all the way back to that sign. They had originally planned to have that sign provided through a sign and an access easement so that approach is no longer allowed. At the end of the day there will be a re-plat that will combine the new land purchase by Love's with the previous parcel that they've already had. The last item they are looking to change is to the country store itself. They are looking to remove the Chester's Chicken and then it will be just a Godfather's and a Taco John's. It would basically be reducing one (1) of the food tenants. This would also reduce the floor area of that building a little bit so that is another reason they are back for approval.

Frank Ille stated they have been working on this project for six (6) years now. They have gotten past several hurdles, the largest and last of which was with the pipeline company TC Energy. They were great to work with them and to do a commercial development over their pipeline they have to upgrade it to certain federal standards. That is what they have agreed to and that is what they have been doing. They are supposed to be done in two (2) weeks on April 12<sup>th</sup> or 13<sup>th</sup> which will open them up to be able to construct the store finally. The additions that Dave has talked about are recent. The law that changed about the high-rise sign is one (1) thing that has occurred since they have worked on this project. The truck wash is a new initiative the Love's started less than eighteen (18) months ago company wide. They are a Chester's franchisee, but they are no longer opening Chester's because of operational issues and performance so they have expanded their Love's Hot Fresh Food Program to go along with the Taco John's and the Godfather's. Those are the reasonings

behind those changes. They have really come as initiatives since there have been changes in the company over time so they are implementing them before they build this store. That's really all it is.

Earl Cunningham stated they are adding some land for the signage. Does that increase the seventeen (17) acres or is that included in the proposal tonight.

Frank Ille stated the land that they have already purchased is twenty-one (21) acres and this no plat which adds a strip of land will add an extra three-point-three-two (3.32) acres so they will have about twenty-four (24) acres when it is all said and done. They closed on that purchase just last week just in time for this re-plat.

Earl Cunningham stated thank you.

John Carr asked if there was a time frame for construction.

Frank Ille stated typically their construction takes about two hundred (200) days, but they have learned ways to shorten that if they can, but really it's seven to eight (7 – 8) months. This is a major project so they want to get it started. They want to build it this year. If they wait until June or July then their construction window that far north is closed. That's the long way to answer the question, but he hopes they open it around Thanksgiving or mid-December.

John Carr asked if they would be starting it within the next week or two (2).

Frank Ille stated yes.

John Carr stated he appreciates their patience this whole time and he appreciates how they have worked with all the entities that they have and with construction coming up he thinks it's important to keep working with people in the community in regards to local contractors and the local trades when they build their project. And make sure all the contractors are licensed and registered with our Building Department. They would appreciate that.

Frank Ille stated yes, they will be. They have lots of General Contractors, possibly ten (10) that follow them around the country and build their stores, but over seventy percent (70%) of the sub-contracting work is bid and awarded locally.

Anthony Hendricks stated he thinks everybody wants this project to move forwards as quickly as possible and they don't want to hold it up and possibly bring something back. He believes at the Plat Committee they were discussing to make sure they have widened their latitude as much as possible in the PUD to make sure that it covers everything they need or potentially might change so they don't hold them back up another meeting.

Dave Teyber stated they are still working on finalizing their drawings with this project. They are looking to make some changes to the drawings that they have presented because they haven't fully incorporated all the changes they just talked about, specifically to the Love's building with the improvement of the Love's Fresh Hot Food. There may be some changes so he's not sure if there is



a way to provide approval tonight that is conditional upon getting the final permit approvals per se. They might have some changes that result in the floor area.

Frank Ille stated the building will not get bigger than what they have already approved.

Dave Teyber stated they are looking to make it smaller and maybe add seven to ten (7 – 10) parking spaces.

Frank Ille stated this building is what they call a Tier Zero. They only have ten (10) or twelve (12) of those around the country, but contrary to the number, it is their newest model. It's a very modern, fresh-looking building inside and out and they will be impressed with what they see. He's not sure what the closest one (1) to them would be. That's why the building grew before their last approval because they wanted to change it into a Tier Zero and it still will be.

Anthony Hendricks stated he is seeking help from the Building Commissioner, County Planner, or the Attorney because they don't want to pigeon hole them so if they had a number between ten thousand and thirty thousand (10,000<sup>2'</sup> – 30,000<sup>2'</sup>), they would still have some leeway up and down through the PUD and that's where they got stuck before when they bumped up against the possible maximum leeway that they can allow in the PUD Ordinance.

Michael Polan agreed. They went over this at Plat Committee and the consensus is to ask for anything they could foresee that they would need now so they don't have to come back incase there is greater than five percent (5%) change in the future.

Anthony Hendricks asked if they know a minimum square foot or a maximum square foot, they might want to add twenty percent (20%) to that so they would fall within that range and they would still get a five percent (5%) leeway.

Frank Ille stated he understands. The building they have already had approved was over twelve thousand square feet (12,000<sup>2'</sup>).

Anthony Hendricks stated if they had a twelve thousand square foot (12,000<sup>2'</sup>) building in the PUD could they say this plan would have a building that ranges from eight thousand to fifteen thousand (8,000<sup>2'</sup> – 15,000<sup>2'</sup>) and it doesn't matter where they are within that range and still the five percent (5%).

Mitch Bishop stated they talked about taking out Chester's and adding parking lots so the impervious surface isn't going to change either way. What he is saying is fine and applicable. That's not an issue at all.

Michael Polan stated they will need drawings on the additional parking and the floor area because of the removal of Chester's, but that can be dealt with at the Building Department level.

Attorney Biege stated they can do a motion with a no less than and no more than parameters on the square footage, that way the Building Commissioner would have discretion if they do make changes and they don't have to come back.

Dave Teyber asked if they could say they won't increase by more than five percent (5%) and in reduction building is allowable.

Anthony Hendricks stated the Building Commissioner gets a five percent (5%) allowance either way. They are trying to give him a buffer between a range that they could still move within and still be within the five percent (5%) and not come back.

Frank Ille stated if they said between ten and fourteen thousand square feet (10,000<sup>2'</sup> – 14,000<sup>2'</sup>), he knows they would fall within that range.

Anthony Hendricks stated so the Building Commissioner could still grant them five percent (5%) less or five percent (5%) more.

Frank Ille states correct.

Anthony Hendricks stated he wants to make sure the Commission understands the rules that if the motion is that, they need to put that in the motion so Mike and Love's is covered to actually start building this without coming back another month for whatever reason something might change.

Michael Polan stated to be clear, are they asking for a range of ten thousand to fourteen thousand (10,000<sup>2'</sup> – 14,000<sup>2'</sup>).

Anthony Hendricks stated for what? For one (1) of the buildings or for the whole project?

Frank Ille stated for their travel center building. Just the convenient store.

Anthony Hendricks stated okay. It's getting confusing, but they have a Planned Unit of Development in front of them that lays out what they are doing with specificity, but they might have a not to be less than ten thousand (10,000<sup>2'</sup>) and not to exceed fourteen thousand (14,000<sup>2'</sup>) for the building itself.

Frank Ille stated right. The specs they all have on the Speedco with the truck wash are up to date and accurate, right Dave.

Dave Teyber stated yes. They reflect the three (3) service bays and two (2) truck wash bays.

Frank Ille stated that building won't change. He's just talking about taking out the Chester's which is a pretty minor thing as it doesn't take up much space, but he doesn't want to get approved for a specific square footage then deviate five percent (5%) and have to come back. If they can legally accept a range, that would be great.

No remonstrators present.

Anthony Hendricks stated for public record, Charles Hendricks & Associates P.C. did work with US 421 Partners LLC and they have no financial interest in this project. This is a Love's and US 421 project. He did work on the north Lot 2, but they no longer have an interest in it.

John Carr made a favorable recommendation for Petitioner Love's Travel Shops & Country Stores, Inc (Love's) represented by CESO, Inc. (CESO) Committee a final revised plat and amended PUD with fueling stations, convenience store and restaurant (10,000<sup>2</sup>' – 14,000<sup>2</sup>'), a truck tire repair facility, and truck wash located at the intersection of US Route 421 and County Road W. 300 N., Michigan City, IN. Coolspring Twp. Zoned B3 consisting of 56.397. (Parcels 46-05-17-400-005.000-046 & 46-05-17-400-008.000-046) Exhibits attached hereto.

This development will be known as Love's Travel Shop and will only utilize 17 acres and will be known as Phase 1. The remaining acreage will be used for future PUD developments (Phase 2).

Joe Haney seconded.

Earl Cunningham stated they need to note the increase from seventeen (17) acres to twenty-four (24) acres.

Anthony Hendricks stated that is in the revised subdivision plat.

Earl Cunningham stated it should be changed on the motion.

Anthony Hendricks stated it looks like it is twenty-three-point-four-six-seven (23.467) acres. Lot 1 will be revised to twenty-three-point-four-six-seven (23.467) acres. Is there an addendum to the motion?

John Carr made a favorable recommendation for Petitioner Love's Travel Shops & Country Stores, Inc (Love's) represented by CESO, Inc. (CESO) Committee a final revised plat and amended PUD with fueling stations, convenience store and restaurant (10,000<sup>2</sup>' – 14,000<sup>2</sup>'), a truck tire repair facility, and truck wash located at the intersection of US Route 421 and County Road W. 300 N., Michigan City, IN. Coolspring Twp. Zoned B3 consisting of 56.397. (Parcels 46-05-17-400-005.000-046 & 46-05-17-400-008.000-046) Exhibits attached hereto.

This development will be known as Love's Travel Shop and will only utilize 23.467 acres and will be known as Phase 1. The remaining acreage will be used for future PUD developments (Phase 2).

Joe Haney seconded.

All approved. Motion carries 8-0.

Frank Ille stated thank you.

Anthony Hendrick stated thank you for building.

Earl Cunningham stated thank you for their patience.

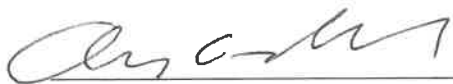
Anthony Hendricks stated he hopes to see them soon. The pipeline is moving forward very fast.

Frank Ille stated it is. They will be done in a couple weeks. He will be very happy personally to get this store open.

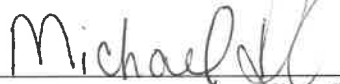
Anthony Hendricks asked for any old business.

Anthony Hendricks asked for any new business.

There being no further business before the Plan Commission, meeting adjourned at 6:35 p.m.



Anthony Hendricks, President



Michael Polan, Recording Sec.