

**Burns Harbor Advisory Plan Commission
Minutes of Monday, March 2, 2020**

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, March 2, 2020 in the Town Hall. The meeting was called to order by Advisory Plan Commission Vice President, Bernie Poparad at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Eric Hull	Absent
Bernie Poparad	Present
Toni Biancardi	Present
Andy Bozak.....	Present
Gordon McCormick	Present
Jeremy McHargue.....	Present
Sarah Oudman.....	Present

Additional Officials Present

Building Commissioner-Rob Wesley

Attorney-Clay Patton

Attorney-Michael Brazil

Global Engineer-Shem Khalil

Secretary-Marge Falbo

Also Present

Holladay Properties-Mike Micka

Brad Enslin

Minutes

Bozak makes a motion to approve the minutes of February 3, 2020 as written. Biancardi seconded the motion. Motion carried by unanimous vote.

Communication, Bills, Expenditures

None

Report of Officers, Committee, Staff

None

Preliminary Hearing

None

Public Hearing

None

Old Business

Holladay Properties

Westport Planned Unit Development

Questions and Comments Follow-Up

Micka says you will recall we were here last month to present the concept plan for the Westport Planned Unit Development. The way the ordinance reads is we made the presentation to the Planning Commission. You all received the plan in mid-January and had a chance to review the plan before the presentation. You had an opportunity to see the presentation and the next phase was a back and forth response. We received some questions, Oudman and Global Engineering emailed some questions. This is a reminder that this is the concept plan. Some of the questions were more thought provoking. The next step in this process would be and there isn't a motion that's required it's just more that everyone is in agreement with this concept. We just need to know that we can move forward and that next step forward would be the PUD Ordinance and then the primary plat. That's where the detail really starts to come to fruition in these plans. We start dealing with building heights, right-of-way lots, size of roads. The detail really comes out. I am here to answer any other questions that we can answer, take notes on recommendations besides the ones we've already had as we go to that next level. Biancardi says I think everyone is comfortable with allowing us to move forward on the PUD but possibly having you come in April and discuss some of those comments once they have been circulated.

Micka says my next meeting would be next week with the Redevelopment Commission. The sub-contractors and consultants are all task-oriented so they can't start Task 3 until we get approval from the Redevelopment Commission. Task 3 on our side is the next level of detail to get to those 30% and then eventually 100% construction drawings and then the PUD Ordinance. Assuming we are going to get a favorable approval from the Planning Commission in April. Biancardi says if we are ok with the concept plan, Holladay will move forward with the PUD Ordinance and that's where the whole recommendation would come in. It would come to us, we would have a Public Hearing, and then we would give a recommendation to the Town Council. So, if we are comfortable with the direction the concept plan is going then Holladay will start to add the detail in that PUD Ordinance. Micka says the hope was tonight that you were ok with this concept plan. It takes about six to eight weeks for us to fully develop that PUD Ordinance. Then the goal would be to be back here in May with the PUD Ordinance. Biancardi says if this Board says in a consensus, yes, it will be communicated to the RDC that they can say ok we can release the next task.

Bozak makes a motion to give a favorable recommendation for this project to move forward based on the Concept Plan. McHargue seconded the motion. Motion carried by unanimous vote.

Chapter 15 Zoning Ordinance

Storage and the Use of Shipping/Cargo Containers

Poparad says I think we all have a copy of that. It's been revised. Does anyone have anything they want to add or subtract? McCormick says

E. Business Park District, i:

A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access lanes, public right-of-way, in an area visible from the property's primary street or within three hundred (300) feet of a residential district.

There is nothing in here as far as how they go about doing that. Biancardi says "permitting" you mean. McCormick says right, unless I overlooked it. Poparad says are you talking about getting a permit to put it in? McCormick says right. For example, Pilot, they are there and they are not going to leave. That is long-term storage. How are you going to go about doing that? Oudman says are they behind Pilot or are they behind KIA. McHargue says they are behind Pilot. You can't see the ones behind Pilot, but you can see them behind KIA. I did a little tour. McHargue says they are directly behind McDonald's.

Biancardi says if I recall there is really not a permitting process as McCormick said. We did discuss on the Building Permit that they would have to check a box if they were going to use one so that Building Commissioner Wesley would know. Bozak says I see where McCormick is coming from, because if you have to get a permit as a homeowner for a shed, I think you would need one for a business too. McHargue says a shed is a little bit more of a permanent fixture. Bozak says so is storage and if I bring a shed in that is pre-built, I still need a permit for it.

Oudman says what was the intent of this Ordinance. What was the problem we were trying to solve? McHargue says if I could address that. Our last building commissioner had someone come in who wanted to use a couple of shipping containers to build a house or a garage. So basically, we're going to throw some trusses on top of two of them and that's what we're going to do. Currently we have nothing in the Code that would prevent this. I don't know how Building Commissioner Wesley would go about making sure that this would meet engineering standards to build a home out of two shipping containers and how you figure that out. You would need to inspect the containers to see what type of shape they're in – it would be a nightmare trying to deal with that. That was the start of it. The second thing is people are putting shipping containers in their yard and there is nothing at this time that prevents it.

Oudman says the issue was more with Residential Districts than with Commercial or Business property. Biancardi says we have homes that are on an acre or more. There are some areas in Town that could potentially have those go through. But, Building Commissioner Wesley,

McCormick and I discovered there are more out there at businesses than we ever thought, or knew the more it comes to light.

Poparad says I have a question for you Building Commissioner Wesley. If you read this it references “fire access lanes.” How can they put one up against a building in the back of McDonald’s and you can’t get up to the building with a fire truck then or get the firemen up there? Do you understand what I’m talking about? Building Commissioner Wesley says they can’t block any exits from the interior of the building or obstruct any services, i.e. NIPSCO...Poparad says I understand that, but it is still blocking the fire department’s access to that building. Are they sitting sideways or longways? Building Commissioner Wesley says both. Poparad says both? That’s limiting your fire department from getting up close to the building. Building Commissioner Wesley says correct and that’s a totally separate ball of wax. That is something that would be addressed on the fire side because there is a certain calculation by the square footage of the parking lot, and we would have to figure out exactly what the fire lane is supposed to be and fire access. So, that is something that definitely needs to be addressed.

Poparad says KIA’s are back from the building. Building Commissioner Wesley says correct. Poparad says there’s a whole driveway in between. But, to put them right up against the building longways where you are forty feet away (and it’s not just one where you have twelve or fifteen feet that you can’t get to). I don’t know how many are back there. Building Commissioner Wesley says I will check on that tomorrow. Also, I want to know what he (Pilot) has in them. Bozak says could you take some pictures for us. Building Commissioner Wesley says absolutely.

Oudman says a question that goes with that – if these businesses are using that many, basically they’re trying to avoid building a building. Poparad says taxes and everything else. McHargue says all your concerns about that technically right here is because it’s limited to one. They are going to have to address it. While I see your specific issue with that, this ordinance addresses it. I am just looking to see if anybody else has problems with it for us not to move forward. Oudman says I had a couple of notes I made that more on consistency type of things. So, on the Page 2 of the ordinance:

Districts

D. Residential/Commercial Districts:

The use of a Shipping Container in a Residential/Commercial 1 (“RC1”) District or a Residential/Commercial 2 (“RC2”) District is prohibited, except for the following uses:

A single Shipping Container may be used in all residential zoning districts when a building permit has been issued for construction of a residential unit on that parcel. The Shipping Container shall be allowed on the residential parcel during construction only. The Shipping Container shall be removed within ten (10) days after the final building inspection upon completion of the residential unit or ten (10) days after the end of construction period defined within the building permit issued for the parcel, whichever comes first.

I think we should note on there that the parcel adjacent either needs to be owned by that person or they have to have written permission to have it there. Otherwise you could plop it onto someone else's lot because it says it's ok. Attorney Patton says your suggestion is that the parcels need to be owned by the same person or they have written permission. Bozak says if I put my container on my neighbor's lot, there has to be a law somewhere in Indiana that says I can't do that. Attorney Patton says this wouldn't allow some type of trespass. Oudman says just based on my own experience with what people would do on someone else's lot is why I am thinking about it. Attorney Patton says you could note "no shipping container shall be permitted on a vacant parcel." Biancardi says it would require Building Commissioner Wesley's approval. Again, I do think there is this need for a permit or some sort of form and that could be the address of the vacant parcel and the address of who owns it type of situation. We definitely need a form of some sort. Poparad says could put it on a building permit. Are you using anybody else's property for storage while this is being built? Yes or No. Biancardi says I think if they check that they are using a storage container then maybe there's this a second paper then that says here is what you need to do for a storage container.

Oudman says then in

Districts

D. Residential/Commercial Districts, iv:

A Shipping Container may be used for shipping and receiving merchandise and goods in a commercial use, provided that the Shipping Container does not remain stationary for more than ten (10) days, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access lanes, public right-of-way, in an area visible from the property's primary street or within three hundred (300) feet of a residential district.

Those are both residential districts and when we say it's 300 feet is that from any direction? Poparad says to me it's a 300-foot green space all around there. That's what we did on North Boo Road so that person couldn't build right up to the neighbor's along North Boo Road.

Oudman says a question on

E. Business Park District, ii:

A Shipping Container may be used for construction or remodeling purposes when a building permit has been issued for construction on a commercial parcel. The Shipping Container shall be allowed during construction only. The Shipping Container shall be removed within ten (10) days after final building inspection upon completion of the business unit or ten (10) days after the end of construction period defined within the building permit issued for the parcel, whichever comes first. No Shipping Container shall be permitted on a vacant parcel unless the vacant parcel is adjacent to the parcel where a construction or remodel project has been approved by the Burns Harbor Building Commissioner.

Are they allowed to have more than one for that purpose? And how do you differentiate from the two uses above in one and two of that same section? Attorney Patton says they wouldn't be allowed to use more than one because it's limited to one.

F. Special Use District, 3:

The number of shipping container allowed per business is limited to one (1).

McCormick says there are three businesses in Pilot structure. McDonald's, Subway and Pilot. Attorney Patton says that's per business. McCormick says one for McDonald's, one for Subway and one for Pilot? Attorney Patton says unless you want to change it to one per parcel. Oudman says that was one of the questions I had also. Parcel or business? McCormick says for example, the Brown property, all the buildings are one parcel. You can have 25 businesses in there. I would say one per business is fine the way it's written. McHargue says when it comes to Bosak, they are all located on one parcel even though all those buildings have separate addresses. As far as that goes, they still have an issue. But I like it per business.

Oudman says

E. Special Use District

2:

Vertical Stacking of Shipping Containers and stacking of any other materials on top of or around any Shipping Container shall be prohibited in all districts.

7:

Any Shipping Container existing on any property in the Town of Burns Harbor on the date of final passage of this ordinance shall either be removed from such property or be brought into compliance with the provisions of this section within ninety (90) days of final passage of this ordinance.

When we talk about being in compliance within 90 days, does that time limit give them time to go to the BZA? Biancardi says BZA takes at a minimum two months to get through. So, I would say it would be 90 days to start a petition at the BZA. Would you agree Attorney Patton? If they started the process within 90 days...Poparad says at the BZA it might take more than one meeting to even get through it. As long as they have their paperwork, paid their fee and are in the process of going to the BZA, I think we are good. Attorney Patton says you could change it to "brought into compliance with the provisions of this section or sought a variance within 90 days." Oudman says so is a business able to go to the BZA for a variance for more than one? McHargue says absolutely. Bozak says if someone wanted to use it as a shed on their property and they had less than an acre and wanted to make it look nice and they wanted to finish it off and make it look like their house, they could go to the BZA at that point and get approval. Poparad says potentially. Biancardi says if they want it more than temporary, they have to go to the BZA.

McCormick says should we specify long-term use.

E. Business Park District

i:

A Shipping Container may be used for storing merchandise or goods, including long-term storage, provided that the Shipping Container is not kept in the front setback area or landscaped area, designated parking area, fire access lanes, public right-of-way, in an area visible from the property's primary street or within three hundred (300) feet of a residential district.

Should we have something in there that says it has to be painted the same color as the building? Biancardi says I can see that for long-term. Poparad says I can see Business Park putting it in one color. Because that only has a couple of districts in here and that's supposed to be higher end buildings if you read your ordinance. I think it has more regulations on the buildings with landscaping, parking, etc. I think that would be a good idea to put something in there that it must fit in with the décor of the business building.

McHargue says so why are we so concerned with it being in an area – so it says “it can't be located in an area visible from the property's primary street or within 300 feet of a Residential District.” We are already doing so much to make sure these things aren't being seen, now we want to beautify the thing we don't want seen? Anything over 10 days is going to be considered long-term storage, yes? It's either 10 days or it's long-term. That's all there is. So, if I have something for two weeks, technically, I am in violation because it needs to be painted the same color. At that point, it's already not supposed to be visible. Oudman says if you are driving down I-94, at least it looks decent. It looks like we are putting our best foot forward on those public site lines. Attorney Patton says keep in mind that on page 4 it has to be kept in good repair, be secured, comply with health regulations. So, if it's looking bad and in disrepair, rusty or damaged then it's a violation.

Poparad says to the Board members “what do you think?” Attorney Patton says my suggestion is we can't deliberate over emails and since this is a seven- member Board, why don't we have a committee of three members of this Board to try to work out some of these issues. Address your concerns to the committee, myself or, Attorney Brazil and try to get all of our concerns and suggestions into one place to that committee and they can work on it. Poparad says do I have any volunteers to go on that committee? McHargue, Oudman and McCormick volunteer. Poparad says please get together and decide when and where you're going to meet. Attorney Patton says who should board members direct their questions to, so that they're filtered and funneled to one person. Oudman says I will accept all questions and comments.

New Business

None

Review: Bonds, Maintenance Guarantees, Letters of Credit

Poparad says I don't see anything. Biancardi says just a reminder on the Miscellaneous – we will be spending down the money for sewers as we flush the lines. So that number should start to decrease.

Good of the Order and Any Other Business

Biancardi says Building Commission Wesley and I spoke, and he brought up a couple of things that I thought were great ideas well. Our Table of Uses – we talk about Small, Medium and Large Box but no where do we describe that. So, I would love Bozak to work with me and look at some other communities so we can try to come up with parameters to help Building Commissioner Wesley. McCormick says or look at our old Code book. Biancardi says we could compare the Table to old one to decide.

Building Commission Wesley says dumpsters and outhouses have been placed in the streets in the subdivisions. I know we had a lot of problems with parking in the subdivisions during snow fall. But these things are out of control when there's two of them across the street from each other and you're trying to plow snow. We have two houses on Stinson, and they put the dumpsters in the yard with no problem whatsoever. But then on Cessna and Golden all the way around, there are four of them on the street and two right across the street from each other. Is there a way we can put that into an ordinance? Biancardi says we have in Chapter 8

Section 8-21 Items on Public Street.

Except when in use during daylight hours, all portable basketball goals and all other non-motorized items shall not be placed on a public street within the Town. During any snow emergency, no motorized vehicle or non-motorized item may be parked and/or placed on a public street within the Town.

Announcements

None

Adjournment

McHargue makes a motion to adjourn at 8:09 p.m. Bozak seconded the motion. Motion carried by unanimous vote.

APPROVED on May 11, 2020

Bernie Poparad, Vice President

Marge Falbo, Secretary