

Burns Harbor Advisory Plan Commission Minutes of Monday, September 14, 2020

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a rescheduled session on Monday, September 14, 2020. 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	Virtual
Bernie Poparad	Present
Toni Biancardi	Present
Andy Bozak.....	Absent
Gordon McCormick	Present
Jeremy McHargue.....	Present
Sarah Oudman.....	Present

Additional Officials Present

Building Commissioner-Rob Wesley
Attorney-Michael Brazil
Global Engineering-Jeanette Hicks
Holladay Properties-Michael Micka
Secretary-Marge Falbo

Also Present

Laura Doyle
Wilbur Oudman
Pauline Poparad
Lance Waugaman

Minutes

McCormick makes a motion to approve the minutes of August 3, 2020 as written. Oudman seconded the motion. Motion carried by unanimous vote.

Communication, Bills, Expenditures

None

Report of Officers, Committee, Staff

None

Preliminary Hearing

None

Public Hearing

Holladay Properties

Westport PUD Primary Plat Approval

Poparad says during public comment you must stand and state your name and address for the record. Please address the Board when speaking and no discussion among each other.

Poparad opens the Public Hearing.

My name is Mike Micka with Holladay Properties and I'm here today on behalf of the Town of Burns Harbor Redevelopment Commission. The public hearing tonight is for the site known as the Westport PUD and the approval of the Primary Plat. As you know the primary plat is the first stage that will eventually lead to the final recording of the secondary plat. If you have any questions or comments, I would be happy to address them.

Poparad asks Falbo was all the paperwork in order, complete and submitted on time. Falbo says yes.

Poparad says to Global Engineer Hicks is everything in order with you. Hicks says yes, we recommended approval. There were conditional items as follows:

- Confirm design meets BP Pipelines Engineering "General Construction Requirements" for site: Coverage, crossing, and pipeline easement adjacent land use. Applicable to roadways at this time. Future development shall coordinate with BP at the time of development. **BP Engineering approval documentation required.**
- The full Town Code review checklist (attached) also notes items that will need to be confirmed when each lot is developed.
- **Water and Storm municipality approvals** will also be required prior to commencing construction.
- A **Traffic Impact Assessment** per the Comprehensive Plan and 14-3.5-8C is required. It is recommended that this assessment be provided when the Lot Tenants are known so that accurate traffic analysis may be conducted based on the occupied development.
- Per 14-4-1 G2(d) road stabilization with geogrid may be required over existing subgrades.
- **Review fire hydrant locations** with the Town of Burns Harbor Fire Chief. Design meets Indiana Code.
- Provide **development signage details** per Chapter 15 for approval before construction.

Attorney Brazil says everything looks good to me also.

Poparad asks for public comment in favor.

My name is Wilbur Oudman, 321 Clifford Way. I am in favor of this. I think it's going to be a great project for the Town of Burns Harbor.

Poparad asks for public comment in opposition. Falbo says we have a letter from resident, Gayle Van Loon.

September 14, 2020

From: Gayle Van Loon
Lillian Stefanko

To: Burns Harbor Plan Commission

I, Gayle Van Loon, am unable to attend this meeting but would like to ask a few questions.

When I attended the preliminary meeting I made a few suggestions. At that time it looked like the majority of the buildings would be houses with about four apartment buildings. I did not like the idea of having the apartments fronting Haglund Road and suggested moving them further back. I was told at this meeting I could not take a picture of any of the plans. Now, I know why I couldn't take any pictures.

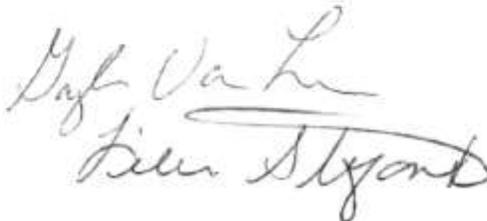
After that meeting the virus hit and I was unable to attend further meetings.

Since that time the plans have drastically changed from mostly houses to ALL apartments and a few patio homes. How could this happen? What will this do to my mother's property, which is directly across the street? I asked a question at one of the redevelopment meetings (on line) about plans and was told the latest plans were on the website. When I checked, the latest plans were several months old and had not been updated.

This town does not need that many apartments. Haglund Road cannot support the traffic. Our Police, Street and Fire Departments will not be able to handle the influx of people. Why do you have to put it in the middle of town?

In short, we are against this plan for so many apartments.

Lillian Stefanko - property owner across the street
Gayle Van Loon - (attended the meetings for my mother)

Handwritten signatures of Gayle Van Loon and Lillian Stefanko. The signature of Gayle Van Loon is written in cursive and is positioned above the signature of Lillian Stefanko, which is also in cursive.

Hull says I will address the letter. Van Loon left me a voicemail earlier in the day which basically covered the letter. I spoke with her and she expressed that she had sent the letter. I asked her to clarify and found she was under the belief that there were to be no town homes or single-family residences. They were all going to be apartment buildings. I asked her how she came to that conclusion and she said she found something on the Town's website. I told her the plan on the website shows 36 town homes and 36 single-family homes in addition to five apartment buildings. She said that she would support that, but she wouldn't support it being all apartments. This was just a misunderstanding.

Micka says there are no detached single-family residential. There are five apartment buildings and there are attached town homes as part of the plan.

Laura Doyle, 276 Meadowbrook Road says we're talking about the east side of State Road 149 off of Haglund, right. Just clarifying that that's what we're talking about. What kind of apartment buildings as far as...is this going to be Section 8, low-income housing? That's all I'm wondering. What type of rental value are we talking about? Property value.

Micka says these will be market-based apartments. Market-based means we had a market study done and we are not applying for any Section 8 or government assistance for the apartments.

Hull says I do have one comment and feel that we need to make sure that everyone knows that this is new information. It's in regard to the Marquette Greenway Trail. The section of Trail that goes from State Road 149 toward Portage has started construction. The section that goes from the Westport Development to the National Park is being changed. The timeline is going to change and we're not sure how it's going to end up. There are still some things that aren't finalized, and we don't know what it's going to look like at this point. The big question remains is getting across the Norfolk Southern Railroad tracks. It's important that everyone know that section of Trail has some issues. Biancardi says but not within the development. Hull says correct, not within the development. It's not that it will never happen, I just don't know if it's going to happen in the timeline we want it to.

Pauline Poparad, South 149 says is there going to be a crossover to get from one side of State Road 149 to the other? Hull says at this point there will be a crossing with a blinking light but not a bridge or a pedestrian crossing. There will be some type of marked interchange but we just don't know all the details on that yet. It could be you press a button and the light comes on. We don't exactly know what that will look like at this time. There will be something there per the State of Indiana. Pauline Poparad says has that been agreed to in writing by INDOT. Hull says they demand it – it has to be there. We have to follow their guidelines.

Laura Doyle, 276 Meadowbrook Road says you want to put a parking lot at the end of Meadowbrook road for the Trail, is that correct? I'm hearing conflicting reports about that. I've seen them doing measurements out there. Will there be access off Meadowbrook to this Trail? Is there going to be a parking lot and more traffic on that road? Hull says not that I'm aware of.

Poparad closes the Public Hearing.

Oudman makes a motion to grant primary approval to the Westport PUD Primary Plat. McHargue seconded the motion. McHargue–Aye, Oudman–Aye, Biancardi–Aye, McCormick–Nay, Hull–Aye, Poparad–Aye.

Oudman says is there a way to clarify when Burns Harbor is the Developer and when it is another. Hull says what we have been trying to do is refer to the entire development area as the Westport area and when they talk about the community building that the Town want to build, we are just referring to it as the Westport community building. As far as the Westport Development area is concerned—everything that Holladay does is in and on behalf of the RDC in the Town of Burns Harbor. Once they get to the point where they are going to construct their own buildings (apartments), then they will be representing themselves on behalf of themselves in front of whatever Board. Does that help? Oudman says yes, that's perfect. Hull says currently and anything in regard to Westport area and the overall picture, they are representing the Town as a whole. Oudman says thanks for the clarification.

Poparad says we are going to open up another Public Hearing with the same ground rules.

*Chapter 15 Zoning Ordinance
Storage and the Use of Shipping/Cargo Containers*
Poparad opens the Public Hearing.

We have a final ordinance and asks Attorney Brazil if we need to do anything else. Attorney Brazil says I believe this last version that Oudman and I worked on is the final.

Poparad asks for public comment in favor.

My name is Lance Waugaman, Curley's Inc., 328 Melton Road. What are the restrictions you're talking about for business owners on the containers? McHargue says there is a lot to it. Briefly, it will be if you wanted to have more than one on your property, you would have to get a variance from the Town. This ordinance limits each business on the property one container. It also addresses (as far as cosmetically) that the shipping container match the building or be a neutral color. You will need a permit in order for it to be in place. Waugaman says do I still need a permit for mine? Poparad says yes. Waugaman says I only have one. McHargue says you already had it before this ordinance went into effect, so you have 90-days to obtain your permit.

Poparad asks for public comment in opposition. There is no public comment in opposition.

Poparad closes the Public Hearing.

McHargue makes a motion for a favorable recommendation to the Town Council. Oudman seconded the motion. **Motion carried by unanimous vote.**

Old Business

None

New Business

Chapter 4 Building Code

Governing Fuel Tanks

Building Commissioner Wesley says I had an issue a couple months ago with a business in Town where they decided to move in a 1,000-gallon diesel fuel tank. They had electricians come in and hook it up with no notification to the Building Department, no notification to the Fire Department – it just moved it in. I told them this isn't something you can just move into Town. However, there is nothing in our Town Code in reference to this. According to State Code anything over 660 gallons requires a design plan released from the State and a permit from the State Fire Marshall's office. When I informed them that this were the steps they needed to take and were not to use the tank, they removed the 1,000-gallon tank and brought in a 500-gallon tank. I believe as a Municipality, we have the right to know about hazardous material distribution within five feet of a building. Regardless if it's 500 gallons, there is no spill containment, there is no crash protection, there is no emergency kill switch and they still have electric running to it.

McCormick says the EPA doesn't require spill containment under a tank with fuel in it. Building Commissioner Wesley says I want to say that's 660 gallons as well. There are no secondary containment requirements at all for a 500-gallon tank. I talked to the State Fire Marshall himself on the phone. He gave me contact information for IDEM. I contacted IDEM and they told me to contact my local hazardous materials at the County level and the County has nothing. I would love to see us come up with some sort of ordinance regarding distribution of fuel, fuel storage, crash protection, etc., something that encompasses everything that we're worried about right next door to a residential neighborhood.

Poparad says I agree 500 gallons could cause a real problem and if you don't have any containment and it leaks that's an even bigger problem right there. Not only the fire hazard but the environmental... Building Commissioner Wesley says absolutely.

McHargue says what's the value of that tank--I guess it's over \$1,000. Building Commissioner Wesley says absolutely. McHargue says why didn't they get a permit. I believe we already have an avenue to fix this. It needs a permit because it exceeds \$1,000. If it were under \$1,000 it wouldn't be required. Either way we already have something in effect to be able to regulate this and make sure the Town's aware of it. This business should have applied for a permit. It doesn't matter how many gallons it is because if the value of it is over \$1,000 they already need to come and see us. The value will make it happen.

Hull says I think 500 gallons at a business is a pretty common size tank and we need to know about it, especially if it's hazmat material. I realize that containment isn't required but anytime it's

hazmat it should be. It wouldn't hurt us to have some guidelines or precedent on businesses that have substantial amounts of hazmat type material. Hull says can we look into what other Towns are doing. Poparad asks Building Commissioner Wesley to check with Portage, Porter, Chesterton and Valparaiso to see what they are doing. Building Commissioner Wesley says yes. Hull says if you could report back, it will be on the agenda for next month. We really appreciate it.

Biancardi says the tank is considered a permanent structure. So, it definitely needed a permit and the contractors should have been licensed. This way we would have known. Building Commissioner Wesley says we should have been notified because of that.

Poparad says Building Commissioner Wesley will report back to us for next month.

Review: Bonds, Maintenance Guarantees, Letters of Credit

None

Good of the Order and Any Other Business

None

Announcements

Oudman addresses outdoor storage. Poparad says we had talked outdoor storage in the Downtown area at the BZA. It is so regulated that you can't do anything. We have individuals coming to the BZA right now because they want outdoor storage. There is no outdoor storage in the Downtown area whatsoever.

Biancardi says we can go back as a Plan Commission and look at the standards and if the Plan Commission sees fit you recommend taking them. Right now, outdoor storage is only allowed in Special Districts.

McHargue says instead of just focusing on the Downtown area it needs to be addressed Town-wide. It's unrealistic for a business to come to our Town and not be allowed to store anything outside. We need to come up with a realistic plan. Poparad says are you and Oudman volunteering to do this. McHargue says yes, but we need to pull Ordinances before we start. Oudman says I don't mind doing that.

Poparad says we'll put this on the agenda for next month.

Adjournment

McHargue makes a motion to adjourn at 7:50 p.m. McCormick seconded the motion. Motion carried by unanimous vote.

APPROVED on October 5, 2020

Bernie Poparad, Vice President for Eric Hull, President

Marge Falbo, Secretary