

**Burns Harbor Advisory Plan Commission
Minutes of Monday, June 7, 2021**

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, June 7, 2021 in the Town Hall and virtually via Zoom. The meeting was called to order by Advisory Plan Commission President, Eric Hull at 7:00 pm.

This meeting was made available to the public in accordance with Governor Holcomb’s Executive Order 20-09. It was streamed on both Zoom and Facebook Live.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Eric Hull	Present
Bernie Poparad.....	Present
Toni Biancardi.....	Present
Travis Dunlap	Present
Jeremy McHargue	Present
Sarah Oudman	Present

Additional Officials Present

Attorney-Michael Brazil
Building Commissioner-Jack McGraw
Global Engineering-Jeanette Hicks
Abonmarche-Matt Kaiser
Holladay Properties-Ryan Kelly
Secretary-Marge Falbo

Also Present:

Charles Anderson
Derek Anderson
Wilbur Oudman
Gail Van Loon

Hull: This is the first time we’ve had a full Board and the first time we’ve all been in the same room this year. We are broadcasting on Zoom even though we are all here and this will be a continued practice until the Council directs us otherwise.

Welcome Nicole Migliorini! The newest member of the Plan Commission

Migliorini is sworn in by Attorney Brazil.

Minutes

McHargue makes a motion to approve the minutes of May 3, 2021 as written. Oudman seconded the motion. Motion carried by unanimous vote.

Communication, Bills, Expenditures

Hull: We have--

Resolution 2020-01

This was a resolution the Plan Commission passed and signed on September 14, 2020, However, in review of all documents in the minutes we could not find a vote for the approval of this resolution, so it was sent back to us for clarification.

RESOLUTION NO. 2020-01

**RESOLUTION OF THE TOWN OF BURNS HARBOR
PLAN COMMISSION APPROVING A RESOLUTION OF THE
TOWN OF BURNS HARBOR REDEVELOPMENT COMMISSION
DESIGNATING AND DECLARING THE WESTPORT ECONOMIC DEVELOPMENT
AREA TO BE AN ECONOMIC DEVELOPMENT AREA, APPROVING
AN ECONOMIC DEVELOPMENT PLAN FOR SAID AREA, AND ESTABLISHING
AN ALLOCATION AREA FOR PURPOSES OF TAX INCREMENT FINANCING**

WHEREAS, the Town of Burns Harbor Plan Commission (the "Plan Commission") is the body charged with the duty of developing a general plan of development for the Town of Burns Harbor, Indiana (the "Town"); and

WHEREAS, on August 12, 2020, the Town of Burns Harbor Redevelopment Commission (the "Commission"), the governing body of the Burns Harbor Department of Redevelopment, approved and adopted its Resolution entitled "Resolution of the Town of Burns Harbor Redevelopment Commission Designating and Declaring the Westport Economic Development Area to be an Economic Development Area, Approving an Economic Development Plan for said Area, and Establishing an Allocation Area for Purposes of Tax Increment Financing" (the "Declaratory Resolution"); and

WHEREAS, the Declaratory Resolution (i) designates and declares an area within the Town known as the "Westport Economic Development Area" (the "Area") to be an economic development area within the meaning of Indiana Code 36-7-14, as amended (the "Act"), (ii) approves an economic development plan for the Area, entitled "Westport Economic Development Area Economic Development Plan" (the "Economic Development Plan"), and (iii) establishes the Area as an "allocation area" (the "Westport Allocation Area") for purposes of tax increment financing pursuant to Section 39 of the Act; and

WHEREAS, the Commission has submitted the Declaratory Resolution and the Economic Development Plan to the Plan Commission for approval pursuant to the provisions of the Act, which Declaratory Resolution and Economic Development Plan are attached hereto and made a part hereof; and

WHEREAS, pursuant to the provisions of the Act, the Plan Commission desires to issue its written order approving the Declaratory Resolution and the Economic Development Plan;

NOW, THEREFORE, BE IT RESOLVED by the Town of Burns Harbor Plan Commission as follows:

1. That the Declaratory Resolution and the Economic Development Plan conform to the plan of development for the Town.
2. That the Economic Development Plan is in all respects approved, ratified and confirmed.

3. That the Declaratory Resolution of the Commission, designating and declaring the Area, adopting the Economic Development Plan, and establishing the Westport Allocation Area for purposes of tax increment financing pursuant to the Act, is in all respects approved, ratified and confirmed.

4. That the Plan Commission has given consideration to transitional and permanent provisions for adequate housing for the residents of the Area, if any, who will be displaced by the economic development of the Area.

5. That this Resolution hereby constitutes the written order of the Plan Commission approving the Declaratory Resolution and the Economic Development Plan pursuant to Indiana Code 36-7-14-16(a).

6. That the Secretary of the Plan Commission is hereby directed to file a copy of the Declaratory Resolution and the Economic Development Plan with the minutes of this public meeting.

7. That this Resolution shall be in full force and effect from and after its adoption by the Plan Commission.

PASSED, ISSUED AND APPROVED at a meeting of the Town of Burns Harbor Plan Commission held on the 14th day of September, 2020.

TOWN OF BURNS HARBOR
PLAN COMMISSION


Eric Hull, President

ATTEST:


Marge Falbo, Secretary

The Plan Commission is not a binding, regulatory Board. We are an advisory Board and we send our advice to the Town Council who then makes a decision on things. This document basically pledges the support of the Plan Commission to the RDC and Town Council describing the steps in the bonding process. We need a motion tonight for the minutes to reflect approval of this document.

Poparad makes a motion to approve Resolution 2020-01. Biancardi seconded the motion.
Motion carried by unanimous vote.

Report of Officers, Committee, Staff

Building Commissioner McGraw: There are things on the agenda and a couple of things just happened. Bill Scott of Scott's Garage passed away and we don't know who owns the garage and I just want the Board to know that I'm working on that. We've been very busy at the Building Department trying to catch up on a lot of past items that have been sitting as I'm learning existing issues.

Global Engineer Hicks: I have no report aside from items I can discuss when they come up on the agenda.

Preliminary Hearing

None

Public Hearing

Westport PUD Ordinance Amendment

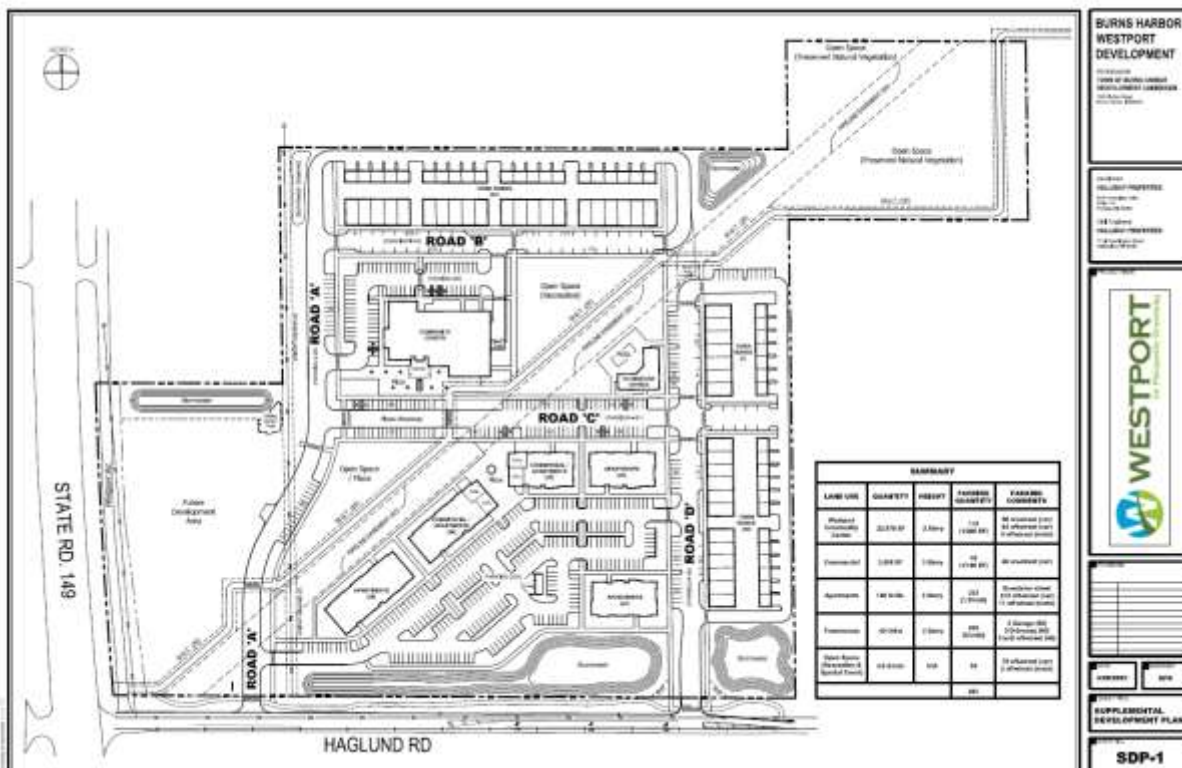
Ryan Kelly-Holladay Properties

Matt Kaiser- Abonmarche

Kelly: I'm Ryan Kelly of Holladay Properties and with me is Matt Kaiser of Abonmarche. Tonight we're here on behalf of the RDC in requesting approval to amend the Westport PUD District Ordinance. Optimally, our hope would be that the Amendment could be considered for adoption at the next Town Council meeting. Kaiser will summarize the Amendment and the reason for the request.

Hull: There are a couple of minor changes in the Westport PUD. Kaiser will explain everything and then we'll have comments for or against the changes, discussion by the Board and answering any questions you may have.

Kaiser: Over the past six months we've been dealing with the BP pipeline and some issues that have come up with their crossing and with the state of their pipe. We worked the redesign of it and one of the items that we saw was that Global had originally gotten an approval to do a crossing over on the five acres to the West. We are allowed to continue to use that one as it was originally proposed. So what we looked at doing is this Road A (which used to come straight down and tie into Haglund Road) we put a small curve on it and then we're crossing at the proposed crossing that Global had negotiated and worked out with BP pipeline several years ago. This reduces



where we originally had three crossing of the BP to two. To further try to help expedite and get this through with minor cost we also looked at removing the vehicular crossing up at the Northeast. It is still planned that it could go through if BP ever replaces their pipe and in the future we would be able to put our road across it. We didn't redo any of the engineering. All we did is truncated it off. There are still radiuses for the emergency vehicles to be able to turn and still make their passes through there along with garbage pick-up. We've still got the pedestrian crossing. The Trail crossing is still going to proceed at the top of it. But because we've taken off the vehicular component of it, BP is allowing us to do a minor treatment to that at the Town's cost. What seems like a very minor change does get into the PUD document. The PUD explicitly had the original exhibit and a lot of that acreage ended up shifting and some got larger, but the intent is still the same. We still have the same amount of apartment buildings and capacity. We're not adding any new major things that have changed but we did want to bring it back for full disclosure. The Board asked us to do that and we wanted to make sure that the PUD was amended to reflect the changes that the BP pipeline has caused the Town.

Hull opens the Public Hearing.

Hull asks for public comment in favor. There is no comment in favor.

Hull asks for public comment in opposition.

Gail Van Loon

I would like to speak against putting Road A in the location because it put's my mother's driveway at risk. Haglund Road has already turned into a speedway at certain times of the day. It's always a concern to back out of her driveway. Also, there are going to be 180 residences using this. It will be a nightmare. It's too close to the end of Haglund Road. I understand you're moving it 80 feet to the West, but can't you put it back where it was (to the East) where a cornfield is, which is my mother's also. It wouldn't be a driveway. My mother's safety is at risk. You knew that this pipeline was here and now you want to change it. I say no to moving it.

There are no further comments in opposition.

Hull closes public comment in opposition.

Kaiser: Again, this is being done as a cost savings on the BP pipeline. It was about a quarter of a million dollars per crossing. This one had already been negotiated and already been through the system. This road cut was planned about 2½ years ago down on Haglund as part of the additional five acres. So, we're trying to take advantage of something that's already been put through the wringer with the Town.

Hull: You shared earlier in the conversation the cost estimate that BP provided to you recently to cross the pipeline. What was that number?

Kaiser: \$750,000.

McHargue: \$750,000 for all three crossings combined or was it \$250,000 per crossing?

Kaiser: It changed several times. Initially it was \$750,000 for all three. Now they've come back and told us \$750,000 for the Vehicular and we said, NO, go back and redo your numbers because you told us \$750,000 for all three. Now they're going back looking at what treatment they could do to the pipeline to not have to replace it.

Kelly: What they came back with quite honestly was unfeasible for that development to absorb that cost. So this is the only way to move forward.

Hull: Van Loon your concern is absolutely legitimate regarding the amount of traffic on Haglund Road and it's an issue I discussed with the Town engineers today.

Global Engineer Hicks: I know in the past you have been reviewing this development. We did say that we think there should be (maybe in the future, once the tenants are known) not only all your residents but also what commercial tenants you have, and the Town could look at the traffic at that point. You may need a traffic control device there. It's something that the Town has been made aware of and can be addressed in the future that traffic safety measures may be needed.

Hull: In my conversation with the engineers once they build we can start to see what type of traffic is involved. Then we can have a traffic study and actually alleviate it and fix the problem, but we can't fix the problem without knowing exactly what it is yet.

Global Engineer Hicks: Agreed. That does surmise our comments.

Hull closes the Public Hearing.

Dave and Mary (*inaudible*) of 1239 Westport Road arrived late and were granted public comment after the Public Hearing closed.

Mary: We are actually from Highland. We came here because we have property right across the street. Our daughter lives in that house. We don't know 100% what changes are being made and if that is going to affect her property. Will this affect our property's value?

Hull: As a Board, we can't answer that question. Ideally, it's going to spur more development and growth in Town and bring more opportunities for residents. The Trail that runs through the middle of it will connect to it and hopefully will increase the value, but I can't tell you if that's going to happen.

Dave: My only question was is that park owned?

Hull: Yes.

Dave: Will that still stay like that?

Hull: No. You can chat with Kelly and Kaiser after the meeting and they will be happy to answer your questions and show you what we've got going.

Hull asks for the Board's decision.

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

Kelly: We also have to change the primary plat which if you remember the primary plat shows how the lots will be cut up, their acreages and the right-of-way. We did do a modification to it. We sent it over the Global and they a cursory review. They didn't have any issues with the acreages of the land. We had a couple of lots that shifted and got bigger and some that got smaller. So we would also be looking for consensus that the Board is ok with the primary plat changing to match what the PUD now reads.

Global Engineer Hicks: We took some time today to look at it and we were ok with the changes. We had no issues.

Poparad makes a motion to change the primary plat to match what the PUD now reads. Dunlap seconded the motion. Motion carried by unanimous vote.

Public Hearing
Swimming Pool Ordinance

Hull opens the Public Hearing

ORDINANCE ____

**AN ORDINANCE OF THE BURNS HARBOR TOWN COUNCIL AMENDING
THE TEXT OF CHAPTER 15 ZONING CONCERNING
SWIMMING POOLS WITHIN THE TOWN OF BURNS HARBOR, INDIANA.**

WHEREAS, the Burns Harbor Town Council has adopted a Zoning Ordinance codified as Chapter 15 of the Town Code of Burns Harbor, Indiana; and

WHEREAS, the Burns Harbor Advisory Plan Commission has initiated certain amendments to the text of the Zoning Ordinance in order to better regulate Swimming Pools in the Town by adopting codes to adhere to requirements for outdoor swimming pools, adding definitions to distinguish between different types of Swimming Pools and adding restrictions to which all Swimming Pools shall conform; and

WHEREAS, notice has been given in accordance with Indiana Code of all proceedings concerning these text amendments; and

WHEREAS, a public hearing has been held before the Burns Harbor Advisory Plan Commission and said Commission has paid reasonable regard, in preparing and considering the proposal, to the factors set forth in Indiana Code § 36-7-4-603, including the Comprehensive Plan; and

WHEREAS, the Commission now certifies its proposal to amend the text portions of the Zoning Ordinance to the Burns Harbor Town Council; and

WHEREAS, the Burns Harbor Town Council concurs with its Advisory Plan Commission and accepts this proposal;

NOW THEREFORE, be it and it is hereby ordained by the Burns Harbor Town Council as follows:

Section 1. That section 15.13 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following:

15-13-8 SWIMMING POOLS

The Town of Burns Harbor adheres to the current edition of the requirements for outdoor swimming pools, found in:

- Section 675, Article 20 of the Indiana Administrative Code
- Appendix G, Section AG 105.2 of the International Residential Code, as published by the International Code Council, Inc.

A. DEFINITIONS:

1. **SWIMMING POOL:** Any artificial basin constructed, modified, or improved for wading, swimming, or diving. This does not include artificial lakes.
 - (a) **Swimming pool, in-ground:** Any pool whose sides rest in partial or full contact with the earth.
 - (b) **Swimming pool, non-permanently installed:** Any pool that is so constructed that it may be readily disassembled for storage and reassembled to its original integrity. (Generally intended to be removed for winter storage each year.)
 - (c) **Swimming pool, on-ground:** Any pool whose sides rest fully above the surrounding earth.
 - (d) **Swimming pool permanently installed:** Any pool that is constructed in the ground or in a building in such a manner that the pool cannot be readily disassembled for storage. (Generally, not intended to be removed seasonally.)
 - (e) **Swimming pool, wading:** Any shallow pool, usually intended for small children or adults who can get their feet and lower bodies wet.
 - (f) **Swimming pool, residential:** Any pool with a water depth of at least forty-two (42) inches for use by not more than two (2) owner families and their guests and situated on the premises of a detached one- or two-family dwelling, or a one-family townhouse not more than three (3) stories in height.

B. RESTRICTIONS:

All swimming pools shall conform to the following restrictions:

1. No swimming pool shall be located in any recorded easement.
2. Swimming pools shall observe the same side and rear Setbacks as primary Buildings in their District;
3. No swimming pool shall be located closer to the Front Lot Line than the Front Line of the Building;
4. Pools must be a minimum of seven (7) feet from any property line and a minimum of seven (7) feet from any other structure.
5. Pools and any appurtenant structures shall not be within ten (10) feet of any part of a septic system.
6. No Swimming pool shall be located above or below any utility lines including electric, gas, or water.
7. Swimming pools shall be securely fenced or covered as required by State Statute.

8. A minimum four (4) foot barrier surrounding pool is required, either fenced yard or pool fence with locking gate or ladder if pool is less than four (4) foot above ground.
9. If the top of the pool wall is less than four (4) foot above any surround deck, patio, or grade, the barrier must be placed to be a minimum of four (4) foot above.
10. For in-ground pools, an automatic locking pool cover may be installed in lieu of barrier, as provided for in 675 IAC CH 20.
11. A temporarily installed above ground pool must be removed by the temporary pool permit expiration date.
12. For pools less than twenty-four (24) inches in height, no permit is required. Homeowner accepts responsibility for all liability.
13. Any in-ground, partially in-ground pool, above-ground pool, permanently installed, or an above-ground, temporarily installed pool with a deck, requires a building/location improvement permit.
14. Inspections are required for location, electrical, mechanical, concrete (in-ground pools), and final.
15. Notice shall be given to the Town's Sanitary Superintendent prior to draining a Swimming Pool with a capacity of more than five hundred (500) gallons.

Section 2. This Ordinance shall be effective upon its adoption and publication.

All of which is ADOPTED this _____ day of _____, 2021.

Hull asks for public comment in favor. There were no comments in favor.

Hull asks for public comment in opposition. There were no comments in opposition.

Hull closes the Public Hearing.

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

Old Business

Patrick Kleihege

Trail Creek Phase I Maintenance Bond

Due July 10, 2021

Global Engineer Hicks: I did meet the developer, Pat Kleihege, out there. He had Portage Paving out there doing the crack sealing of the asphalt and he and I walked around to look at where they were going to be repairing the cracks. When he and I left I think that he was going to call Street Commissioner Wesley to come and check out the crack sealing. That is how I left it with Kleihege. Prior to this meeting I did go and look at it. I did see two spots where I think maybe they had a cut out to do a repair so maybe a couple get missed. I don't know if he intends to go back out there

but for the majority of it I saw that it was done. I think that everything we asked him to do, from what I saw, I would say 90-95% of it is done. So if I could just follow up with him—I'll make sure they get those two spots that I saw taken care of. I feel pretty confident that we're not going to have an issue with it. I will follow up with that.

McHargue: The couple of spots that are left are we talking a couple hundred dollars? Maximum.

Global Engineer Hicks: I wouldn't think so. The cuts have already happened. They already cleaned out the joints, it's just I don't know if they ran out of caulk or if they needed to come back.

Hull: If you follow up with that and everything is not done...

Global Engineer Hicks: I will get with him. I will contact him tomorrow.

Derek Anderson

1128 Gustafson Lane

Trail Creek Phase II Issues

I was here at the last meeting and expressed concerns about some of the requirements of the PUD. I was told a letter went out on May 26, 2021 to the developer to inform him he was in violation. There were some time limits and criteria established in that letter and some of those dates have passed. I tried to get answers, and no one has returned my call. So I am here today. The time limit is up, and nothing is being done.

Hull: Nobody from where isn't returning your call?

Building Commissioner McGraw: I talked with Kleihege and I don't know if we need to go to an executive session to talk about this or not. My concern is that I was told... this letter I know nothing about. I do know there is an issue. It has been brought to our attention and I talked to the attorney about this situation and I was told it's being handled between the builder and the developer.

Anderson: The builder?

Building Commissioner McGraw: Yes

Anderson: A letter was sent to Mr. Kleihege at the LLC., his business last Thursday. I received an email from him last Thursday stating he was in receipt of it and his lawyers were looking at it. I haven't heard from him since.

Hull: The position of the Board is that this is a civil matter.

Anderson: It's a matter of us not enforcing the PUD. He has been in violation in not putting in the utilities properly. Building Commissioner McGraw looked at it with Fire Chief Arney. I went over all the previous minutes where he stated he was going to do the things he was supposed to do and didn't do. That's why the letter was sent out saying he needed to do certain things. He needs to come into compliance. It was just to get a contract done with the utility companies so that we could move forward with it. I haven't heard back from him since.

Hull: How long has that been?

Anderson: The June 4, 2021 was when he sent me an email.

Hull: Today is the June 7, 2021 Where do we go from here Attorney Brazil?

Attorney Brazil: I need to discuss this with Building Commissioner McGraw and I actually think it's a Town Council issue whether fines...we're doing all we can as a Town and right now and our only remedy is to assess fines. We cannot force him to do anything.

Hull: So it is your judgment the position of the Town is that Mr. Kleihege is in violation of his arrangement with the PUD at this time.

Attorney Brazil: Yes

Hull: Is there any construction going on in that Phase, Building Commissioner McGraw?

Building Commissioner McGraw: I just received a letter last week that there is possibly a new owner at Lot 1 that we're going to have the same situation going on and that's why I'm really concerned about this going forward. That's why I asked about his bonds. There are a whole lot of things that need to be talked about.

Attorney Brazil: From the discussions we've had it wasn't just going to be Anderson there are others also.

Hull: How about his Maintenance Bond we are currently holding? That is completely separate, and we can't even talk about that...correct?

Attorney Brazil: I don't think so except if he has a debt to us for his fines I don't know that we can hold that bond. I'll have to look into that.

Biancardi: He was sent a letter on the May 25, 2021 that stated he was in violation. He didn't receive any fine at that time.

Attorney Brazil: It stated the fines would start at that time and if he met the requirements the fine would be rescinded.

Biancardi: I think you're right, we need to take this to the Council, and he needs to be fined. It needs to happen.

Hull: Building Commissioner McGraw we'll get together and if we're in a position to be issuing citations then we're going to issue them.

Biancardi: We need to discuss that at the Council.

Anderson: Can I get on the agenda for Wednesday night?

Hull: Yes, but I can't tell you we're going to have an answer.

Anderson: I just want to be on the record, that's all. I appreciate your time. Thank you.

Follow-Up Review of Chapters 4, 14 and 15

Oudman: I actually looked through it today and it's mostly in Chapter 4 and 14. There were some things we agreed on at the last meeting, but we didn't actually vote on them. I didn't know if we had to or not but if we do...

Hull: We don't have to vote on anything because what will happen is Attorney Brazil will put it together, we'll approve it and send it to Council.

Oudman: There are a couple of things. One thing that we did not technically approve is the wording on fence permits. That's in Chapter 4. Currently, it says

Sec. 4-7. PERMIT REQUIRED.

A. A permit shall be required for beginning construction on any building or structure or for the restoration or repair of any building or structure if the cost of the construction, repair or restoration exceeds \$1,000.00. A permit shall be required prior to the erection of any fence or prior to the construction, restoration or repair of any deck, or shed, regardless of the cost of such construction, restoration or repair.

So we discussed last time to add wording but don't know that we actually agreed on it or not.

Hull: I suggest restoration over 50%.

Biancardi: Throughout other Code we do consistently say things that are over 50%.

Building Commissioner McGraw: A percentage is better than a dollar amount.

Oudman: I was to remove the responsibility for publication notice of a Public Hearing from the Plan Commission Secretary to the Petitioner.

Hull: Correct, the Petitioner is responsible.

Oudman: Smoke detectors. It's in a separate chapter by itself...should that be moved to Chapter 15 or a reference to it?

Biancardi: If anything it might go into Subdivision. I would ask Fire Chief Arney.

Hull: It should be in the building part not the zoning part of it.

Oudman: It's in Chapter 13 now which is Miscellaneous. I will ask Fire Chief Arney but I think it should be included somewhere in the building part so people will know we actually have that.

Hull: I think that this would be referenced in State Code.

Building Commission McGraw: It's definitely referenced in State Code.

Biancardi: That's fairly recent. That might have come about from something that..

McHargue: The question would be was it referenced in State Code prior to January 1, 2013 because that's when it says it was updated.

Biancardi: I'm sure it came from Fire Chief Arney and we should follow up with him. Because if he says it not necessary anymore because it's somewhere else that we can reference it then we wouldn't have to relocate it all.

Hull: I agree.

Oudman: Chapter 15. We were going to have a discussion on accessory buildings and uses. There are a few questions I came up with so everybody can think about it for next time.

Will accessory buildings and uses be allowed into the setbacks because you can see from this chart that in some places they are and some places they aren't?

Accessory Buildings and Uses							
Zoning District	ROS	R	RC1	RC2	DD	BP	SD
Page in Ch. 15	P 63	PP 64-66	PP 67-69	PP 70-72	PP 73-75	PP 76-78	PP 79-81
Min. sq ft. primary	NA	1200	960	960 Res Unit	960 Res Unit	3000 Res Unit	
% coverage	NA	45%	60%	75%	80%	80%	
% to primary	NA	60%	50%	30%	30%	No Mention	80%
		(720 sq. ft.)	(480 sq. ft.)	(288 sq. ft.)	(288 sq. ft.)		
Max Accessory size	Shed only	Shed 700 sq. ft	Shed	Shed	Shed		
Max Accessory number	0	3	1	No mention	No mention Res		
Front Setback		20	10	10	0 ft. Prin 20 ft. + bldg set	0 ft. Prin 20 ft. + bldg set	
Secondary Front Setback		20	10	5	0 ft.	0 ft. Prin	
Rear Setback		20	5 or 20	25	20 ft. Prin 5 ft. Acc	20 ft. Prin 5 ft. Acc	
Side Setback		7	0-5 5 ft. sep	0 side 10 ft. total 3 ft. one side	0 ft. Prin 5 ft Acc	0 ft. Prin 5 ft. Acc	
Acc in Setbacks							
Front - Porch	-	10 ft		10 ft			
Side	-	Spec Ex		Spec Ex			
Rear	-						
Min Lot Width		70 ft	20-40 ft	25 ft. Res	20 ft.		
Min Lot Depth		120 ft	100 ft	100 ft	100 ft.		

Will Burns Harbor limit the number of accessory buildings and uses beyond lot coverage percentage? Keep in mind that an attached garage is considered an accessory building or use by State Code.

Should we adjust the percentage of accessory to primary building size which is also referenced specifically in different sections and is all over the place? And is that percentage based on the total square footage of the house or just the footprints of the main floor?

Those are the things that I think people should think about when they look at this chart. We can talk about that next time because it's a little bit more involved discussion.

McHargue: There's also several spots where they reference accessory building size as 700 square feet. That's probably a typo because 720 would be more appropriate based on the fact that Indiana allows you to build a slab garage 24 x 30 that comes out to 720 square feet prior to actually having to pour a full foundation. Why are we further restricting that by 20 square feet? You could do it by State standards, but for some reason, the Town finds the 20 square feet important. I think you would agree that 24 x 30 is a very standard size garage. It just a matter of changing 700 to 720. It would make it easier on a lot of builders that come to Town.

Oudman: This is something that goes along with Chapter 15 Zoning Code. I did a little further research on the Corlin's. Corlin's Landing put in for a subdivision approval as a single continuous zone through all the phases. I think that for clarity it makes sense to me that we consider changing the color and zoning. Because right now the back half is RC1 and the front half is R. We could run into problems with accessory use, the setbacks...some of that because the map shows one color zone and the development the other zone.

Biancardi: Was Corlin's platted before it was rezoned? I wonder if that could be a pre-existing standard because that was already a function of that entire property. If it was rezoned after I think you can treat it all as R.

Oudman: I have their timeline down. They came for their primary plat in 2007 for 202 lots. The rezone was 2010.

Biancardi: If that whole property was platted when it was originally Residential would we then still operate as if that property is all Residential.

Attorney Brazil: It would be whatever the zone changed to.

Oudman: But, in our zoning code it does say that an existing property maintains its status that it had at the time of rezone.

Hull: Can you do some research on that Attorney Brazil? At the end of the day, this is what we want:

The homes that are in there operate under Residential. They should follow all those regulations and rules. Do we have to change the zoning there? If we do, what are the implications? Is there a quick fix?

Attorney Brazil: I'll look into that.

Hull: What we would like to do is put that into a readable form (ordinance type) for next meeting.

Attorney Brazil: I'll do that.

Hull: Maybe after that we can set it for Public Hearing.

Review of Table 5-2, Zoning Form & Function Table
Table to next month.

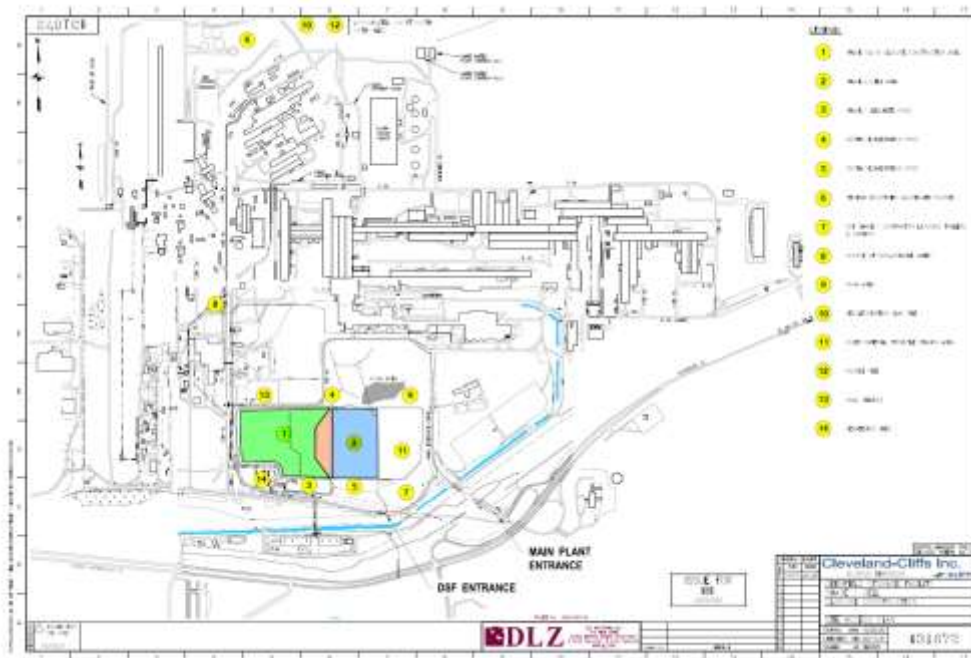
New Business

Charles Anderson

DLZ Industrial L.L.C

Cleveland-Cliffs Phase 1 Cell Closure--Deerfield Storage Facility

Anderson: Just a quick background for the new members of the Plan Commission since the last time I was here. Prior to 2009 there was an action initiated by IDEM on the Arcelor Mittal property to remove some waste piles from the site. Arcelor Mittal decided they wanted to build an onsite waste storage facility and there was a settlement agreement implemented between the Town of Burns Harbor and Arcelor Mittal approving the construction of that landfill. In 2012 IDEM approved the construction permit after about two years of design back and forth. The first phase of the landfill was constructed which is in the green and orange area here.



It's about 35 acres in size. It is still in operation and was projected to reach its capacity in 2020. COVID slowed things down so it's not quite full yet but it's about to reach its capacity. In 2018 Arcelor Mittal submitted plans and got approval to build the second phase of the landfill which is Cell #2. That was constructed in 2018-19 and completed in January 2020. In May of 2020 a completion report was submitted to IDEM which included as built, drawings for the project as well as all the certifications for construction that's required by IDEM. A copy of that report was given back to the BH Building Department when it was submitted. IDEM approved the completion of the Cell in 2021 and it currently became operational a couple of months ago. They are still filling the first cell which will be full sometime later this year and Cleveland-Cliffs would like to go ahead and start closure of the Phase 1 Cell.

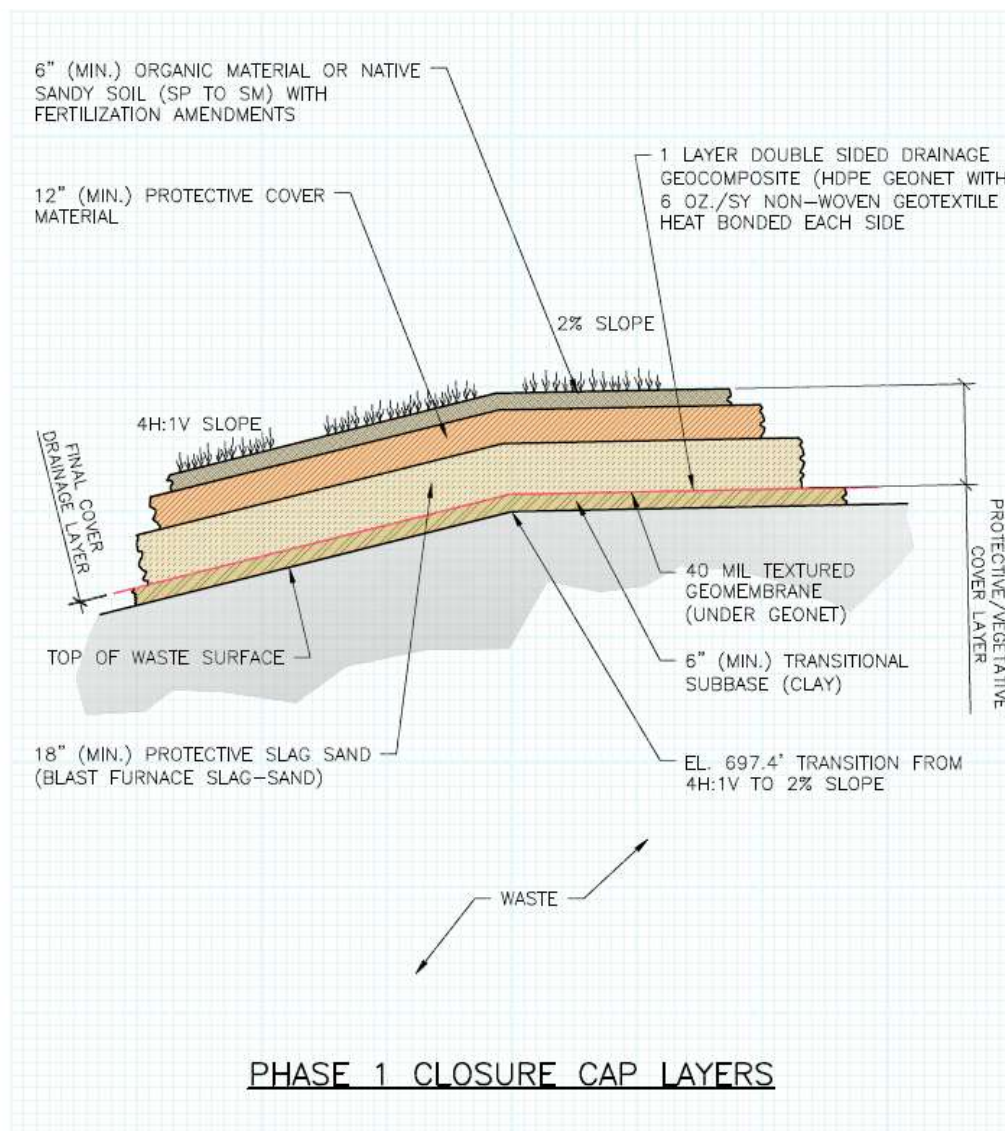
This is the Phase 1 Cell that has been deemed filled since 2012. It is approximately 35 acres in size. It has a height of 90 feet. That is what is was permitted for and it will reach the 90 feet after we close the landfill cell so that's a total height of the cell.




This is the Phase 2 Cell that was built in 2018-2019. We just started some material being placed in there. This photo is from March of this year.



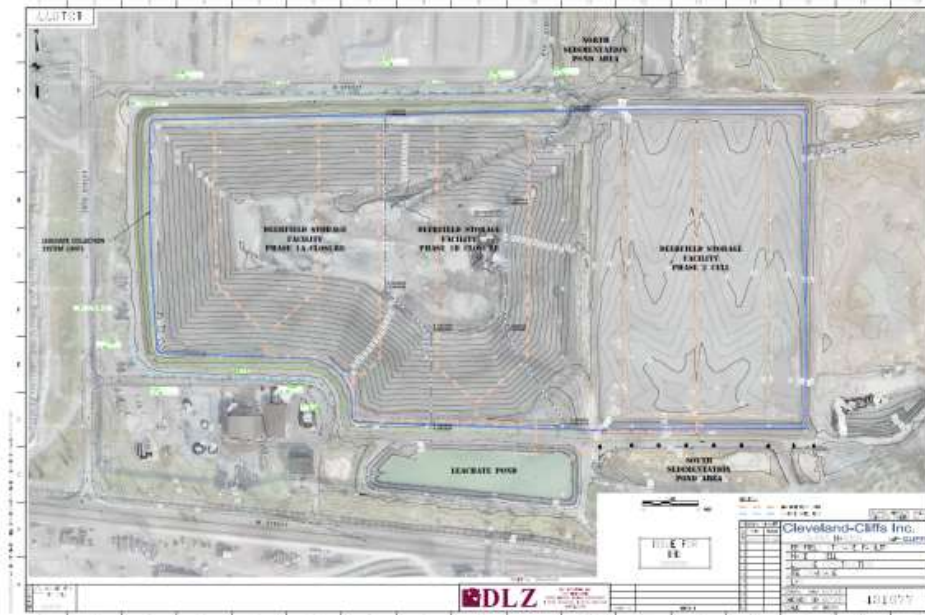
So when I say they are going to close the Cell, what that involves is the gray area is the top of the waste material that's been placed in the cell and then on top of that there has to be six inches of compacted clay. On top of that is a 40-mil liner which will cover all of that. This is over the entire 35 acres of the Cell. Then on top of that we've got 18 inches of slag sand that's going to be placed above that has permitted by IDEM, and then another 12 inches of probably sand and six inches of topsoil on top of that. Then the entire landfill will be seeded and grassed, and it will become a nice green mound in the future. Again, part of the plan requires 30 years of monitoring beyond that and maintenance of the Cell as well. So it will not be allowed to grow up, it will be mowed and be kept as a grass mountain.



R:\PROJ\2050\3527 AM BH DEF PHASE 1 CELL CLOSURE\DRAWINGS\M_A_M\DSF PHASE 1 CLOSURE LAYERS.DWG

 <p>316 TECH DRIVE, BURNS HARBOR, INDIANA 46304 TELEPHONE (219) 764-4700 FAX (219) 764-4156</p>	DATE: 01-11-2021	DRAWING NO.: 1 OF 1
	SURVEYED BY: --	CHECKED BY: --
	DRAWN BY: M_A_M	CALC'D BY: --
	ACCT. NO.: 2050-3527-70	FOR: CLEVELAND-CLIFFS, INC.

Currently what happens now anytime it rains, the water that falls inside either of the two cells is collected through a series of pipes and routed to the Leachate Pond. The Leachate Pond water is sent to the industrial water treatment plant at the mill and treated for discharge. So there is no water that leaves the site from the Cell that hasn't gone through the treatment system. When we cap this, nothing is going to infiltrate the Cell anymore so it will all become clean stormwater runoff.



As part of the project we also have to excavate a Sedimentation Pond on each of the North and South sides and the water will be routed to the respective sides. Those will ultimately discharge into the existing stormwater channel around the perimeter of the plant. Once the water has gone through the Sedimentation Pond our belief and calculations are that there will hardly ever be anything that leaves those ponds. It will basically infiltrate into the sand. We don't anticipate much if any stormwater ever actually leaving the site.



This is an aerial photograph from November 2020. It shows the construction of the Phase 2 Cell before there was anything placed in it. Phase 1 Cell shows the entire area that will be covered and will eventually be as green as the perimeter of the berms all the way around.



I just wanted to come tonight to address the Board, let them know what the plan is. There has not been an award for this project yet. We do have a contractor selected. We're hoping to get started in July sometime. This is about an 18-month project so it will run through the end of next year.

So we are applying for the excavation permit tonight. The drawing set that you have are not final drawings. These were issued for bid purposes to get contractors selected. We will have a final set of drawings stamped and issued early next week.

I submitted two hard copies of the permit tonight with letter size drawings. (These were not made available to the Secretary prior to the meeting.) We will also next week submit to the Building Department a formal application for the land improvement permit. I have spoken to the building clerk and she knows that. I just wanted to answer any questions anyone may have.

Biancardi: In terms of the excavation permit, did you complete the application?

Anderson: Yes

Biancardi: According to the application, we need to have a Public Hearing.

Hull: Yes, that is what we need to do, and I entertain a motion.

Poparad makes a motion to set Cleveland-Cliffs Deerfield Storage Facility Phase 1 Cell Closure for a Public Hearing on July 12, 2021. Biancardi seconded the motion. **Motion carried by unanimous vote.**

Biancardi: I would just say as soon as you have the actual documents to get those over so that everyone can review them.

Hull: Also, to get an additional copy over the Global Engineer Hicks.

Anderson: Then I will get the certified letters out to the neighboring properties and the posting in the newspaper.

I forgot to mention—as part of the 2009 agreement with the Town of Burns Harbor, every document that gets submitted to IDEM for the landfill is supposed to be submitted to the Town. As like last time I don't know if that happened, so I went ahead and put together two thumb drives that have the same documents on them from everything I submitted back in 2018-19 to present. So every document I could find on IDEM's virtual file cabinet has been included in here for the landfill.

Town Code Section 9-2(1) Grass/weeds in excess of 8 inches

Hull: There was a resident that filed a complaint against a property that was not developed but in a development, correct?

Building Commissioner McGraw: Correct.

Hull: The property owner was required to remedy, cut the grass 10 inches back.

Building Commissioner McGraw: 10 feet back and it's been done.

Hull: Which prompted a question from Oudman because there is some gray area in the Code.

Building Commissioner McGraw: People, most of the time, are calling and saying neighbors are not cutting their grass. We came upon an undeveloped property across the street in the Village area. I reached out and went to the homeowner. I spoke with them personally and he said he'd been cutting it all the time. When I followed up with it I spoke with Oudman and found out that it was in the process of also being sold and the new owner was told the service that was hired to cut the grass would sometimes skip this area. It has been cut. It has been remedied. There was another undeveloped property that someone was selling because of the death of the owner and that grass was left unmowed. There is no specific ordinance I can go on other than tall grass when somebody brings up a complaint about tall grass. I think we need to, as a Town, look at this. We need to set some standards.

Hull: We need some guidance and clarification on undeveloped property. Let's talk to Fire Chief Arney and see if he knows something we don't know.

Building Commissioner McGraw: I've already talked to Fire Chief Arney and former Building Commissioner Wesley. They tell me the same thing I'm saying now—it's a gray area. It needs to be addressed and we are going to postpone it and not address it.

McHargue: Write citations then. If it's over eight inches we can cite them. Our Code does not differentiate between the first ten feet and the entire lot. If the common area that can be maintained is not being maintained I say write the ticket.

Hull: 9-2-1 Noxious weeds and other rank vegetation. This is a nuisance and I believe that it's...

Oudman: If it's eight inches or whatever it's going to be just put it in that part of the Ordinance, not just in the fines. Just to be consistent.

Hull: Sec. 9-1. DEFINITIONS. For the purpose of this article, the word "nuisance" is hereby defined as the doing of an unlawful act, or the omitting to perform a duty, or the suffering or permitting any condition or thing to be or exist, which act, omission, condition or thing either.

5. Essentially interferes with the comfortable enjoyment of life and property, or tends to depreciate the value of the property of other

At that point, it's going to be the judgment of the individual that is going to write the ticket. Or write the violation or claim that, yes, this is a problem. We've said we trust Building Commissioner McGraw to make decision like that. Whether or not he thinks this is out of line or not. I agree there is gray area and sometimes gray area is not the worst place to operate in. But, we need to straighten it out. We need a little guidance to get it right. Give Attorney Brazil a chance to look at it and get his recommendation on it. He can work with Building Commissioner McGraw and look at it again next month. For right now, if you receive a complaint and you feel it's a nuisance, write a ticket.

Building Commissioner McGraw: That's all I want. Thank you.

Hull: We'll get something figure out.

Fee Table 15-1, 15-4 & 15-5

Oudman: There is one thing. The building clerk asked about the Fee Table 15-1, 15-4 & 15-5. We talked about this at a previous meeting and it says if an addition inspection is needed that there is a \$35.00 charge for a second inspection. The building clerk brought up that when State Board of Accounts comes to audit them, they have to be able to justify where it says in the book that this thing is noted. The way our fee table is set up the asterisks that are in there apply to that fee table. So, do we have to redo it so all the asterisks that apply to all the fee tables or what because the one that they need is not on the fee table.

Hull: For typos and clarifications purposes where we're not changing the Code, we can do that.

Oudman: OK, that's fine so we can just correct that.

Review: Bonds, Maintenance Guarantees, Letters of Credit
None

Review of Table 5-2, Zoning Form & Function Table
Table to next month.

Good of the Order and Any Other Business

None

Announcements

None

Adjournment

Poparad makes a motion to adjourn at 8:45 p.m. McHargue seconded the motion. **Motion carried by unanimous vote.**

APPROVED on July 12, 2021

Eric Hull, President

Marge Falbo, Secretary