

**Burns Harbor Advisory Plan Commission**  
**Minutes of Monday, December 2, 2019**

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, December 2, 2019 in the Town Hall. The meeting was called to order by Advisory Plan Commission President, Eric Hull at 7:00 pm.

The Pledge of Allegiance to the American Flag was recited.

Roll Call:

Eric Hull .....	Present
Bernie Poparad .....	Present
Toni Biancardi .....	Present
Roseann Bozak.....	Present
Gordon McCormick .....	Present
Jeremy McHargue.....	Absent
Krista Tracy.....	Present

Additional Officials Present  
Building Commissioner-Rob Wesley  
Attorney-Clay Patton  
Secretary-Marge Falbo

Also Present  
Sarah Oudman

**Minutes**

McCormick makes a motion to approve the minutes of November 4, 2019 as written. Bozak seconded the motion. Motion carried by unanimous vote.

**Communication, Bills, Expenditures**

None

**Report of Officers, Committee, Staff**

Building Commissioner Wesley says it's been a very busy day and the Building Report is incomplete. The report shows all permits, certificates of occupancy, violation letters/tickets and inspections. The complete report will be ready for the Town Council meeting on December 11, 2019.

We had an issue this morning with an unhappy homeowner coming to the office stating he had two concrete trucks in his driveway who were pouring a basement floor at 1140 South Babcock

which is one of Patrick Kleihege's lots. That is how he had it was addressed which is incorrect. I contacted Kleihege and the builder, they were both aware of the situation. The email that was sent to you is the corrected plat. He will have that recorded and resubmitted. Hull says so that plat that was recorded had the wrong street address. Building Commissioner Wesley says yes. It should be 1130 not 1140. McCormick says what's the one next to it, it's obviously... Building Commissioner Wesley says the one next to it to the South is 1128. Hull says so he will get that recorded and resubmitted to the Town? Building Commissioner Wesley says yes. Attorney Patton says so this was his mistake, not the Town's correct? Building Commissioner Wesley says correct. Attorney Patton says as I'm looking at this, I don't see when it has been amended because usually when you record a document to correct a prior document which an error on it, you reference it so if there is Title search or something that this is noted. Do we know...Building Commissioner Wesley says I do not. Did he reference this one that was recorded in 2018 was wrong? Biancardi says it would probably need approval, the County won't record it. Attorney Patton says I would agree because it would need signatures from the Town Council and the Plan Commission. Hull says yes, it's a new final plat. Biancardi says it's an amendment but it still needs to come to the Board. He should also be getting addresses from 911. Building Commissioner Wesley says yes. He is going to the Engineers today and once that's done, we need copies because we have to change everything on our end too – the permit – everything needs to be changed. Attorney Patton says where is the actual address on this plat, I'm looking for it. Building Commissioner Wesley says I didn't see it on there. Hull says I don't see it either. Usually it's in the legal section. It would state "commonly known as", but it doesn't have that. Attorney Patton says so how is what he sent us fixing the problem? Building Commissioner Wesley says the only thing his email said was "see the attached." That was the extent, there was no explanation. What we have on file does show an address of 1140 South Babcock. Hull says there is no reference in here to a common address, so we will have to look at this one and ask him what's different and we'll go from there and as Biancardi says we will have to bring him back in front of the Board just to make sure...Biancardi says previous plats have the address right on it. Hull says let's see what he says this is and we'll go from there.

Hull says I did get a note from Global Engineer Hicks, she did talk to Kleihege about Trail Creek Phase II underground. He has not had the vac truck testing yet, on the manhole, so that is still on hold. We need to remove that from the agenda until it's completed.

### **Preliminary Hearing**

None

### **Public Hearing**

*Chapter 15 Zoning Ordinance  
Storage and Use of Shipping/Cargo Containers*

Hull opens the Public Hearing.

Hull says the first thing we'll do is go over the Ordinance. Everyone should have received this and had a chance to review it.

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**ORDINANCE \_\_\_\_\_**

**AN ORDINANCE OF THE BURNS HARBOR TOWN COUNCIL AMENDING THE TEXT OF CHAPTER 15 ZONING CONCERNING STORAGE AND THE USE OF SHIPPING/CARGO CONTAINERS 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 Storage and the use of Shipping/Cargo Containers in the Town by adding definitions to distinguish between different types of storage and amending the Zoning Form & Function Table to include Cargo/Incidental Storage; 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 I.C. 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 15.2 of Chapter 15 of the Town Code of the Town of Burns Harbor Zoning Ordinance shall be amended to include the following definition:

**15-2-2 Definitions.** 181.2. SHIPPING CONTAINER: a container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other portable structures that are placed on private property and used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials and merchandise. This definition will include accessory buildings used for temporary storage. "Shipping Container" shall also include, but is not limited to, storage box shipping containers, storage moving "pods", or any other similar portable storage containers, whether with or without wheels, and whether with or without a chassis.

**Section 2.** That Section 15.5 of Chapter 15 of the Town Code of the Town of Burns Harbor shall be amended as follows:

**15.5 Districts.** Table 5-2 Zoning Form & Function Table – k. ACCESSORY USES, add Shipping Container. Permitted in Special Use District. Special Exception in ROS, R, RC1, RC2, BP and DD.

**Section 3.** 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:

**15–13–6.1 SHIPPING CONTAINERS**

Shipping Containers shall conform to the standards found within each corresponding zoning district, provided that the development standards contained in this section shall not apply to shipping containers used for storage, so long as the structure is one hundred sixty (160) square feet or less in total size.

1. Districts
  - A. Residential Districts: The use of Shipping Containers in a Residential District is prohibited, except for the following uses:
    - i. 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.
    - ii. 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.
    - iii. A Shipping Container may be otherwise allowed on a residential parcel for a period not to exceed ten (10) days through an official action by the Burns Harbor Town Council.
    - iv. Shipping Containers shall not impede traffic or pedestrians. No Shipping Container shall be located in a circulation aisle/lane, fire access lane, public utility easement or public right-of-way, including streets, sidewalks, and park strips.
  - B. Business Park Districts and Downtown Districts:
    - i. Shipping Containers may be used for shipping and receiving merchandise and goods, provided that the Shipping Container does not remain stationary for more than ten (10) days.
    - ii. Shipping Containers 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 on parcels that are adjacent to a residential district.
    - iii. Shipping Containers 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.
    - iv. A Shipping Container shall not impede traffic or pedestrians. No Shipping Container shall be placed or located in a circulation aisle/lane, fire access lane, public utility easement or public right-of-way, including streets, sidewalks, and park strips.
  - C. Special Use Districts: The use of a Shipping Container is permissible in all special districts, provided they are not stored on public rights-of-way, in fire access lanes, in landscaped or front setback areas or in an area visible from the property's primary street.
    - i. A Shipping Container shall not impede traffic or pedestrians. No Shipping Container shall be placed or located in a circulation aisle/lane, fire access lane, public utility easement or public right-of-way, including streets, sidewalks, and park strips.

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.
3. In all districts, Shipping Containers must be kept in good repair, be secured against unauthorized entry and comply with health regulations.
  - a. A Shipping Container is not in a state of good repair when it is incapable of being moved intact, holes in the container exist due to damage or rust or it has been infested with vermin or other pests.
  - b. Any Shipping Container that has deteriorated and is not in a state of good repair must be removed immediately.
4. Shipping Containers used for construction purposes must be approved by the Burns Harbor Building Commissioner prior to placement when used during construction for less than twelve (12) months. The Board of Zoning Appeals has the authority to authorize but is not required to approve the use of Shipping Containers for construction or remodel purposes for any period in excess of twelve (12) months.
5. A Shipping Container may not be used as a dwelling or living quarters, nor for camping, cooking or recreation purposes for any amount of time in any district.
6. 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 thirty 90 days of final passage of this ordinance.

**Section 4.** This Ordinance shall be effective upon its adoption and publication.

All of which is ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 201 \_\_\_\_.

**BURNS HARBOR TOWN COUNCIL**

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ATTEST:

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 Jane Jordan, Clerk-Treasurer

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Biancardi says it is just an ordinance of the Burns Harbor Town Council amending the text of Chapter 15 Zoning concerning Storage and The Use of Shipping/Cargo Containers within the Town of Burns Harbor, Indiana. It mirrors the Eagle River Ordinance that we had reviewed. We had discussion only on the Special Use Districts, Special Exception and the conversation we had was about people who have one and how we deal with that. It does say that #6 of the very last page states they would have 90 days to be brought up to compliance.

Hull opens the Public Hearing.

Hull asks for comments in favor. There are no comments in favor.

Hull asks for comments in opposition. There are no comments in opposition.

Oudman from the audience says not that I have a problem, I just couldn't find a reference to a couple of things. In Section 15 2.2. under definitions:

**15-2-2 Definitions.** 181.2. SHIPPING CONTAINER: a container fabricated for the purpose of transporting freight or goods on a truck, railroad or ship, including cargo containers, shipping containers, storage units, or other portable structures that are placed on private property and used for storage of items, including, but not limited to, clothing, equipment, goods, household or office fixtures or furnishings, materials and merchandise. This definition will include accessory buildings used for temporary storage. "Shipping Container" shall also include, but is not limited to, storage box shipping containers, storage moving "pods", or any other similar portable storage containers, whether with or without wheels, and whether with or without a chassis.

It includes moving pods. But it mentions using these storage containers during construction—if a moving pod is used by somebody who does not have a house under construction is there a process or is it permitted? Where is the language in here that says you are allowed to have one if you are changing households? Can you have one on the street in front of your house or in your driveway? Biancardi says you are saying if someone were moving and using a pod. Oudman says yes. Biancardi says if they could accomplish that, but it would be through an official action by the Town Council. Oudman says, right, which seems cumbersome if someone is moving. I am not sure they would ask. Hull says we really don't want them to have to ask to get a moving pod to move their belongings for a couple of days. Attorney Patton says if you look at

- A. Business Park Districts and Downtown Districts:
  - i. Shipping Containers may be used for shipping and receiving merchandise and goods, provided that the Shipping Container does not remain stationary for more than ten (10) days.

Perhaps we add a provision in the Residential District that has not the exact but similar language because you're not shipping or receiving merchandise and goods. You're shipping and receiving your own property for a residential move. Biancardi says so you're saying under Residential Districts add a provision...Attorney Patton says shipping containers may be used for shipping and

receiving personal property items provided the shipping container does not remain stationary on the parcel for more than 10 days. Add that as “v.” under 1. Districts, A. Residential Districts. Hull says we need something to define the pod as a storage container rented for the purpose of residential household moving. Attorney Patton says it does have in *definitions* “*shipping container includes but not limited to storage box shipping containers, storage moving pods.*” So, I don’t know if you want a definition within the definition. Hull says I think the definition is ok. I think we just haven’t given them permission to use it in a residential area for moving. Biancardi says I think we need to reference something about a permit since anything else requires a permit and because we don’t know when it starts and ends. McCormick says Building Commissioner Wesley drives the Town every day and that’s how we would know. Hull says what do we want to do. Attorney Patton says so I think I will add so I have it, “*shipping containers may be used for shipping and receiving personal property items provided the shipping container does not remain on the residential parcel for more than 10 days.*” This way it mirrors the Business Park and there is no issue with a permit. It would be “*shipping containers may be used for shipping and receiving personal property household items.*” Attorney Patton says with regards to mobile home parks, “*use of a shipping container is permissible in all Special Districts, provided that the Special District is not primarily for residential purposes.*”

Oudman says if they are going to use it for long-term storage, do they need to have a permit if they are in the Downtown District? Hull says no, you don’t have to have a permit. It says “*it can be used for storing merchandise or goods including long-term storage provided the 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 on parcels that are adjacent to a residential district.*” Oudman says I realize that is what it says but it seems if you’re doing something like a shipping container as McCormick has mentioned before it’s like an accessory building that’s portable. I also wondered on the same point; it says you can have it if you’re behind the front setback of the building. For instance, on the corner of Route 20 and State Road 149, there is a storage area behind the front setback of a building, but it is very visible from more than one direction. Do they have to have landscaping there? They do store things there right now. Biancardi says to Hull do you want it to be used for long-term storage in Business Park and Downtown? Hull says no, I think that needs to go to the 10-day rule. We need to do something with Business Park Districts and Downtown Districts, i and ii. Biancardi says I think Business Park Districts and Downtown Districts ii should just be eliminated. Bozak says I agree. So, do we want to eliminate Business Park Districts and Downtown Districts ii. Biancardi says that would be my suggestion. Poparad says because everyone behind me, Kenwal and others, are Special Use but if you go right across the street it’s Business Park. McCormick says if you look at every Business Park zone in Town, all of them are adjacent to a residential area. Hull says, not parcels, you’re talking about a zone. Biancardi says this one says parcels. McCormick says Special District. “*in an area visible from the property’s primary street or on parcels that are adjacent to a residential district.*” Poparad says take Business Park Districts and Downtown Districts ii out. Hull says, ok, take ii out. Biancardi says for Special Use Districts whose primary use is residential has to follow 1. Districts, A. Residential Districts and comply with those guidelines. For mobile home

parks, their primary use is residential so they would have to follow the requirements of a Residential District. Hull says yes, I agree. Biancardi says it needs to be noted that when this Ordinance passes the Town Council those who have them probably should be notified of this Ordinance because then they would have the 90 days to remove it or they can go to the BZA and petition. They are permitted in Special Use and they can apply to the BZA for a Special Exception. Oudman says what about requiring screening or landscaping to block them from public view. Poparad says they should have made their building large enough to house all their items. Attorney Patton says if they did that there would be a bigger property tax base and if they had done that it would benefit the Town. They are not getting taxed on these. Hull says that's why they're using them. Biancardi says they are not considered permanent. Hull says so what do we do, where are we at.

We haven't referenced the Commercial aspect in this document except in the Business Park or Downtown. We have not referenced any other Commercial because when a building permit has been issued, they can have it on official action by the Town Council. Poparad says the Town Council meets once a month so how are you going to get all that done. Biancardi says with our zoning the way it is, the one thing that's left out of everything that's addressed in the District is the Commercial aspect. We say Residential but any Commercial District is a combination of Residential and Commercial. We need to add Residential/ Commercial Districts and add a couple more designations.

I think, too, looking at the definition of the Residential Open Space District (ROS), that we don't want it to even be allowed with a Special Exception. It probably wouldn't be just because there's not going to be a lot of buildings and you have to have primary structure to put one there. The idea of ROS is to preserve and protect natural open space. Although we have one at the Park because we need to store things. Biancardi says I think we should continue this. Attorney Patton says I would suggest that since this is a seven-person board that perhaps you form a committee of three people to make some tweaks to this as long as those three people are not on the Town Council on January 1<sup>st</sup>, 2020.

Hull says we are going to continue this Public Hearing next month on January 6, 2020.

Biancardi makes a motion to continue the Public Hearing on January 6, 2020. Poparad seconded the motion. **Motion carried by unanimous vote.**

Hull says we need volunteers to work with Attorney Patton to have this ready for next meeting. McCormick and Biancardi will work with Attorney Patton. Two people, that will be good. Biancardi says so dealing with Commercial and visibility is what we are going to look at.

## **Old Business**

### *Accessory Building Ordinance Draft (December 2019)*

Hull says this is a draft talking about the 160 or 200 square feet and we basically want to amend the text for Detached Accessory Building:

Detached Accessory Buildings shall conform to the standards found within each corresponding zoning district, provided that the development standards contained in this section shall not apply to detached accessory structures used for storage, so long as the structure is two hundred (200) square feet or less in total size.

Biancardi says is that all we changed. Attorney Patton says we just went from 160 to 200. Hull says that was to allow for larger sheds. Poparad says it will match what the State has. Hull says so we have to set a Public Hearing.

Poparad makes a motion to set the Accessory Building Ordinance for a Public Hearing on January 6, 2020. Biancardi seconded the motion. **Motion carried by unanimous vote.**

## **New Business**

Patrick Kleihege

Trail Creek Phase II Sanitary Approval

Hull says Kleihege removed himself from the agenda tonight.

## **Review: Bonds, Maintenance Guarantees, Letters of Credit**

Hull says the Letter of Credit for Village in Burns Harbor Phase 4A and 4B has expired since our last meeting.

## **Good of the Order and Any Other Business**

None

## **Announcements**

Building Commissioner Wesley says Old Porter Road between 149 and Babcock will be closed, December 3 through December 5 between 7:00am to 4:00 pm for storm sewer work.

## **Adjournment**

Poparad makes a motion to adjourn at 8:00 p.m. Tracy seconded the motion. **Motion carried by unanimous vote.**

Hull thanks Tracy for her service on the Board. We will miss you.

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Eric Hull, President

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Marge Falbo, Secretary