

Burns Harbor Advisory Plan Commission Minutes of Monday, June 8, 2020

The Advisory Plan Commission of the Town of Burns Harbor, Porter County, Indiana met in a regular session on Monday, June 8, 2020 in a Microsoft Teams Virtual Meeting. 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
Andy Bozak.....	Present
Gordon McCormick	Present
Jeremy McHargue.....	Present
Sarah Oudman.....	Present

Additional Officials Present

Building Commissioner-Rob Wesley
Attorneys-Clay Patton and Michael Brazil
Global Engineers-Shem Khalil
Secretary-Marge Falbo

Also Present

Abonmarche-Matt Kaiser
Holladay Properties-Ryan Kelly and -Mike Micka
SMITHGROUP-Randy Macheliski

Minutes

Oudman makes a motion to approve the minutes of May 11, 2020 as written. McHargue seconded the motion. Motion carried by unanimous vote.

Communication, Bills, Expenditures

None

Report of Officers, Committee, Staff

Attorney Brazil says Oudman sent a couple of things regarding the shipping container ordinance on the enforcement action. I reviewed the Town Code and we already have in place where if

someone is in violation of the zoning it becomes a nuisance and in the Nuisance Ordinance there was a penalty of up to \$2,500. I don't think, right now, we can include that in this ordinance as it was already agreed upon and voted last meeting. We can give our recommendation to add it later. Commissioner Hull says we can cover that more when we get to that part of the agenda.

Building Commissioner Wesley says last month was very busy. We issued seven more permits this year than we did last year at this time along with five certificates of occupancies and inspections than last year.

Preliminary Hearing

None

Public Hearing

Holladay Properties

Westport Planned Unit Development Application

Hull opens the Public Hearing.

Hull says this is in relations to the Westport PUD Ordinance. We have received the application, the fee, and all supporting documentation is in order. We have confirmation that the notification for Public Hearing was published.

My name is Ryan Kelly. I am the Vice President of Planning with Holladay Properties. I have two colleagues here with me tonight. Matt Kaiser with Abonmarche and Paul Wiese with SMITHGROUP.

In May we presented the PUD District Ordinance for Westport. We followed up with a presentation and received approval to have this Public Hearing. We received comments from the Town engineer and also received a lot of good comments and feedback overall. There are a couple of comments we are still working on that will need to get finalized. The goal and hope for us tonight is to have a favorable recommendation from the Plan Commission to the Town Council at July's Council meeting.

Matt Kaiser of Abonmarche says we have been working with your engineer Khalil for the past several months regarding water release rates. We have agreed that there are additional things we can do to help reduce some of the down stream effects. Global Engineer Khalil says the release rate was close to eight times the allowable pre-development release rate from the County. In our conversation on Friday it was noted that it dropped down to two times the allowable rate. That is a huge improvement and I believe we're on the right track.

Hull says The first thing I'll do is ask for public comment. I am not going to read the Ordinance because its 10 pages long – we have had it out there.

Hull asks for comment in favor of the development. There is no comment in favor.

Marguerite Monaco
1246 Westport Road

Monaco says I am wondering if this piece of my property (*inaudible*)...are they are taking that part. Hull says there is currently not any action being taken on any property that is not owned by the Town. If the Town does own that piece of property, then nothing going on with it. Monaco says I have a small piece that I'm questioning. Global Engineer Khalil says that piece of property will not be touched with this development. Hull says there could be some activity behind the very back of your lot, but it will not be on your property. Poparad agrees and says there will be nothing on your property. Hull says the first thing that will come behind your lot is a pond. The next thing is going to be the street and then townhomes will start beyond that. Hull says does that answer your questions. Monaco says yes.

Darrel Fyock
1241 Stanley Street

Fyock says on 265 Haglund which is right over next to the woods will be the Westport Development. The guy that has the property there says you agreed to develop it there. Biancardi says the nine acres for sale are not part of the development. The one thing the development does do is it provides a road cut, so it isn't land-locked as it is now. If someone wanted to purchase it and develop it in the future, they would be able to access it through Westport. It is not part of the development. Hull says currently the nine acres has not been subdivided into anything else that I am aware of through the Town. I know there is land over there for sale and a lot of rumors about what is going with it, but nothing has officially come before us. Hull says to answer your question there has been no official action by anyone on any of the lots over there and nothing else has happened to this point. Today we are just referencing the development and because you're within the 300 feet is why you were notified.

Carol Pomeroy
1242 Stanley Street

Pomeroy says how does this affect my property. Hull says there are a lot of pictures on-line. There will be a lot of green space in back of you. Poparad says it is open space. Hull says I want to make sure you get a set of documents that will show you some color pictures that you can take a look at to see what's going to happen over there.

Hull says if you have questions in the future, please address them to us because we can get you the answers and if we don't know them, we'll find them for you. You deserve to have the answers. As residents you see things from a different view than we do. We may be able to make a small change that makes all the difference for you that doesn't affect anything else, but we don't know unless you tell us. Thank you everyone for coming out.

Hull asks for comments in opposition of the development. There are no comments in opposition.

Hull asks for comments from the Board.

Biancardi says someone from Holladay mentioned there are comments that you need to address. Kelly says if the Plan Commission does move forward it is to make a recommendation for approval of the PUD contingent on the Town Engineer's approval of the water release rates. Global Engineer Khalil says we're at two right now and I think we can reduce it to the actual. We're heading in the right direction.

Oudman says the only question I had is about HOA or POA. There have been some issues about how the streets and alleys were maintained, plowed and also police jurisdiction. Kelly says I don't have a real answer. I know we have different apartment complexes that are part of a HOA and have an annual fee. I can't stand here and speak for someone other than the developer. Based on past experience that is something that could be worked into the POA. Let's learn from what you have done. Again, it is private property and you don't want to take responsibility of it. Poparad says who's going to be the head of the POA--the developer, you guys, or the property owners. We had a problem with that before because the owner the subdivision was the head of the POA also. What he thought and the homeowners thought were two different things. Hull says this is something we need to address and going into an economic outlook that we are it would be better to know what we're going to do.

There were no other questions. Hull says I will close the Public Hearing and await the decision of the Board.

Poparad says so we are going to make a motion to forward this to the Town Council with a stipulation that they get Khalil's questions answered before the Council meeting.

Poparad makes a motion to forward the PUD Application to the Town Council with a favorable recommendation pending approval from Global on the outstanding water issues. McHargue seconded the motion. McHargue-Aye, Oudman-Aye, Poparad-Aye, Biancardi-Aye, Bozak-Aye, McCormick-Nay, Hull-Aye.

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

Hull says Oudman, McHargue and McCormick worked on this and today we received additional information for it. Oudman says the additional information is not part of this Ordinance. This additional information was prepared to add a Fee Schedule so after it is approved by the Town Council it can be enforced immediately. Biancardi says we have to have a Public Hearing for the fee schedule. Fees will not go into effect until 90 days after the Ordinance has been adopted. Attorney Patton says I recommend you continue to the Public Hearing to July 13, 2020 to include the fee schedule. The Board discusses the Ordinance and Fee Schedule and agrees more work needs to be done to finalize it. Hull says Attorney Brazil recommends we send it back to him for additional work.

Poparad makes a motion to send the Ordinance and Fee Schedule back to Attorney Brazil and Oudman for additional work. McCormick seconded the motion. Motion carried by unanimous vote.

Old Business

None

New Business

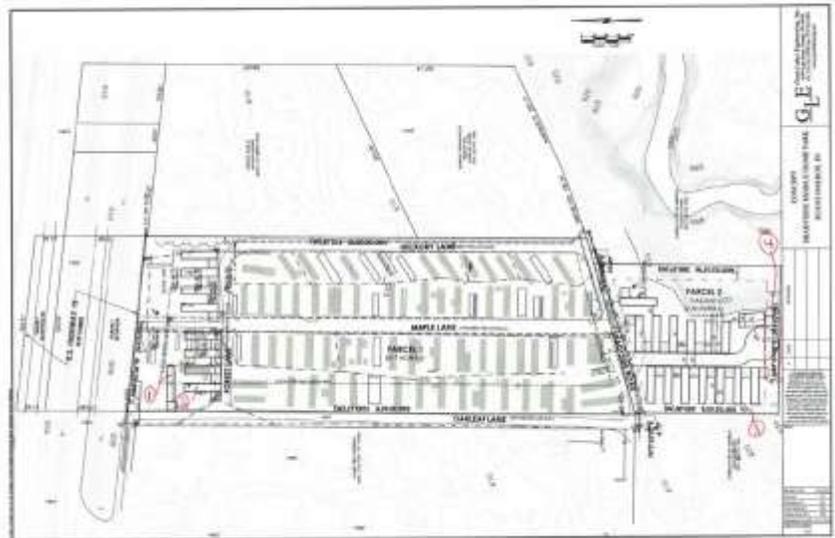
Review: Bonds, Maintenance Guarantees, Letters of Credit

None

Mark Hartman

Shadyside Mobile Home Park Expansion

Hartman says this is a rendering of the north and south end for the homes we want to put in. What I am looking for is the setback of a public road which is 60 feet. All the homes that are currently there are on the 60-foot road. We are basically asking for three or possibly four variances to reduce the setback on those homes. Hull says this Board can't issue or grant you a variance. Hartman says I just wanted to present this to you to ensure that I would be able to go before the BZA. This is what I would be asking them for. Biancardi says is everything in the Special District zone and are the



new lots that you are proposing already laid out or are you reconfiguring. Hartman says everything on the south end – Parcel 2 is all vacant land. Biancardi says so that needs to be divided legally so they can have addresses. Hartman says correct and on the north end we are adding more than are already there so there will be more new addresses on the north end as well. Biancardi says so the new lots need to be divided. Hartman says correct. Biancardi says process-wise if the Building Commissioner determined variances are needed you would need to go the BZA for zoning variances and then come to the Plan Commission to get them subdivided. You need to be sure you are awarded the variances prior to replatting if that is what you choose to do. Hull says I recommend you take this to the BZA. Hartman says I will have our engineer come to the BZA and submit drawings ahead of time as well. Poparad says we have a meeting at the end of the month if you're ready. Biancardi says I would suggest you apply for a building permit which would be denied but will reference exactly which and how many variances you will need before you go to the BZA.

Dick Davis

Harbor Trails – Lot Subdivision

William Rensberger of Rensberger Land Surveying says the picture you're looking at is going to change. I put it together in an hour's time. There are duplexes on two different lots and there is a lot of ground in between. The people living in the duplexes don't want to own all the property around them because they don't want to maintain it, so I suggested to Davis to create new lots. The Town gets extra tax dollars and everyone is happy.

Parcel 1 and Parcel 2 belong to I-M-A and I-M-B. I created a new division line in green which will become new lots.

Hull says how many acres do you have here. Rensberger says on this drawing it is 0.5 acres. Hull says the total of the parcels. Rensberger says I don't know but I would estimate, just looking at it, 1½ to 2 acres. Hull says the total of all of it is less than 5 acres, correct. Rensberger says correct and what you're looking at now is a re-subdivision of Harbor Trails. We want to do an amendment – a re-subdivision of the subdivision. Biancardi says the owners of the lots should be the ones requesting the subdivision, not Davis. Rensberger says Davis is doing that for them because they don't want to own all the property they are currently on. Biancardi says but they own it right now, so they would have to divide it and sell it back to Davis. Rensberger says this is an informal presentation and Davis want to know if it's doable. Khalil of Global Engineering says is there a plan to build a condo, or a townhome there. Rensberger says it is my understanding he wants to put single-family residences there. Khalil says we are creating three lots, actually, not just one. So, changing the lot lines will create those lots again and by creating those lots again they would be out of zoning and creates a non-conforming lot. We can't create a non-conforming subdivision unless it's a PUD or they go through a variance process. Hull says you can do this, but it will take a while to go through the process. The applications need to come from the owners unless they are being represented by legal counsel. Hull says to Rensberger work with Khalil and come to the BZA.



Chapter 15 Zoning Ordinance

Temporary Political Signs

Biancardi says this is the Ordinance that came back from the Town Council because it needs to start here. Hull says basically what happened at the Council is we determined that anytime we're going to make an Ordinance like that it had to come to the Plan Commission with some type of recommendation that it had been researched. Is that the way you recall it Attorney Patton? Attorney Patton says yes, and I actually drafted this Ordinance. Hull says can you explain this to the members. Attorney Patton says the current State Code says that Municipal Ordinances are not effective in the 60-days before an election. So, if you had a Town Code that said you could only put signs up 30 days before it's a moot point because under State Law you could put up the signs after Labor Day. Hull says the next step is that this would go to a Public Hearing.

Poparad makes a motion to set Ordinance 296-2020 - Temporary Political Signs for a Public Hearing on July 13, 2020, Bozak seconded the motion. Motion carried by unanimous vote.

Good of the Order and Any Other Business

None

Announcements

None

Adjournment

McHargue makes a motion to adjourn at 8:48 p.m. Biancardi seconded the motion. Motion carried by unanimous vote.

APPROVED on July 13, 2020

Eric Hull, President

Marge Falbo, Secretary