

**PORTER COUNTY PLAN COMMISSION**  
**Regular Meeting Minutes**  
**June 27, 2018**

The regular meeting of the Porter County Plan Commission was held at 5:30 p.m. on Wednesday, June 27, 2018 in the Porter County Administrative Center, 155 Indiana Avenue, Suite 205, Valparaiso, Indiana. Bob Poparad presided.

Members present were: Rick Burns, Laura Blaney, Mike Jessen, Ken Williams, Kevin Breitzke, Luther Williams, Kyle Yelton, and Bob Poparad. Also present were Attorney Scott McClure, Bob Thompson, Michael Novotney, Helene Pierce, citizens, and representatives of the press.

**MINUTES:**

Mike Jessen made a motion to approve the May 23, 2018 regular meeting minutes as submitted. Kevin Breitzke seconded the motion. A voice vote was taken and unanimously carried 8-0.

**COORESPONDENCE:**

None.

**OLD BUSINESS:**

None.

**NEW BUSINESS:**

**DW-18-0010 and MJ-18-0008** – Stonebridge LLC, c/o Todd A. Leeth, Hoepfner, Wagner & Evans, LLP, 500 East, between U.S. Highway 6 and 900 North, in the RR, Rural Residential District. The petitioner is seeking Design Waiver approval for a proposed forty (40) lot major subdivision on the following sections within the Unified Development Ordinance.

- 7.20 Open Space Standards; General: to allow for a storm water detention facility to count 100% towards the open space requirement, UDO only allows 50%.
- 7.23 Pedestrian Network Standards; Residential, to waive the requirement for external sidewalks along 500 East, and to waive internal sidewalks along Farmview Drive only.
- 7.28 Storm Water Standards, to allow for a 0.5% slope within the detention facility instead of the required 1% slope.
- 7.29 Street and Right-of-Way Standards; Residential, to waive the maximum block length of 1000 feet.
- 8.06 Public Streets – construction material, to allow the use of slag in place of coarse aggregate, Class D or higher, Size No. 53 limestone, to allow the use of lime application in the place of geogrid;

and to receive Primary Plat approval for the same proposed forty (40) Lot Major Subdivision. Attorney Todd Leeth presented. Mr. Charlie Ray with Duneland Group was also present. This property is located on the west side of 500 East 2050 feet north of Highway 6 and included 74.75 acres. There are 40 buildable lots for a major subdivision with tree lined boundaries with a goal of only removing what is necessary. There is no site issue onto 500 East. The area is Rural Residential, and the west side of 500 East is consistent with that. The plan is to have large lots with single-family homes. One singular road looped around to a cul-de-sac with a single entrance on 500 East and a second entrance connection to Farmview Drive to the north. No

connection to Beechwood Acres subdivision. A Landscape Plan was completed and allows for 6.3 acres of detention pond and two smaller ponds in addition. Storm water management was extensively reviewed resulting in three detention ponds and 17-acre feet of new storage. Off-site water concerns come through this property and the drainage plan will manage it. We will accept off site water, detain it and outlet it in a metered flow. The drainage plan will help with the existing water issues in this immediate area because we will detain and manage what is not being managed now. Mr. Novotney has reviewed the plan and states it “substantially conforms to Porter County’s Storm Water Management standards”. This was noted in Review #5, dated June 22, 2018. We appeared before both the Storm Water Management Board and Advisory Board and they have accepted the detention facilities as public, therefore the County will maintain the storm water. The development will be on septic systems. Soil testing was done on each of the 40 lots and the Porter County Health Department will issue permits. There were certain things that we couldn’t do or prefer not to do and therefore we are requesting variances.

- Block length: We would like to allow for the block length to be more than 1,000 feet. The distance from 500 East to Farmview is more than 1,000 feet. This is a narrow parcel that does not allow for shorter block lengths.
- Open space: We have the required amount of open space if we are able to include our dry bottom detention that will also be used as a 6-acre recreation area.
- Sidewalks: We will commit to putting them in within the subdivision itself but not where they would lead to no other sidewalks.
- Construction standards: We would like to build the road using slag and lime application for the geogrid fabric.
- Storm water standards: We would like a 0.5% slope versus a 1.0% slope.

Most of our Design Waiver requests did not cause any concern for Staff, the only one of note being the Construction standards.

#### Public Hearing:

Bob Poparad asked if any of the public would like to speak in favor of or in opposition of this case. Mr. Poparad also asked that the public address their questions to the Plan Commission while at the same time the petitioner will take notes and respond at one time.

Mr. Bill Hansen, property owner across 500 East, states he is worried about drainage. His property is low and would like some assurances that his property drainage issue will not get worse. He also questioned the 0.5% slope.

Mr. William Nelson, 500 East property owner north of the proposed subdivision, questioned where the water is going to go? How can a water retention area be considered a recreational area? Slag and lime instead of stone and geogrid will cause issues in the future. Will there be a third entrance? What are the three out lots? Are their plans for homes near the retention ponds? What about traffic at the Route 6 intersection. It is already very dangerous. The County needs to address this area.

Mr. Harold Carter, property owner south of the proposed subdivision, questions how the petitioner plans to fight all the water that will come through this parcel. There are two subdivisions already having issues with water and they also have retention ponds but the water doesn’t go in them. How will you capture the water?

Mr. Michael Lee, 480 East 830 North, states the existing run off comes right next to his house, therefore the disagrees with the 0.5% slope decrease.

Attorney Todd Leeth's and Mr. Charlie Ray's rebuttal:

- The slope request from 1% to 0.5% has nothing to do with holding the water, but has to do with trying to use the area as a recreational area such as a soccer field. This would be similar to Old Fairground Park in Valparaiso that drains underneath but has several recreational fields on top. We just need it flat enough to be able to have a play area, but have still designed it with an underground drainage system.
- The largest pond will be the 6.3-acre pond in the center of the property and there will be two additional ponds at the front of the property that will all be connected.
- Slag versus stone is very controversial. Slag is half the cost. The State allows the use of slag with strict requirements. We are committed to buying from those that hold the State standards.
- The detention ponds close to homes will be much lower than the homes. We have been in contact with the neighbor closest the 500 East entrance about getting a swale.
- The three out lots are all detention pond areas.
- We have been in contact with the Porter County Sheriff's Department regarding the number of accidents at the Highway 6 and 500 East intersection, however, keep in mind this is not where our entrance is. Since 2013 the number of accidents at that intersection vary from 2 to 6 annually. We can't control this intersection; it is 2,000 feet away from our entrance.
- We believe our plan to capture and meter the water will make the overall drainage of the entire area better. Currently it is not being captured or metered. This will make it better. We are taking on the drainage issues of the surrounding area, not just our property. If it doesn't work, Mr. Novotney's office will handle via the new storm water management fee. There is currently 90 cubic feet of water per second running off site. We have worked with Mr. Novotney have the release rate down to 8 cubic feet per second. The water will travel south to Crooked Creek but will be metered out over a period of time. The neighbors will have relief from their existing drainage issues.
- It is not feasible to bring municipal or private water to the subdivision.

Mr. Novotney advised that his office has reviewed this plan five times as Attorney Leeth stated. The County is aware and has been working on the existing drainage issues in Beechwood Subdivision. We see this as a piece that will significantly help with drainage throughout the area.

The public hearing was closed, and questions/comments were heard from the members.

Q: The slope of the large retention pond does not affect the size or volume of the pond?

A: Correct.

Q: With so much volume will it actually be dry?

A: The underground system will drain it, so yes.

Q: Who is responsible for maintaining the drainage areas? Especially the one designated for a recreational area?

A: The Homeowner's Association will cut the grass and perform day to day maintenance. The actual drainage structure will be maintained by the County Storm Water Management Board.

Q: Does the cul-de-sac meet standards?

A: Yes.

C: Kevin Breitzke advised that 0.5% slope is enough to move the water and an underground drainage system is a good thing.

Q: Is the potential swale part of the plan or just a discussion at this point?

A: Just a conversation right now, but we are willing to work with the neighbor to get that done.

Q: 6 acres is a lot to maintain. Has that been thought through?

A: Not all 6 acres will necessarily be grass; it will more than likely include a park setting also.

Motion: Kevin Breitzke made a motion to approve Design Waiver requests 7.20 Open Space Standards; General: to allow for a storm water detention facility to count 100% towards the open space requirement, UDO only allows 50%. 7.23 Pedestrian Network Standards; Residential, to waive the requirement for external sidewalks along 500 East, and to waive internal sidewalks along Farmview Drive only. 7.28 Storm Water Standards, to allow for a 0.5% slope within the detention facility instead of the required 1% slope. 7.29 Street and Right-of-Way Standards; Residential, to waive the maximum block length of 1000 feet. And to deny 8.06 Public Streets – construction material, to allow the use of slag in place of coarse aggregate, Class D or higher, Size No. 53 limestone, to allow the use of lime application in the place of geogrid. Rick Burns seconded the motion. A ballot vote was taken and unanimously carried 8-0.

Motion: Ken Williams made a motion to approve Case MJ-18-0008 Primary Plat approval for a proposed forty (40) Lot Major Subdivision. Kevin Breitzke seconded the motion. A ballot vote was taken and unanimously carried 8-0.

**ZO-18-0038** – FWA Development LLC, c/o Woodward Law Offices, LLP, Levanno Drive and Verdano Terrace, in falling Waters Subdivision, Porter Township, in the R1, Low Density Single-family Residential District. The petitioner is seeking an amendment to the Unified Development Ordinance to rezone parcels of land from (R1), Low Density Single-family Residential District to (PUD), Planned Unit Development, to allow for proposed Falling Water Cottage Homes. Attorney David Woodward and Mr. Doug Rettig of DVG Team, Inc. presented. A new developer purchased 250 lots out of bankruptcy a little over a year ago. This is a gated entrance subdivision with 100 homes built. The open gated entrance is located off of 100 South and a second gated entrance is expected to open off of Division Road by the end of summer. At the time the developer would like to rezone 20 lots to a PUD of 4 lots with 29 tracts to be used for single-family maintenance free homes. Lot 1 will be 8 single-family tracts and one community building. Lot 2 will be 12 single-family tracts. Lots 3 and 4 will be 4 single-family tracts. They will be creating a conservation easement in the back of all four lots and will only remove necessary trees and keep a lot of the natural environment. It will not be a cookie cutter maintenance free home area but will have color and style variations ranging from 1,700 to 2,000 square-feet. Some will have slabs, some basements, and some walkouts. This will not affect any of the other homeowners. The cottage homes will have their own Homeowner's Association and will also be a part of the main HOA. These will be quality homes that fit the high standards of the community. The only difference will be that these homes are maintenance free.

Public Hearing:

Bob Poparad asked if any of the public would like to speak in favor of or in opposition of this case. Mr. Poparad also asked that the public address their questions to the Plan Commission while at the same time the petitioner will take notes and respond at one time.

Mr. Jeff Larson, Councilman at Large, states this is nine additional structures for an additional ground cover of 8,100 square feet, this is a lot of additional run off for this area. What percentage of lot coverage are they at with this new plan?

Mr. Don Plumb, 784 Cirque Drive, states that the ordinance presented by the petitioner states a minimum of 1,000 square foot homes versus saying 1,700 to 2,000 square feet tonight. We do not want 1,000 square foot homes. They are adding eight more homes to the community; will the current homeowners see a transfer in association fees?

Attorney Isabella Riskowski, 55 Levanno Drive, states she is new to this community but is aware of the Homeowner's Association's covenants and restrictions and they are recorded. This does not conform with those covenants and restrictions. What this proposal presented to the HOA? This acts as a subdivision within a subdivision. They are asking this Board to ratify what was already approved. This does not comply. She is opposed to this petition.

Mr. Greg Paden, 747 Cirque Drive, states he is concerned with the possibility of 1,000 square foot structures and with the developer having further control over the Covenants and Restrictions.

Mr. Joe Trendowski, 745 Cirque Drive, states it was previously discussed that the developer would develop the property as it was originally intended.

Mr. Riskowski, 55 Levanno Drive, states there is plenty of open space now to build, they are just adding more traffic and from a real estate standpoint it will make the subdivision cheaper.

Ms. Sue Culture, 726 Jeramie Trail, states she lives in a half-million-dollar home and questions if these cottage homes will connect to her area of the subdivision? Will they be sold and then built?

Ms. Lisa Guerrero, 759 Medwin Way, questions where the construction vehicles will come in and out? How will the developer prevent the leasing or renting of the cottage homes? Will the Division Road gate entrance be manned? The homeowners are very uninformed.

Attorney David Woodward and Mr. Doug Rettig's rebuttal:

- There will be more impervious area with the additional homes and we will work with the County Engineer to make sure everything is adequate, and requirements are met.
- The maximum lot coverage allowed is 30% and we are requesting 40% as part of the PUD.
- We worked with staff to create the PUD and have no issue with changing the language to indicate a minimum 1,700 square foot cottage home size.
- Each tract is considered a separate house and will be treated no differently and will pay homeowner association dues as everyone else does.
- The covenants do not comply and we're here to change the zoning to build a product that meets today's needs. It will be a quality product that complies with building standards. The only difference will be the square footage.
- These are not lower end homes. We will build three at a time. Two presold and one spec as the bank dictates.

- Construction vehicles will come in and out the north entrance because the final binder is not in yet in that area.
- Proposed covenants for the cottage homes would not allow the lease or renting of the home, but we do still need to confirm with the State Assembly that we are within the law to do so.
- Not sure how the homeowners feel uninformed when one of the developers is on the HOA Board, and we gave a presentation in April. We have no issue with working with the HOA to meet standards.
- Those that would desire to live in these homes would most definitely respect the area, but simply want a smaller, not small, maintenance free home to live in. They will still appreciate the gated community feel, a high-end product, and being part of a great community. The market is typically to retired professionals.

The public hearing was closed, and questions/comments were heard from the Board.

C: There are some concerns and this Board can understand where the residents are coming from. 1,700 square foot minimum is definitely better.

Q: Was this development purchased out of bankruptcy?

A: Yes.

Q: How many lots were originally platted?

A: 397.

Q: And you own 250 of the 397?

A: Yes.

Q: How many homes are built?

A: Only about 100. Some of the lots are purchased but do not have homes on them.

Q: You say you presented at the April HOA meeting. How did it go at that time?

A: Surprisingly well.

Q: What lot coverage are you requesting?

A: 40%.

Motion: Kevin Breitzke made a motion to recommend denial of Case ZO-18-0038 to the County Commissioners. Rick Burns seconded the motion. A ballot vote was taken, and the motion was unanimously carried 8-0.

**STAFF ITEMS:**

Thank you to Mr. Novotney for attending tonight's meeting and offering insight.

**ADJOURNMENT:**

There being no further business, the June 27, 2018 Porter County Plan Commission meeting adjourned at 7:39 p.m.

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Bob Poparad, President

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Attest: Robert W. Thompson, Jr. AICP  
Director