

PORTER COUNTY PLAN COMMISSION
March 22, 2023

LOCATION: County Administrative Center, Ste 205 **TIME:** 5:30 p.m.
155 Indiana Avenue, Valparaiso IN

MEMBERS IN ATTENDANCE

Barb Regnitz, Brian Damitz, Bob Gilliana, Greg Simms, Kevin Breitzke, Luther Williams and Nikky Witkowski. Pam Mishler-Fish and Rick Burns were absent. Also present was Robert Thompson, Kristy Marasco, Kelly Cadwell, and Attorney Scott McClure.

Bob Gilliana called the meeting to order and led the pledge of allegiance.

Old Business:

DP-22-0071

Applicant: Jack Boyd

Project: Jack Boyd Storage

Location: 306 North 400 East, Valparaiso, IN 46383 (Washington Township)

Zoning: I2, General Industrial District

Request: Development Plan for seven (7) storage unit buildings.

Matt Keiser – Abonmarche and Todd Leeth – Hoepfner Wagner & Evans presented.

Todd Leeth – The overall parcel is oddly shaped. The southern boundary is railroad tracks. There is I2 and I1 zoning in the area. There are four tax parcels. Tonight, they are only talking about 2 parcels. Out front there are some storage buildings and the asphalt business. I2 allows for them to extend the self-storage buildings. If they are in the I2 zoning they have to have Development Plan approval. They are not deviating from any standards. This is a precursor hearing to say they have gone through all of the steps. Hopefully after tonight they can apply for their building permits. This is an allowed use. They are also asking for outdoor storage. That was granted by the BZA in December. They have to go through the review process for storm water and all other reviews. A letter of substantial compliance has been issued by Staff. SWAB and SWMB have approved the project.

Nikky Witkowski – She asked for clarification of one building if it was on the property line.

Matt Keiser – It is near the property line, not on it.

Brian Damitz – What is in the little section above.

Matt Keiser – He thinks it is American Concrete.

Brian Damitz – Would they have any issues with this.

Matt Keiser – He does not think so. They also have outdoor storage. They are zoned I2 also. He thinks they would like this better than the asphalt business.

Motion: Kevin Breitzke moved to approve Case DP-22-0071. Barb Regnitz seconded the motion and so approved with a 7-0 roll call vote.

New Business:

Bob Thompson read the Rules of Conduct for a Public Hearing.

MJ-21-0031: Arcadia Development LLC, c/o Todd LA. Leeth, Hoepfner, Wagner & Evans LLP

Project: Arcadia Major Subdivision

Location: Northwest corner of CR 50W and CR 700 N

Zoning: RR, Rural Residential District

Request: Primary plat approval for proposed 32-lot subdivision

Bob Thompson – They are here for primary plat approval. They have been through all of the staff reviews. Storm water engineering and developmental engineering have said it meets the ordinances. Planning review has said it meets all ordinances. Last time they were here they had 32 lots. It is really a 27-lot development. They eliminated three lots due to soil conditions with septic. The Department of Health has reviewed the soil borings based off the revised plats and has said they are good for well and septic on these lots.

Todd Leeth – Hoepfner, Wagner & Evans. John Hannon – Great Lakes Engineering, presented on behalf of Petitioner.

Todd Leeth – Their request is to have a primary plat approved for a parcel that is zoned for this use. It is Rural Residential. Shirley Land Trust is their entire western boundary. As they go through the process, this primary plat turns into a secondary plat which is what gets recorded. The secondary plat will look much simpler. They have a series of detention ponds that will collect all of the water from these 80 acres on site, hold and release it at a controlled rate. In October of 2021 they were here and had a Public Hearing. In 2021 they received four design waivers. Lots 5, 6 and 7 faced out to 50 West. They did not get the design waiver to have them face out. They have turned them around and have a private drive that is internally oriented. They think that is safer. They have received the Planner review approval letter. They have received the Storm Water Engineer review letter with approval and SWAB and SWMB approval.

Public Hearing

Margaret Danyi – 749 N 50 W. The question is “should” this be built. Even if it could be built, is this the best layout and use for the property. She has been told this is an 8 year build out process. During that time there will be disturbance of the soil which will create erosion and run off problems that have been plaguing her property. She has spent over \$20,000 repairing the damaged bridge that accesses the back 2/3 of her property. Displaced deer will come and damage her orchard and crops. She is concerned the lot sizes are not consistent with neighboring landowners. She is concerned well water is put at risk. In Lot 7 there is a hunting blind. They have overlooked the wildlife pothole. The drawing shows a house on it. The designated private drive will be left as a muddy mess during the wet seasons. She is concerned about increased traffic. There are issues that need to be addressed.

Stephanie Wicke - 171 W 700 N. Nobody contacted the Government. This property had wetlands on it. If the water flows in the wetlands, it will destroy them. Deer are being killed every day. The wetlands are a major part of our environment. Until there is an evaluation by the Army Corp of Engineers there is no way this plan can be approved. This is Federal Land.

Brenda Krause – 747 N 50 W. She has pictures of the east side of the property where it is flooded. The three-way intersection – there is a designated wetland that is not marked on their plan. This needs to be checked.

Kenneth Woodcock – 715 N 50 W. One of the biggest issues is that it is totally out of character with what is around here. He presented a drawing that shows how this development compares to what is around it. By the time you take out the roads, right of ways and easements this is an average of 1.45 acre

lots. This is a change of character. This isn't going to be a discrete development tucked into the woods. It is out in the open and will be seen every day. He is concerned about the storm water. 25% of Arcadias water drains to the entrance. The retention ponds are on the wetlands. He is concerned about the natural flow of the water being disturbed. No one has been out to talk to the neighbors. The covenants make the property owners responsible for maintenance of the retention ponds. This concerns him. He would like to see Porter County take over so they are maintained properly.

Caroline Woodcock – 715 N 50 W. She has a pond. If it goes away it will be awful. No one has checked with them to ask about the water flow. Traffic will be a nightmare. Last year a sign was put up by the County saying “High Water”. Will it be worse now?

Alexis Olson-Brandt – 66 W 700 N. There are three large trees on the property. Can these trees be saved?

Joseph Danyi – 749 N 50 W. This will change the appearance of the area. His biggest concern is the wildlife disappearing.

Curt Krause – 747 N 50 W. Who is taking out the drain tile going through his property and putting in the new?

Catherine -749 N 50 W. Turkeys are in the big trees that were talked about earlier.

Bill Evers – 80 W 700 N. He is from Illinois. He moved to this area 31 years ago. When it rains water comes into his pond and then goes to Shirley Heinz property. Heavy rain will go right over his driveway. He is concerned his pond will not handle any more.

Patti Simms – 632 N 50 W. She is concerned about traffic congestion. 700 and Meridian is a nightmare in the morning for kids getting to school. Liberty Elementary School is already overcrowded. How cookie cutter are the houses?

Caroline Woodcock - 715 N 50 W. Are there going to be restrictions on the days and times they can build? Will there be a construction traffic route?

David Nicolaus - 709 N 50 W. He never thought anyone would buy the swampland. 50 W is always flooded. Drivers are always turning around in his driveway.

Daniel Witkowski – 45 W 700 N. He has been here 60 years. He is concerned about well water. He would suggest waiting until the city puts in city water and sewer.

Seeing no one else wishing to address the Board, Bob Gilliana closed the Public Hearing.

Rebuttal from Petitioner

Todd Leeth – From the UDO there is a zoning map. At each level of development there are rules. The Zoning Ordinance applies to all of us. It tells us what we can do on our property. This 80 Acres is zoned RR. Looking at the Ordinance tells him what can be done on that property. He knows the minimum lot size is one acre. The Petitioner never asked for any big changes. The rules are to give clarity and predictability to development. They have five parcels of open space in this development. There is a wetland. It is not a dense development. The average lot size is 1.5 acres. Soil erosion is another rule. There will be land disturbing activities. The law requires them to manage this. The Health Department has rules that they have to follow for the septic and water. There is a wetland on the property. They hired a consultant to show the line of the wetland. The Army Corp of Engineers reviewed this and agree on the line. The entire 80 acres has been looked at and determined. Any wetland is in protected area and are not being touched.

John Hannon – They have designed three detention ponds for the property. The discharge rate is very low. Two ponds are on the west side. They will discharge onto the Shirley Heinz property. There is one detention pond on the east side of the property. That will discharge into the 15” culvert. The County has a very effective storm water ordinance.

Todd Leeth - The County SWAB and SWMB have agreed to assume primary responsibility for the drainage and storm water infrastructure. Homeowners will pay the fee. The covenants will be changed to reflect this. There has been a significant amount of on-site work. The property has been studied. He does not know about all three of the trees. One tree is not going to last much longer because it is rotted out. It will be coming down for safety reasons. Todd is not aware of the commitment for the drain tile. He will talk to him after the meeting. The County does not require any architectural diversity. He believes the restrictive covenants create stately homes. It will be a diverse subdivision that will maintain property values. There are ordinances that control construction traffic and noise.

Tonight, this is not a referendum. This is about what they are going to do. Nothing has been said that they have not followed the rules. They have to follow the rules.

Questions/Comments from the Board

Luther Williams – On these 80 acres, what flows through the 15” culvert?

John Hannon – 12.5 acres of this parcel flows through the 15” culvert. During a 10-year event he would expect 18 cubic feet per second. After the subdivision it will be .5.

Luther Williams – So it will be significantly less flow?

John Hannon – Yes. It will still flow that direction, just much slower.

Luther Williams - The Health Department has approved the perc tests and a septic location for each lot.

Todd Leeth – Yes. Borings on each lot. The Health Department has made the determination for each lot what type of system goes on it.

Luther Williams – What is the distance of the sewer and water from this subdivision?

John Hannon – The nearest sewer and water is up on Highway 6. That is 0.6 miles.

Luther Williams – Isn’t it cheaper to go 0.6 to Highway 6 and tap on to the sewer and water to alleviate a lot of the problems you have?

John Hanson - He has not done the calculations but he is not sure what the problems are.

Luther Williams – Isn’t it better to have city sewer and water?

Todd Leeth – When available. He doesn’t consider this to be available. There is an economy of scale. Topography is a factor in that cost.

Bob Thompson – Bringing in water and sewer increases the potential for density. Significantly. You could be looking at 2-3 houses per acre if they brought in water and sewer.

Kevin Breitzke – He likes sewer and water. Environmentally it is better but economic justification for doing the extension is millions of dollars. They are going to have to have 100 homes versus 27.

Nikky Witkowski – She suggested having an arborist look at the big trees. Just because you see rot does not mean it is not sound.

Greg Simms - It would be awesome to save the tree.

Brian Damitz – He lives 1.8 miles from this subdivision in a cookie cutter home. He thinks this is reasonable for this area. He has never seen bad traffic or flooding. He feels people are embellishing. He has one concern. The northwest corner – the entrance – being straight off the County Road. He feels people are going to be speeding into the entrance. Can it be turned slightly?

John Hannon – The plan is to reconfigure the intersection and turn it into a 90-degree intersection and turn it into a three way stop.

Bob Thompson - That has to go through engineering and a process. Existing county roads need to have Commissioner approval for a stop sign. To do that you have to have a study done to prove it warrants a stop sign. This is INDOT rules.

Mike Novotney – They will work with the Petitioner to gather information and then submit it to the Commissioners for consideration. The next step is a site improvement permit. That is where they fine tune details to make sure everything is on track. There will be a significant amount of review.

Barb Regnitz – She asked John Hannon to address the issue of someone losing their pond.

John Hannon – That 12.5-acre area he was talking about drains to the east and will continue to drain that way. The rate of flow out of the pond will be greatly reduced. They are not reducing the amount of water. They are reducing the rate it flows to the existing ponds.

Barb Regnitz – Have you talked to anyone at Shirley Heinze? And can you give us the gist of that conversation.

John Hannon – He has talked with Chris Kraus and he has provided input during the design process. The recreational portions of this property have been coordinated with Shirley Heinze. They had no other concerns. Chris was here when they had a hearing on the variances. He did not speak up.

Todd Leeth – The location of the walkway was coordinated with Shirley Heinze.

Motion: Kevin Breitzke moved to approve Case MJ-21-0031 the primary plat for Arcadia Development. Nikky Witkowski seconded the motion and so approved with a 7-0 ballot vote.

Other Business

- County Commissioners request that the Plan Commission, as the advisory body of the Commissioners, to review Solar Ordinance No. 20-11 and recommend to either repeal and/or to revise. Plan Commission to consider creation of a subcommittee to consider the request of the County Commissioners.

Attorney Scott McClure – The Commissioners at their meeting requested the Plan Commission take a look at this. Tonight, there will not be any modification or an ordinance passed. A committee will be formed. That committee will look at what the Commissioner’s request and report back to this Board. At that time there will be a Public Hearing and an opportunity to say what is being proposed. I like it. I don’t like it. I suggest this. They will hear comments tonight. But just so everyone understands, tonight is not the final night. Tonight’s real action by the Plan Commission is to create that committee and report back to this Board with a recommendation at a Public Hearing. Whatever that recommendation might be, it will be forwarded to the Commissioners for them to have another Public Hearing on the issue, first reading, second reading and then it passes or does not pass.

Motion: Barb Regnitz moved to create a subcommittee. Kevin Breitzke seconded the motion and so approved with a 7-0 roll call vote.

Motion: Kevin Breitzke moved to appoint Bob Gilliana, Brian Damitz, Greg Simms and Barb Regnitz on the Committee. Barb Regnitz seconded the motion and so approved with a 7-0 roll call vote.

Motion: Barb Regnitz moved to have a special Plan Commission meeting on April 5, 2023 at 5:30 in the County Administration Center Suite 205. Kevin Breitzke seconded the motion and so approved with a 7-0 roll call vote.

Public Comment

Scott Lunt – 275 S 150 E. He found out about this three weeks ago. Since then, they have been working to understand and make the community aware. They have been gathering signatures on a petition. They have 2,400 signatures. They don’t know where the farm exactly is going. All they know is that some neighbors have had discussions. This popped up out of nowhere. They found out about it on Facebook. People are unhappy with the idea. They understand it is expensive and it is subsidized. They have environmental concerns. They are worried about farmland. They are worried about the neighborhood changing. He appreciates the Board taking a copy of the petition.

Larry Robbins – 271 S 150 E. Be aware of what was in yesterday’s newspaper. There is a Bill that has been passed. The vote was 144 to 2 in favor of the Bill. It has been sent to the Governor to be signed into law. The Bill is for the deter of development of Indiana farmland in the name of food security. This is Bill 1557.

Paul Shook – 316 S 150 E. This is a surprise to him. He did go to the Commissioner’s meeting on February 27th. He has the rules for the meetings. At the Commissioner’s meeting some people had been noticed and others had not.

Bob Thompson - Notices did not go out because there is not a petition before the Board. The Commissioner’s took it up on their own initiative to hold a Public Information Meeting. This Board has not seen an application. When it does, notification will go out.

Paul Shook – At the Commissioner’s meeting NextEra said they will send out certified letters to those within 500 ft.

Bob Thompson – He cannot speak for NextEra. They did their own Public Information meeting. It was separate from anything with the County.

Paul Shook – So I don’t have to ask if you have affidavits because apparently there is not a petition filed.

Bob Thompson – Correct.

Paul Shook – Even if you don’t get a receipt, the fact that there was an Affidavit, that will be valid of Petitioner?

Attorney Scott McClure – You are asking if there is no notice it can’t be proven they were at the meeting?

Paul Shook – So we can come back to the Plan Commission and say that Petitioner came out and I thought I was going to get a certified letter per NextEra.

Bob Thompson – In this particular case they may not have gone out. He does not know. He does not have a Petition.

Paul Shook – That is my point. There is no Petition. Would that petition come from the landowners where this is going or would that come from NextEra?

Bob Thompson – It would come from NextEra. They would have to have permission from the landowners to go forward with the petition.

Paul Shook – NextEra said something about sound levels. They said it would be like a refrigerator hum. That is for residential solar. This is projected to be anywhere from 1,400 to 1,600-acre project. All those inverters have to invert to AC. This is 60 decibels. The Municipal Code for animal nuisance sounds, Section 4-10, talks about continuous noise. That is a nuisance and we cannot have that. If there is a revised solar ordinance, can it be put in there for sound level so they can be accountable?

Bob Thompson – It will be considered.

Paul Shook – At the Commissioner’s meeting there was no mention of distribution. It has to hook into the grid somewhere. Is that going to be on the property owner’s land?

Bob Thompson – We do not have a Petition so we do not have those answers. When a Petition is submitted all of those items will be reviewed.

Attorney Scott McClure – When there is a petition, it will all have to be on property owned by NextEra or on property leased to the solar company.

Mary Bruce – 245 Royal Drive. If someone wants to submit information to this new committee, who do they contact?

Bob Thompson – submit it to his office to his attention.

Barb Regnitz – The Committee is going to come back to this body with a recommendation to repeal or revise. If it is to revise, that can take several months. At the April 5th meeting they will be making decisions about repeal and revision.

Barb Patterson – One of the landowners involved with the proposed solar farm. In 2020 the Ordinance passed for A1. She hopes to pass this property on as farmland. There was a lot of misinformation at the last meeting. She understands why. There were not a lot of people who attended the Public Information meeting held by NextEra. Noise is a consideration. She has a study from NextEra on one of their solar farms it does not go above 51 decibels. 55 decibels are a normal conversation. They have been very

cautious to not put this in people's backyard. Not to have just a fence go up. Everything is screened. Everything has trees and bushes. She excluded all of 150 East and all of 425 and 450 South. This will be farmed as it is now. They have guaranteed that no decibel will be over 55. People are concerned their real estate taxes will go up because of this. She has a study from Purdue that used 9 solar farms for the study. NextEra is not asking for tax abatement. The study shows farm land is assessed at about \$1,500 per acre. Solar is assessed at \$11,000 per acre on average. That is a huge increase in revenue. It will be \$30 Million or more. The study shows property taxes in the area went down 2% to 11%. Part of the agreement is no use of the landfill in Porter County. What is not recycled by them at the decommission, there will be no use of the Porter County Landfill. There is not a shortage of food in Indiana. Indiana grew approximately 981 million bushels of corn in 2021. There was a surplus of several hundred million bushels. 43% goes to ethanol. That can be balanced. She is not going to quit farming. This is so the next generation can continue farming. She does not want to see a subdivision. More farmland is lost to low density, residential, multi-unit and industrial. 11 million acres in Indiana were taken out of farmland between 2001 and 2016. NIPSCO passed a rate increase. Part of it was for solar infrastructure. It was also for decommissioning the Michigan City coal plant. There will be a void in the area of energy production. Now NIPSCO says they are going to have a credit to go against the rate increase. When they sell excess solar energy on the grid it comes back to the customer. It takes away from dependence on commodity price variations and lower plant maintenance. There were two coal units that went down at Shafer last year and one natural gas went down. During those times we can supplement with solar. The revenue that will come in will be a boost for the schools. It will create union construction jobs. Ivy Tech is training.

Kelly Cadwell – 437 S 150 E. Solar is getting a pretty bad rap. Since she has lived in her home, they have gotten a landfill application. Discussion about a highway. There is always a conversation about windmills. Personally, she finds solar farms to be a potential ok neighbor. We have to start putting our toe into the water of new ideas, new thoughts, new energy sources. It is an ok idea to try something new. Unfortunately, we struggle with that. She would ask that they improve the setbacks. And she recommends if a company comes in, they don't have an opportunity to change the plan. Make it time conditional. Make sure they follow through with everything they say they are going to do. She would rather have a solar farm as a neighbor than a big giant subdivision.

Elena Shook – 316 S 150 E. She found out through the grapevine that her house may be surrounded on four sides with solar panels. This is a great community. It is a beautiful community. It is an agricultural community. She resents the term solar "farms". They really are industrial solar plants. They are not growing food. They are not raising animals. Her biggest concern is property values. You will pay more for a house that looks over a golf course or a scenic mountain view and you will pay less if your house looks at your neighbor's brick wall or a landfill. Our property values will go down and that will affect the tax base. There is a possibility of EMF radiation. This is 1,600 acres of that. Not a lot is known about EMF radiation. They are concerned about toxins. The flooding. The land will be graded. Trees will have to come out. Whose property will runoff go to? Wildlife habitat will be affected. The fence will be chain link fence, something you do not want to look at. In White County a gentlemen told her the roads have been a disaster. They are gravel and full of potholes. The gentleman said the company will not resurface it. If this goes through it should be in writing that they have to resurface the roads. This is not agricultural. It is industrial hazards. They do not know the full extent of what they will do when they are close to humans. She is not against solar. But it might be a much better idea to have them somewhere where there are not people. She would like to keep the Malden Morgan area an agricultural area. They are not an industrial corridor.

There being no further business, the March 22, 2023 meeting of the Plan Commission was adjourned.

Motion: Greg Simms moved to adjourn the meeting. Nikky Witkowski seconded the motion and so approved by a 7-0 voice vote.

Bob Gilliana, Vice President

Attest:

Robert W. Thompson, AICP Director