

**PORTER COUNTY BOARD OF COMMISSIONERS
TUESDAY, JUNE 7TH, 2022
10:00 A.M.**

(The entire meeting is available to watch on the Porter County website.)

The Regular meeting of the Porter County Board of Commissioners convened at 10:00 a.m. on Tuesday, June 7th, 2022 in the Commissioners' Chambers of the Administration Center.

Those present were: Commissioners Laura Blaney, Jeff Good, Jim Biggs, County Attorney Scott McClure; Executive Administrative Asst. Melanie Massey and Recording Secretary Kathy Merle.

Com. Good, Good Morning this is the Porter County Board of Commissioners' meeting Tuesday, June 7th, 2022.

Call to Order/Pledge

CONSENT AGENDA

Approval of Payroll – May 27th, 2022.

Approval of Claims – May 19th, May 26th and June 2nd, 2022.

Approval of Minutes for May 17th, 2022.

Weights and Measures Monthly Report – April 16th to May 15th, 2022 – Filed.

Treasurer's Monthly Report – April 30th, 2022 – Filed.

MEMORIAL OPERA HOUSE – SCOT MACDONALD, DIRECTOR

ARTISTIC SERVICES AGREEMENT

VENUE RENTAL AGREEMENT

Com. Blaney, moved to approve the Consent Agenda, Com. Biggs, second, motion carried.

ANNOUNCEMENTS

NEW BUSINESS

COMMISSIONERS

Appointment of a Citizen to the Plan Commission Board – Must be of Democrat affiliation. The appointee will complete the term of Michael Mirochna, which ends December 31st, 2022.

Com. Blaney, moved to approve the appointment of Pam Fish, Com. Biggs, second, motion carried.

Appointment of a Citizen to the Board of Trustees Porter County Public Library System.

Com. Blaney, moved to approve the appointment of Stu Summers, Com. Biggs, second, motion carried.

Appointment of a Citizen to the Convention, Recreation and Visitors Commission. The appointee will complete the term of Harry Peterson, which ends December 31st, 2022.

Com. Blaney, moved to approve the appointment of David Snodgrass, Com. Biggs, second, motion carried.

Appointment of a Citizen to the Alcoholic Beverage Commission – Must be of a Republican affiliation. The appointee will complete the term of Jason Gilliana, which ends December 31st, 2022.

Com. Good, We did not receive any applications for this board. If there is anyone in this audience that wants to be on this board, there is an opening. It is a good board. You work with the State excise. Hopefully, at our next meeting, we will have some board applications that will come before us and we can take action on that.

An Employee's Request for a 1 year Extension of Remicade Treatments.

Com. Good, Next up we have an employee's request for a one-year extension on Remicade treatments. This for the insurance and that is an extension I think we're already doing.

Atty. McClure, We've already done it at least once so this is to extend it another year.

Com. Biggs, moved to approve the 1 Year Extension of Remicade Treatments, Com. Blaney, second, motion carried.

SHERIFF DAVE REYNOLDS

Southpoint Partners, LLC – Commercial Lease Agreement for the Porter County Meg Unit office.

Com. Biggs, moved to approve the Southpoint Partners Lease for the Meg Unit, Com. Blaney, second, motion carried.

E911 – DEBBY GUNN, DIRECTOR

A Request to Modify the Current Training Coordinator Job Description from 2 years Supervisory Experience to 2 years of Certified Training Officer experience.

Ms. Gunn, Actually I'd just like to revert to an older job description that we've used in the past. I think it opens up the applicant pool within the Center to the Training Coordinator position that is now vacant because of my promotion.

Com. Biggs, This is something you've talked to H.R. with correct?

Ms. Gunn, Yes.

Com. Biggs, moved to approve the Job Modification, Com. Blaney, second, motion carried.

Com. Good, Thanks Debby.

Com. Biggs, Just real quick Com. Good. Debby was recently appointed as our new E911 Director and she was brought up from within. She started out there 12 or 15 years ago and kept at it. Hard work paid off.

Ms. Gunn, Thank you very much. It's been quite an adventure so far.

FACILITIES – TRACY WOOD, INTERIM DIRECTOR

A Request to use Hydro Management Water instead of HOH Water Technology at the following Porter County Government Buildings: Valpo Courthouse, Juvenile Detention Center, Portage Courthouse and Admin. Building due to lack of communication from HOH. The monthly fee will be \$635.00.

Com. Good, So we're changing vendors for our water glycol treatment systems for our hot water systems is that what this is.

Ms. Wood, Yes. Originally we liked Hydro Management was the lower bidder but we didn't have references back so we went ahead and went with HOH. They are more of an established company. Of course, two days after that I got the references back for Hydro Management and since that April meeting. I have made several attempts to HOH to get them going, like when are we going to get this started. No response. I can't get any communication with them so I would like to switch that from HOH to Hydro Management. I've contacted him and the price is still good.

Com. Good, He's all good and they were the lowest bidder originally.

Ms. Wood, Yes.

Com. Biggs, moved to approve Hydro Management Water and to rescind the contract to HOH Water Treatment, Com. Blaney, second, motion carried.

HIGHWAY DEPT. – JIM POLAREK, SUPERVISOR

Receive and Open Bids for Liquid Bituminous pertaining to Chip Seal roads.

Ms. Urbanik, We have bids.

Com. Good, The first is from Bitmap Products of Indiana, LLC. He's got a lot of per gallon numbers. Do you want to read that Jim? I can't find it.

Mr. Polarek, What we can do is we can go over it, come back up here, and give the recommendation.

Com. Good, The next one is Asphalt Materials Inc. they are out of Indianapolis.

Mr. Polarek, We will review them and come back up.

Com. Good, Bituminous Oil.

Mr. Polarek, When you mentioned 325 it's actually 400 North near 320.

Com. Good, I knew it was in that area. It was one of the back roads.

Mr. Polarek, I just wanted to clarify that. For the AE 90 Asphalt Materials came in a tenth of a cent lower but Bitmat is in South Bend so I would like to accept both bids in case I need to send a truck to pick some up. It is quicker for me to get to South Bend than Warsaw. Dust lay Bitmap came in at 178 Asphalt Materials at 105.9. So Bitmap would get the dust lay bid fog seal. Bitmap did not bid on fog seal. Asphalt Materials as fog seal at 213 a gallon.

Com. Good, How did those compare to last year Jim just because of the price of oil. I'm just trying to get a gage of where we're at today.

Mr. Polarek, It actually went down and once we specified our volumes, the price went down.

Atty. McClure, Your recommendation is those issues that you read off out loud what you're asking the Commissioners to approve.

Mr. Polarek, Right.

Com. Blaney, moved to approve both bids from Bitmap Products and Asphalt Materials, as stated by Mr. Polarek, Com. Biggs, second, motion carried.

DEVELOPMENT & STORM WATER MNGMNT. – BOB THOMPSON, DIRECTOR

A Request to Vacate the Right-of-Way of Lumber Lane in Lake Eliza. Petitioner Kim Marie Korellis – 2nd Reading.

Com. Blaney, moved to approve to Vacate the Right-of-Way of Lumber Lane on 2nd Reading, Com. Biggs, second, motion carried.

Timberland Farms, Phase 4, Performance Agreement and Letter of Credit.

Mr. Thompson, Yes, Mike has been working very closely with the developer. I would recommend approval.

Com. Blaney, moved to approve the Performance Agreement and Letter of Credit Phase 4 of Timberland Farms, Com. Biggs, second, motion carried.

Marquette Trail, Phases 5 and 6 – Lake Shore County Road to U.S. Hwy 12 – A Supplemental Agreement.

Com. Good, What is this for Bob?

Mr. Thompson, The original agreement we had with DLZ took it from U.S. 12 or the County Line Road. This is where we were winding through Beverly Shores and trying to use some of the closed roads or the low volume roads. Since we had that agreement approved, we have changed the route now and we have decided that we are staying exactly where the trail is today. DLZ is offering the new supplemental agreement that actually defines this new route, which is on the existing trail on the NIPSCO property from Lake County Shore Road to U.S. 12. It is also a \$39,000 reduction from the original agreement.

Com. Good, Good and will this get us a map and a budget?

Mr. Thompson, Yes I will be able to provide that to the Commissioners here shortly.

Com. Good, We need a budget and a map.

Mr. Thompson, Yes.

Com. Blaney, moved to approve the Marquette Trail, Phase 5 and 6 – Lake Shore County Road to U.S. Hwy. 12 Supplemental Agreement, Com. Biggs, second, motion carried.

Heirloom Subdivision zoning map amendment from RR, Rural Residential to R2, Medium Density Single Family Residential – Petitioner 325 LLC – 1st Reading.

Mr. Thompson, This is Plan Commission Resolution 22-01. The Plan Commission held a public hearing on this in April and forwarded to the County Commissioners with a favorable recommendation to rezone or a zoning map amendment for a parcel of land from RR, Rural Residential to R2, Medium Density Single Family Residential. The petitioner is Project 325 LLC Heirloom Major Subdivision. Again, the Planning Commission forwarded this up to the Commissioners with a favorable recommendation with a 6 to 1 vote.

Atty. Leath, My name is Todd Leath and I am here on behalf of the petitioner. I appeared at the Plan Commission as well. At the time, there was a large public comment for the petition and the matter was continued. We did some additional research to answer some of the questions that came up and presented that back to the Plan Commission, which then as Mr. Thompson indicated resulted in the 6 to 1 favorable recommendation. To rezone this this property it is just shy of 80 acres in size. One of the things that I think was troubling at the Plan Commission at least at the first hearing was the size and scope of what 80 acres is. 80 acres is a large parcel. You can fit 61 football fields on 80 acres. The concept plan that my client is proposing has 146 lots which results in a density calculation of 1.8 homes per acre. When we go to request a rezoning or a zone map amendment there are five things that you are by law supposed to look at or pay reasonable regard to, first and foremost in that is your own comprehensive plan. That comprehensive plan shows that this property is located in what is referred to in that plan as a suburban development area. I would actually argue that since the plan was adopted this is actually in an urban fringe area but even if I pull back and agree with what the comprehensive plan says suburban development area your comprehensive plan suggest that the area is intended for zoning densities or housing densities of 2 to 3 homes per acre. As I indicated, were 1.8. We are underneath the lowest number in that range and the City of Valparaiso has crept forward three quarters of a mile towards this property since that plan was adopted. That is why I argue it is urban fringe. Not even suburban residential but frankly, the real game changer in all of this is the availability of utilities the City of Valparaiso. My client has negotiated an opportunity to extend the utilities to this property. Public utilities would include drinking water and sanitary sewer service. What that does then is allows for the higher density of residential and if we do not do that then all we are doing is perpetuating urban sprawl in my opinion. We provided at that second meeting of the Plan Commission some examples of what we believe are well done subdivisions both in the city and in the county. Those that are all served by (Inaudible) who are in water and all of them have densities that are greater than the proposed heirloom subdivision that is before you. That is in essence what we were able to then show to the Plan Commission that resulted in their favorable recommendation. I have some handouts if we need to look at some of those examples.

Atty. McClure, Before you finish Todd I would like you to spend a little bit of time on the process. I spent a little bit of time at the Plan Commission explaining the process but this is the second hurdle. Keep with the same theme. Assuming you were to get a favorable recommendation on this. We obviously still have to come back for a second reading. Can you spend some time now explaining the rest of the process as you understand it that you would need to go through with the Planning and Storm Water Dept.

Atty. Leath, Thank you, I'm happy to do that. This is the first step in a long process to get to a development where my client can put a shovel in the ground and build the 146-lot subdivision that they're proposing. We have a concept plan now. If you are agreeable with the Plan Commission's recommendation and this property is rezoned then my client turns back to their civil engineering firm and asks them to complete the engineering process. What we have is a well thought out, well laid out plan that has 32 percent open space and those 146 lots with a grid system of roads drain easements and so forth. What they need to do is knuckle down, find the exact calculations for storm water, the geometry for all of the roads, and come up with a final plan. That final plan may have 140 lots instead of 146 but we know that we've got plenty of open space. We know where the high points are and the low points are but we have to design, the civil engineering firm, my client has to design the subdivision and we will go through that process knowing what the zoning ordinance requires, what the storm water manual requires and they will put together a primary plat that is fully engineered. Everything will be down to a hundredth of a foot and all of the drainage calculations right down to the penny. We then submit that application to Mr. Thompson's office and Mr. Novotny's office. It then goes into separate review processes. Mr. Thompson's office reviews it for the zoning ordinance requirements to make sure that all of the roads and streets are laid out. That all the lots have the requisite frontage. They are the right sizes to meet the zoning ordinance and so forth. All of the things have to be met with the zoning ordinance, with the subdivision control ordinance, and portion of the unified development ordinance as well as Mr. Novotny's office gets to take that drainage plan and review that as well. We get independent review letters from both sides of their office commenting on the fact that we have either met something or a design does not meet with their liking. We revise the plans and then we get a second review letter once we have both a clearance letter from the development review side of the office and a clearance letter from Mr. Novotny's office that the storm water is agreeable and meets code and meets the design manuals. Once we have both of those clearance letters then Mr. Thompson's office sets it for a public hearing back at the Plan Commission. All the folks that received the notice in the mail of the hearing for today is meeting that the Plan Commission they'll get another notice back at the plan commission and they get to comment upon the final design of the subdivision that we're calling Heirloom Subdivision. This is only the first step in what will take months to get back to a public hearing for the for the subdivision process to get that approved. The first step assuming everything continues to move in that direction would be the primary plat petition.

Atty. McClure, Just to clarify I understood what you were saying however, when you say Mr. Novotny's office is happy or Mr. Thompson's office is happy what we're really saying is Mr. Novotny is going to be following our storm water ordinance. If it does not meet the ordinance then you have other options but that would require additional hearings, additional public notification maybe at BZA if it is not a design waiver. Same thing with Mr. Thompson if we have a design a developmental standard that you're unable to meet that's when it will be flushed out and you either correct it and if not you attempt to gain relief but that relief also requires notice to the surrounding property owners pursuant to our ordinance. Another public hearing. I just want to make it clear it was not your intention but Mr. Thompson and Mr. Novotney do not exactly have a lot of latitude as they are reviewing. I know you did not mean to insinuate that. Basically, going through a voluminous amount of documents on a checklist to make sure everything is meeting all of the finite issues. So in a nutshell if this continues to progress what we would be relying upon is the our unified development ordinance and our storm water manual for whatever the rezone may or may not be correct?

Atty. Leath, That is absolutely correct. The design manual is many, many, many pages. It is very voluminous. The unified development ordinance is equally meaty and as you indicated Mr. McClure there is a menu. There is a checklist. What Mr. Novotney's office does is 98% science and 2% art frankly. The civil engineers just have to get it right and Mr. Novotney is the one who makes sure that our engineer gets it right.

Atty. McClure, Ultimately, the process is once Mr. Novotny and Mr. Thompson approve it to go to the primary plat at the Plan Commission just like any other primary plat process that's them saying we believe it's met all of it. Then that is where the Plan Commission gets a review of it to make sure that all of the ordinances and manual have been met and that is to just get to the primary plat.

Atty. Leath, The Plan Commission process or purpose in all of that is they're the ones who get to hear the public comment. That comment is received by the Plan Commission but reviewed in the light of what the ordinance requires and that is what we're trying to do today. We're trying to find out what that menu is with regards to the zoning for this property given the fact that utilities are now available.

Atty. McClure, And lastly I just want to use this as an example because you're on a concept plan we're here just on the very first step of what zoning that you would be then turning the page to follow the checklist on as far as the requirements you have a concept plan. You're not

going to be able to answer today exactly, where a culvert goes or exactly where a swale is. Just to be clear on the timing until you know the zoning that doesn't get engineered. So back to my earlier comment about this once if it gets past this then it goes through the meat grinder of storm water and Planning as far as that goes that's when...basically we are relying upon our ordinance which I think is a good thing that storm water has to meet our requirements. Our requirements I think our release rate is still four or five times the City of Valparaiso. Basically, take our storm water code which is the most stringent in the State and your client would have to meet those requirements. Mr. Novotney's job is to make sure that your client has met those requirements. If they want to seek relief from those requirements, again we have another public hearing with notification.

Atty. Leath. That is absolutely correct.

Com. Good, Now I think we are going to move into the public comment portion. We are going to limit the time to 3 minutes. We all know that we have storm water issues that need to be discussed but I think what we're trying to eliminate is the repetitiveness of what is going on. I know we all probably have better things to do but we're just trying to make sure it is precise. With this, many people speaking, we need to put some time limits on it.

PUBLIC HEARING OPENED

Com. Good, Is there anyone wishing to speak in favor of this rezone? Second call anyone wishing to speak in favor of this rezone?

Mr. Williamson, My name is Dean Williamson I live at 333 East 400 North. I'm just asking for clarification to the 146 homes per 80 acres, but then you have 32% open space so what is the actual acreage per home? You know I'm just kind of...that doesn't really add up it's a great number if you want to use it that way but um it really doesn't seem to be factual. It's a little off. I mean I just want a clarification on that.

Atty. McClure, Let's let them ask their questions and then they'll take notes and they will answer them between Mr. Thompson and Mr. Leath.

Com. Good, Third and final call anyone wishing to speak in favor of this rezone? First call anyone wishing to speak against this rezone?

Ms. Pace, My name is Deborah Pace. I live at 449 North 325 East, which is adjacent to this property. I wanted to talk about the character of this area because I know all of the specifics about flooding and traffic and so on are going to come from other people. I am here to talk about the character and when Mr. Leath talks about suburban development and urban sprawl, he obviously has not driven through our area because that is not what it is. It is a rural residential area and I implore all of the Commissioners to drive down 325 East and 500 North on the areas adjacent to this property to check it out for themselves. We are all single-family homes on large lots compliant with rural residential. I see no reason that this developer needs to change the zoning law to put in a development right in the midst of us. This is not a vacant lot that's on a corner with nobody hardly around it this is a lot that is surrounded by homes that are rural residential. So why not build this development according to those criteria not change the law to allow 146 homes to be put in the midst. We moved to that area 28 years ago and I have watched that field. I've watched soybeans and corn grown in that field for 28 years and I knew that the day was coming that I'd have to watch houses be planted there instead. I can't fight that. I have no right to fight that. The land has been purchased it will be built on but I do oppose changing the zoning law to profit the builders. It is of no benefit to those of us who live there to put in that many houses. Mr. Leath also talked about making or somebody talked about making Mr. Novotney happy and making Mr. Thompson happy. Well what about making the residents happy. I have petitions here signed by people. We had over 350 signatures of people opposed to this rezone not opposed to the build but opposed to the rezone. Our voices should matter and I would hope that the Commissioners who represent us are listening to our voices. Thank you. Good morning Commissioners.

Mr. Tripp, My name is Steve Tripp. My wife and I live at 350 East 500 North here in Valparaiso. I come here today opposed to this rezoning. I am just going to show some basic things but I know you can't see this but the 80 acres is here which, is a lot of houses. Then there's also subsequent development that'll probably happen on another 60 or 70 acres that will be coming forth over the next coming years. I just want to really quickly clarify 80 acres of total land is obviously set up for development. I'm not an engineer or a mathematician or a scientist but I was just figuring roughly 40 percent of that land or about 32 acres is going to be needed to put in streets water retention and green space. So that leaves 48 acres remaining for home site development. If you take those 48 acres, divide that by the 146 homes that comes up to 3.04

homes per buildable or usable acre. We get in our area I just looked up on google about 40 inches of water rainfall per year. So assuming most of the 40 acres is going to drain off the development. Now into other areas this would total approximately 52,356,680 plus or minus a few thousand gallons of storm water to be diverted to neighboring properties in the area and that is just from this particular parcel. That land also drains another 40 acres just north of that parcel goes along my property as well as across 500, which will probably be a future development as well. Here today I want to really quickly reference since Rick Trapp who unfortunately couldn't be here today did send a letter in March of this year to Monica Gee the zoning administrator and I'm just going to say his words that he said in this letter which probably all you may have all seen. It is about storm water in his area and I know we're all working on that and concern but his comments were there's no legal drain maintained private path or natural favorable grade for drainage of this new development called 325 LLC. We have a lot of storm water coming out of this area. I am not going to read the whole thing but I was also forwarded some pictures of flooding. Obviously, nobody can see this but there is a lot of water that the neighbors south of this development on 325 have to endure constantly. It comes from all directions. From the east, from the west, from the north. So to summarize my recommendation is that the board deny the zoning for the R2. I would be in favor of a more favorable different type of zoning since we are only looking at three homes per acre why could not we consider then an R1 or whatever you know to be three homes per acre and that would still satisfy what they want to build. Any sewage and water requirements for city utilities and have 15,000 square foot per acre per lot instead of 11,000 which would be four units per acre which would probably happen in the future. Thank you very much for your time.

Com Good, Thank you sir.

Mr. Gray, My name is Jason Gray I live at 395 Barts Rd. I would like to point out a few of the misrepresentations that Mr. Leath has brought to these meetings in the past. First as to the character of the neighborhood and his proposed development, he talks about the Hawthorne Subdivision as being a fair comparison to what we have and what they want to build is not a fair comparison. That Hawthorne Subdivision is a part of the City of Valparaiso. We are Washington Township. We are not. Also, that is a very densely populated subdivision. If you look at the ones nearby the proposed build site, you look just to the south on the other side of the stop sign there is Augustine Subdivision. Beautiful homes, beautiful place to live. They are spread out and they comply with rural residential zoning which is what we have. Hawthorne does not. Also, he has talked about the ticking time bombs as he refers to our well and septic systems. Most of the time these well and septic systems are good for the life of the house if properly maintained. I would like to see how the city services at Aberdeen compare to that. Should we ask those residence? I've never been on a boil order. I have never had to replace the septic system and I have been on a well and septic my entire life. Then he comes here and throws out these what he calls facts. They are absolute lies for the pure benefit of what they are trying to build just so his client can make a profit at our expense. We do not want these things in our neighborhood. Running these services does encroach on people's property. We don't have city services in our yard. We do not have government machines out there digging up our property, putting these things in the ground, tearing up our trees. It's going to cause erosion issues as they dig these holes to put these pipelines in tearing up the root systems and backfilling it with sand which we don't have what's the runoff of that and that is not going to go under Mr. Novotney's evaluation of the build site because it's not on the build site. We do not want this stuff in our neighborhoods. We have come to you and begged you not to do this to us. Please listen to us, protect, and uphold the laws that are meant to protect us from builds like this. Thank you.

Mr. Fellas, My name is Nick Fellas. I'm just north of this on 535 North 300 East and we all know there's problems there. First off, I sent messages to all three of you and Mr. Biggs is the only one who responded. I thank you. Pay close attention to the last two pictures. Years ago when dealing with Mr. Breitzke he made the comment they cannot undo what's already been done but they're going to pay attention in the future. Well we all have a lot of flooding around there and if anything additional enters these unregulated ditches across from us, it's going to be a nightmare. Along with it, 45 acres just sold across from me that are going to be developed on the corner of 300 and 500 the original acreage there where the Saint Mary's was built. Then the second partition and there's a third partition that was going to be approximately 300 houses which at that time was being talked about. Section 8 housing I don't believe that right now the farmers have not done anything with it. Why is that, because there is going to be some houses there? This Heirloom Subdivision on the north side, there's two streets that stop. In the last meeting, Mr. Leath made the comment that he wasn't really sure. Well if this subdivision is approved you know those roads are for the next addition to it so that whole area around there is going to become housing and then finally as I've said in the letter to you guys traffic right now in front of my house is almost like a drag strip. I welcome any of you to sit my driveway for an hour and watch. So what's going to happen with these additional subdivisions? People coming from the north on Rte. 49 they're not going to go up to the stop light at 500 they're going to turn on 600 and come down 300. I'm serious you should see how some of them come through. That's pretty much all I have to

say. Again, did you see the last two pictures? I don't know how it happened but that was after the flooding almost all the way up to my house. Did a bird drop it? Did the water? Thank you. They don't know it but we're talking about a fish flying in my driveway.

Ms. Piante, Hi I'm Wendy Piante. My address is 445 North 325 East. I'm the adjacent property to the subdivision. Just a few. There are beautiful subdivisions in that area with homes on an acre plus properties with well and septic. I do have a question when you said I understand the water issues that there's other steps that it goes to however, doesn't it have to be re-zoned first before we go to that so once it's rezoned we can't go back. I just don't understand what is the advantage to changing it. We moved to that area for that reason to keep the world residential because we don't want to have all the city utilities. I don't understand if you change the zoning then we're going to worry about the water issues and all the other issues. Shouldn't we be proactive instead of reactive? Thank you.

Kim, My name is Kim. I live at 44 North 325 East. The classic definition of spot zoning is a process of singling out a small parcel of land for a used classification totally different from that of the surrounding area for the benefit of the owner of such property and to the detriment of other owners. Spot zoning is in fact often thought of as the very opposite of plan zoning. When considering spot zoning courts will generally determine whether the zoning relates to the compatibility of the zoning of surrounding uses. Other factors may include the characteristics of the land, the size of the parcel and the degree of the public benefit. Perhaps the most important criteria is determining spot zoning is the extent to which the disputed zoning is consistent with the municipality's comprehensive plan. I have passed to you some pictures retrieved from the Porter County Department of Development and Storm Water Management website. It shows on the website that this information was last updated on January 12th of this year. On Page 1 you will notice that on the east side of 49 in all of Porter County particularly the proposed area there are no other R2 developments there are several R1 developments with larger lots and are compatible with the surrounding areas on Page 3. I have highlighted the proposed subdivision in pink. The subdivision to the south of the property, which is called Eastwood and highlighted in purple, would be utilized by any resident within the proposed area as an entrance/exit. It has about the same acreage but with only 64 homes. I again refer to spot zoning and how the proposed subdivision is not compatible with the existing subdivision that it would be connected to my previous house, which is only 1100 square feet on a third of an acre. Such as the lots that are being proposed. I know what it is like to live on a third acre. Even if a bigger home were to be built on these lots, the homes would definitely be well within the 90 feet of each other that the attorney mentioned in a prior meeting. While looking at the sketch plat on Page 4 there is only one lot on a rounded corner that measures in at almost half an acre or 0.46. The vast majority of the lots are a quarter acre in size. At the two prior meetings about the proposed area the attorney showed a graphic showing how 61 football fields would be inside 80 acres. I say to everyone that if you want to see how much 80 acres encompasses go drive through Eastwood. It is every bit the same size. Please consider keeping

the proposed area RR or at least an R1 at the minimum. Just recently on the corner of 325 and 400 it was proposed to have four lots but they have reduced that to three lots with three acres each. The buyer has bought this land with the hope of rezone too. Please don't let it happen and remember spot zoning and all the people who live there now. Thank you.

Com. Good, Second call anyone wishing to speak against this rezone?

Mr. Pitcher, Hi I'm Jim Pitcher. I live at 444 north 325 East. You know it's striking to me how many people have come to oppose this and I ask the Commissioners how many have come to support it other than the developer and his hired attorney. I said that speaks that speaks volumes in my opinion. There aren't many things in today's political system that liberals and conservatives can agree on but one thing that most people agree on is the fact that constituents don't believe that committees and their elected officials are actually representing their interests. This is an opportunity for you to do that. Come on folks you know there might be a reason why at the national level even and even at the state level that the representatives are detached and not necessarily close enough to the problem to see what's going on. This is not the case here in Porter County. You guys can drive by it in a 5-10 minute trip there is no excuse for not recognizing the impact to the community to the neighborhood and we are asking you to be part of the solution and not create a bigger problem as has been described by some of these other folks. So you know I've been told but more than once by folks that live in our area this committee is going to rubber stamp this. This has already been decided. The people with the money are going to win and the neighborhood is going to lose. I hope they are wrong. I look around, I look at these folks, and I hope they are wrong because a lot of people care about this. For 30 years, I lived in a subdivision hating every minute of it and finally three years ago we bought our house. Three years later now we're hearing that they're going to essentially turn our neighborhood into the same thing that I spent 30 years trying to get out of. Come on folks is this really the right plan for this zoning plan. I mean it is just frustrating. I'm asking you to support the people that have gone out of their way to share how important it is to them not to change the character of our

neighborhood. Please don't let the money associated with the developer change the master zoning plan. There's plenty of property in the Valpo area more appropriate for an R2 or higher density homes. My father was a building contractor and developer for 50 years. I'm not against development by any stretch nor most people are here but you know the attorney said that this is the only thing that can work that's a bunch of garbage. The guy that built my home happens to be a friend of ours. He as well as my father said the same thing the developer that's talking about doing this has a backup plan. There's still other things they can do and still be profitable. It doesn't have to be an R2 subdivision. Please be good caretakers, be consistent and be good leadership for the community. We're asking again I really think it's important to the neighborhood and we're asking for your support. Thank you very much.

Mr. Newland, Hi I'm Roger Newland at 420 North 325 East. I thank you thank you my friend. I don't know how I can do any better than that. Just a couple of things. Most things have already been covered I'm sorry about that but given the level of the traffic on the surrounding roads right now this traffic is going to be just incredible. Think about how they're going to come out on 325 and for the poor folks that live in that subdivision coming down through there that's just unacceptable. Especially from a safety standpoint and the extra county highway maintenance involved. What exactly is the comprehensive plan today? We've heard about that and it's 20 I guess. As I understand about 20 years old, what is it right now today and that is a plan that does not take into consideration school population density. I don't know that that's really an acceptable way to operate to be honest with you spot zoning this is. Kim went through a detailed thing about spot zoning. Thank you Kim but this is just an example of exactly what they're talking about. It is about zoning and I understand spot zoning is not illegal in Indiana as I understand it but it is generally accepted as something to be avoided and the positive comments well that's pretty obvious I guess look at how many positive comments there were. Not even the developer is here to make a positive comment on his own. He is not required to be. I'm not saying that but boy, you would like to have a little bit of enthusiasm, a little bit of heartfelt (inaudible) or somebody say boy if I could only have a house I could afford out in Washington Township. This is going to let me do it where the advocacy groups that are speaking for this development. I don't see them. I haven't heard them. I haven't seen it but boy there's been a lot of comments on various social media sites. I have not seen any positive comments. Thank you.

Mr. Hitnick, My name is Josh Hitnick. I live at 376 E. Augustine Dr. To let this property be rezoned to R2 is just going to open the door for surrounding properties to be rezoned as well. City-sized lot do not belong in the surrounding rural areas in the county. At the April 27th meeting, Mr. Leath showed some comparable subdivisions with comparable lot sizes but what he did not make clear was none of those comparable subdivisions were in Washington Township. Another thing to consider is an impact on our local schools. Children in the subdivision would go to Washington Township Schools. It's my opinion the schools can't handle that big of an increase in kids. As far as roads go and drainage I can see a few problems stemming from the subdivision with this many homes. 325 East, 400 North, 500 North and 400 East are all narrow roads that already have a good bit of traffic for what they are. These roads will need to be widened at the very least to make them safer for the residents especially with adding that many high school drivers. Now the concern that a lot of people are having with storm water drainage we've heard numerous people bring up concerns at the meeting on February 23rd. I was one of them. The creek that runs through Washington Township serves as a major purpose in carrying the storm water away from the area. I haven't seen any major maintenance done to this since I've been in my home. The creek overflows yearly flooding people's yards, retaining ponds and roads. The creek has downed trees, weeds and debris throughout the entire length. The creek also needs to be dredged and cleaned. The culverts need cleaned out as well. One question I have is if this is rezoned, will the owners of these city size lots have to pay the storm water system user fees of \$120 a year like the rest of us.

Atty. McClure, Yes, I can answer that one.

Mr. Hitnick, I'm glad to hear that. I strongly urge the commissioners to deny the rezoning of Heirloom Subdivision. The residents of Washington Township do not want a city subdivision in our township. It will open Pandora's Box. Please listen to the township residents. Our voices strong and clear. We oppose the rezoning of the property located at 325 East 500 North. Thank you.

Ms. Brudusky, Hi my name is Kathy Brudusky, I live at 437 Northfield Lane, and that is the Eastwood Hill Subdivision. I've lived there 32 years and I'm less than a year from retiring. You put this subdivision in and I'm going to have a street that is no longer a dead-end subdivision street quiet and peaceful day and night. I sent in a letter along with several signatures from those people who live on Northfield Lane to not have this subdivision go in. You're talking about approximately 300 cars in it for the whole subdivision. Even if you took a quarter of those and took 75 cars up and down my street every single day back and forth it would just create havoc and danger. We have no sidewalks, our kids play in the street, and they ride their bikes they are

back and forth across yards. My grandkids are there now with me. I just tried to represent the people that lived on Northfield Lane but I do not want this result and I ask that you please do not rezone this to an R2. Thank you.

Mr. Ellick, Hi my name is Dan Ellick. I live at 423 North 325 East. Everybody's been talking about the same stuff. I apologize for the repetition but do you guys ever drive these roads? I mean it's like I remember the fight with the apartment complex that went up right next to 49 and guess what they took care of the road right up to the apartment complex after that and it's crap. I mean we could just drive it. I do not know how your snowplows survive the winter. I mean with their blades scraping and everything it's like it boggles my mind and I've got a snowplow. I've got to maintain it. You guys have a whole county full of snowplows but you go to the stop signs....like she said we got no sidewalks. Our streets are narrow. Guess what there's no edging on them if you go off you're probably going to end up in the ditch because a lot of people do. Septic longevity you guys go through all that every time septic plans are approved for houses. Everybody has to prove that their septic system is going to be reliable. It's going to be adequate. It's going to have extra capacity. Nobody goes for a minimum the lack of any positive support for this project is staggering. I usually don't get into government etc. The other thing is about spot zoning. Doesn't that generally indicate something small not 80 acres? I mean I don't know what the requirements are I should have looked it up but spot to me indicates like oh 5 to 10 maybe 20 you know. We've got a new subdivision going down on 325 at Evans that's all there. Guess what is going to happen it must be approved. The other subdivision they were talking about off of 400 where does all their runoff go into our backyards. I mean they talk about the creek. I remember when my kids were small they would go play in the creek, go play down at the creek. You know when it floods it's not a small flood. It already crosses 325 and floods that out almost annually. Like I said I wish you guys would drive the roads because I don't know 20 ton dump trucks aren't going to do it any good. Nick is a good example. He sees it on his street 300. It was zoned residential R1 rural residential to begin with for a reason. Why does that have to change? There is lots of vacant land all over Porter County you guys approved stuff years ago. On the other side of 49, at 500. Nobody has done anything with that. It just sits there with streets and nothing. I am not one for urban sprawl. I do not think that the suburbs of Valpo need to become urban. I rise in opposition to the zoning request. Thank you.

Ms. Conley, I'm Betty Conley. I live at 318 East 500 North. We have lived there since 1966, 56 years. The land we live on is was an 80-acre parcel. It's across the street on 325 and 500. That person subdivided those lots that 80 acres into 13-acre lots. An acre a lot but nobody bought an acre lot. Eight and a half was the smallest. Three acres, five acres and now across the street they want to do all this small housing. Our children used to ride their bikes on 500 North. It is so busy now people can hardly cross the street to get to their mailboxes. So I ask you to decline. Thank you.

Ms. Furless, My name is Judith Furless. I live at 535 North 300 East. I am opposed to the R2 rezoning. We need to maintain the integrity of our rural area. Washington Township is like a beautiful quiet rural area. Last night I had a deer walking through my backyard. We do not need re-zoning that is going to result in an area like Hawthorne, which has a very high density of homes. Cookie cutter style homes. All on top of each other that would just ruin the ambiance of our whole area. It is beautiful, it's quiet, and traffic creates noise at night when you're trying to sleep. It's peaceful you don't hear vehicle traffic all night long. I think that we need to really think a lot about what R2 would do to that area. How it would it, impact it? Has there been any type of impact study done to see what's going to happen as a result of it, of a development like that you know the impact on the people that live there. On services, all of these things should be considered. Another thing too I think that the developer should have more of a plan in place before they start asking for the rezoning rather than get it rezoned and then look at a final plan for what they're going to do with the development. I just think that that's kind of putting the horse before the cart. So anyway, once again I am opposed to the R2 rezoning. Thank you very much.

Ms. Fleege, Hi good morning my name is Arlene Fleege and I live at 548 North 450 East. Two years ago, we sat in front of this very Board and the reason why we sat in front of this Board was because we were subdividing our land. Also, we had to privately fund all of the soil sample testing's, topography testing's, all of the testing only to subdivide for three neighbors that's it on 20 acres. Now it sounds like there's a checklist I heard that this particular development has to complete. However, we do not know what the results are for that and so if you rezone this then you are pushing the ball forward rather than having all of the answers before you make this decision. We had to do that privately and we did not receive funding from the sale of 140 houses to do that. It was a risk we took for neighbors and we still have the same zoning in our area. Thank you.

Ms. Perrin, Hi my name is Julie Perrin. 530 East 600 North. I'm here to ask you to consider the negative effects of adding the children from 246 families into the school. There's

physically not room for the children and that many homes. So if you consider the average family is two and a half kids, some might have zero. Let's say one kid per family per house with 146 houses that would be about 12 kids per grade headed into Washington Township School. There's not room for that. As of this school year that just ended, there already was not enough space in my child's classroom. So all this information is coming from inside the school. In my child's classroom, there already was not enough space for all the kids to put their stuff in the closet. There was already one kid putting their stuff in the teacher's storage closet. So imagine adding 12 more kids into that classroom. Where are they going to put their stuff? Where are the kids actually going to sit in the class? Second, the cafeteria is crowded and it is impossible to add another lunch period because the first lunch is already served at 10:35 in the morning so anything before that is breakfast. Where would those children 12 per grade on average from those houses eat? Third, much like the rest of the school the playground is already too crowded. My child tells me that every day at least one child from his classroom returned from recess late interrupting class because they needed medical attention from the nurse. In my own family, there were multiple injuries this past school year due to overcrowding on the playground. Two of the more serious injuries were a busted lip for which my child had to leave school early to get medical attention at an urgent care facility as well as a concussion in my other child, which can cause long-term damage and caused my child to miss school and my husband to miss work for her care. This was due to overcrowding on the playground. My child also saw a student removed from the playground on a stretcher due to an injury caused by overcrowding on the playground. I urge you to keep the current zoning regulation. It is not physically safe or academically prudent to squeeze the children about 12 per grade into the already crowded classrooms, cafeteria and playground. Thank you.

Ms. Cusmic, My name is Penny Cusmic. I have a home at 258 High St. in Valparaiso and I was going to mention I don't have a dog in this fight. I've just been coming to every meeting and anybody that is here can attest to this. We have come to everything since last October when we decided to get involved. I will mention that I agree with these people that the storm water issue is clearly a strong point and from my being here all this time, I have listened to the reality that Porter County does not have enough money. Its way far out of what is reasonable to deal with the problems that exist in Porter County at this moment. There is lots and lots of issues that they do not have at this time money to fix and if you create another problem all these people are correct in the fact that no one is going to be there to fix this problem for them. I think it needs to be. It is a reasonable request for these people not to change the zoning unless you've got money to help them out if you create a problem for them. So then the second thing that has developed and it has been brought to my attention that when developers do not put the project in correctly and do not spend the money that they need to fix the problem ahead of time. That eventually when the problem gets expensive for people in the subdivision that they do something called giving it as a gift to the county which then puts the responsibility of fixing the problem on the entire county and not only the development. I think Valpo is a wonderful town. I can't blame people for wanting to live here. I've enjoyed living here since the 70's but this is a reasonable request on the part of these people. Thank you.

Chief Host, Good morning Chief Robert Host up with the Washington Fire Department. I live at 3703 Engle Dr. These people have legitimate requests. They don't want it. From my standpoint of emergency services, we're all volunteer. Quite a few years ago, the City of Valparaiso approached me and wanted me to join their fire territory. I told them to go pound sand and I'll tell you why because every one of your taxes would have went up three times the limit and I said no I can't do that to the people who take care of us out in Washington Township. We all know that EMS division is having difficulty staffing. We all know that county police they are going to have to add more people. They are not going to be able to do it. It is hard enough now for us as volunteers to respond. We do a damn good job for this community but I am coming to Mr. Leath to take to the developers what are they going to do for us as the volunteer fire department, EMS and County Sheriff? They just want to build. They just want to move people in. They want to collect money. Okay whether that's right or wrong I don't know we're not going to be able to survive 140 some homes with the population that's going to happen and everybody around that area knows now that their taxes are actually going to go up because of the development. I for one don't want to keep paying higher taxes. Nobody does in this room. Even I know you guys don't either but please consider that these people have genuine hearts and they're here. I wasn't going to speak today but I think on behalf of the residents of Washington Township. I'm speaking on behalf of their public safety and they need to know that we can be there when they need it. Thank you.

Ms. Newland, Gail Newland. I live at 428 North 325 East. A few items that I'd like to discuss today. It is kind of a wrap up of what we've all spoken about and one of the things of course is I guess what we disagree with Atty. Leath on what they really want because his comment was this is something that we need and we want and we want it because there's two million reasons why. However, that's an expense that will come back to the builder and the developer. For \$2 million, we shouldn't have to be the people who make that builder whole and it

seems like we're kind of paying for our own lots and homes all over again in this boat if this were to go through. We have to also consider in our area that when the City Water and Sewer goes in Atty. Leath said that the owners there would not be paying Valparaiso taxes. They'd only be paying for the utilities now. How can that be if that might be the case for maybe three or four years until the waiver kicks in that has been signed? The waiver that goes with that property forever and they promise not to ever oppose any annexation to the City of Valparaiso that's only a finite period of time. I spoke with the Auditor's office this past week and confirmed with them that the tax rates would go up for Washington Township. Right now our 2022 it was 1.4909. The tax rate for Washington Township if there were to be annex into Valparaiso would increase to 2.6732. That does not include wheel tax. The additional tax was just approved about a month ago and the referendum that's in place that Washington Township did not get a chance to vote on yet we would be charged for taxes for both of those and our children would be going to Washington Township Schools. It's not necessary and the perfect thing is to keep it like it is an RR zoning and move forward with that. Adjust your cost of doing business some other way. I appreciate the time that we've taken today. For you I strongly urge you to deny the request for the reselling. Thank you.

Mr. Williamson, I'm up again. Dean Williamson 333 East 400 North. I don't know if you guys remember this you probably weren't even on the Board back then but it's been probably more than 20 years ago and I can't remember the name of the subdivision that's there now but it's the one that goes up off of 400 up by the church over there. Meadowbrook. We were in this exact same position back then wanting many more houses on that subdivision than is allowed. Now that's a beautiful subdivision right now and where there isn't any problems but the houses are on way bigger lots than was originally plotted out for. The Board voted against all those houses so you know it's kind of a little bit of a legal precedence there. We know all about that. You know for a fact that the storm water thing that's a big deal for a lot of people but we know that you guys won't let that slide. That's a huge deal and the fact that the city is going to have to be working really closely with the County on that park area because that's all water that flows through the same spots. The last concern I basically have is that intersection at 325 and 500 can barely sustain what it has sustained. What it has now it's....I don't know how you could fix that without buying properties in that area to fix that because it's going to have to be roundabout or something much bigger than what it is now. There's drainage ditches on both sides of that road and it's going to be a tough one. Just those things that's all I have to say for now.

Com. Good, Third call anybody wish to come forward and speak against this rezoning?

Mr. Powers, I'm Bill Powers. I live at 411 North Hill Lane. When I moved there, it was simply because it was a new place that was outside where all the traffic was and everything nice and quiet suburban. You know way away from all the stuff that's going on. Since I have been there, I have loved it because my kids can go up and down the street. That is what I love but if they put that in and put North Hill Lane as a through street that's mayhem. Thank you.

Ms. Vogel, Good morning, my name is Tammy Vogel of 542 North 450 East. I am just up here because everybody has pretty much addressed everything that I was going to talk about so well done. The only thing that I would bring up is two things actually. Green space I know that's a big happy point in this development. I would say that if you stick with RR everybody will have their own green space. They can plant their own gardens. They can have their pools. They can have their chickens. They can do what rural residential calls for and that's to live on the land the open land. Then the other thing with the park. I know the parks going in and I know people are kind of mixed on whether or not they want that there, don't want that there but regardless it's going in so

I think it could be an asset for the community but that being said because of 500 and how busy that street is there will be no way for children in the area to make their way over to that park because of how dangerous 500 really is and 325. You know Washington Township is great. It's going to be there but we will have to as always get into cars and drive to the park that's going to be essentially right down the street from most of us and certainly from the subdivision but unless the counties have been planning to put in sidewalks down there I don't know if that's the plan. As somebody said they would have to go into properties because properties line 500 there as well. That's all I had to add. Thank you.

Com. Good, Any others?

PUBLIC HEARING CLOSED

Com. Good, We have some questions here that we need to have answered so we'll turn it over to Bob or whomever.

Mr. Thompson, Hawthorne was not developed in Washington Township that is true but it was developed in Porter County at that time. When it came in for the approvals, it was in the

unincorporated area and it came through the Porter County Plan Commission. The operator annexed that when they were developing I think it was Phase 3 of that particular development. Originally, it did come into Porter County. A question came up, what is a comprehensive plan and why is the school density not considered within this comprehensive plan. It is very simple State law does not allow you to give consideration. State law gives you all of the items that you are allowed to consider within a comprehensive plan and a schools density is not one of them mentioned. The checklist for subdivisions we do have upstairs. We do checklists for all subdivisions whether it is an RR, whether it is a small one administrative minor subdivision, major subdivision, RR1 and RR2. We have checklists for every single development that comes through. It is Storm Water and Development so those are the one things I had written down that I felt I should answer so at that I'm going to turn it over to Atty. Leath. Thank you.

Atty. Leath, We started this morning with a question with regards to 32 percent and it doesn't add up. I had indicated and our concept plan shows 32 percent open space and that is true. So 32 percent of the acreage of the 80 acres is open space. From there we have a road network and we have other easements throughout the subdivision. As we indicated storm water is a great concern and when we get to the next step if you allow us to do that we will engineer the detention ponds to capture the water and hold it back pursuant to all of those standards. The storm water design manual Mr. Novotney will review our engineering plans over all of those then are taken out. Then we have the lots. The 146 lots vary in size there are corner lots that are larger and there's some lots on the interior along the road that are smaller. They're all over the 11,000 square foot minimum requirement under your zoning. I would say that the average lot size is between 12,000 and 13,000. We can't have the 15,000 and still maintain that great what we believe quality of life issue for the residents not only of the neighboring subdivisions that have the buffer yards and open space protections but of the 146 future residents in the subdivision. They'll enjoy all of those 32 percent open spaces. So that's how we get to the math. To say that we have 32 percent open space but we have 146 lots on those. Not all of the lots of the acreage falls into the lots. So then the other comments that there was a comment and I'll try and kind of touch on topics rather than necessarily go through but the character and or urban sprawl. I stand by my earlier comments if we continue to require one-acre lots in Porter County regardless of whether or not sewer and water is available we're going to perpetuate urban sprawl and this is an area that in my opinion is not in the suburban density. It's actually urban fringe because of its proximity it's a quarter mile from the City of Valparaiso. I think that if we think that this is not going to be in the City of Valparaiso in the next 20 or 30 years that's probably not true. We know that in the last 20 years the city has come three quarters of a mile into Washington Township. That's likely going to continue as development continues that's just the natural progression of cities and towns they grow. What we're doing in my opinion is providing for a density of 1.8 homes per lot if this were developed in the city under the city standards. We're going to have much much more than that and as Mr. McClure alluded to the storm water requirements in the City of Valparaiso are not as stringent as Porter County's so we've got less drainage controls and more lots if we wait to develop in my humble opinion is that a threat? It's not meant to be. It's just simply a reality that cities and towns will grow and I believe that your job with the help of your comprehensive plan is to plan. You don't plan for today you plan for the future and that's what this request is about. It is to allow us to extend the utilities into this area so that we can develop with smaller lots and maintain the great open space and character we think works well. It was mentioned by the others I didn't mention it but the City of Valparaiso and their park 248 acres I think that's a game changer. Honestly, I think utilities is why we're here and why we can ask for this realistically and meet your comprehensive plan. That city park as well makes it easy unfortunately. Mr. McClure caught myself and some of the folks from the public as well when I referred to making Mr. Thompson happy and making Mr. Novotney happy. That was just a colloquialism for following the ordinance and the checklist. They have to be satisfied that's the better word that what our plan shows meets your ordinance and trust your ordinances. As Mr. McClure says, it's absolutely true. It's the most stringent storm water management plan in my three counties of practice that I see and I've heard it said it's the most strict in the State as well. There was a suggestion that I had misrepresented facts. If there is a misunderstanding, it certainly is not intentional. I don't believe I've made any misrepresentations whatsoever. I stand by my PowerPoint and my statements and the suggestion that Hawthorne Subdivision is not analogous. I think is not true that's not misrepresentation. That's just simply a difference of opinion in my in my opinion and Mr. Thompson commented on Hawthorne. There was also a suggestion that I didn't provide in Washington Township subdivisions our analysis. That's not true. On one of the slides at the Plan Commission, we had four suggested densities or charted those. Interestingly enough the two most dense of those four comparisons were Washington Township subdivisions. Augustine Subdivision has been touted today as a model as to what this should be. The only problem is it doesn't have sewer and water it's on septic systems and as I've said all along that's the game changer. There were some comments with regard to storm water and flooding and as we have said before allow us the next step and we then have to comply with the strict standards of your design subdivision. There were some comments with regard to spot zoning and there was a follow-up comment about 80 acres and spot zoning. That's exactly what I was going to tell you I don't believe that 80 acres being rezoned is spot zoning. The gentleman was also correct. Spot

zoning is not illegal in Indiana it is bad planning and he's right about that. I'm not here to suggest that this is spot zoning by any means. I believe that spot zoning is when you take a different type of use and put it inside or around competing uses. Two homes are not competing uses regardless of their lot size. If I were asking to put a manufacturing facility or a gas station in this location inside of a residential community that may be spot zoning. When we're talking about three acres we're talking about a residential change of zoning. In a residential community, that's 80 acres in size. I do not believe that that is spot zoning. Mr. Thompson indicated to you that your comprehensive plan is the State law that he alluded to suggests that you look at five things. Four of them are subjective. I believe that the comprehensive plan and I show that to the Plan Commission in my PowerPoint but your comprehensive plan suggests that this is suburban development area and it suggests that in that area that area you have two to three homes per acre. We are underneath that. We are 1.8. Even if you acknowledge or accept the fact that it is exactly, as the zone map suggests or the comprehensive future land map suggest. There was a suggestion that our concept plan is going to pick up a dead end straight from the south that was put in by the developer of that subdivision uh under the rules of the ordinances at the time and it is there for good planning. To provide for secondary access in the event of emergency services and traffic flow. That is what we believe that your ordinance requires us to do. That is what the concept plan provided for. Again, that's all going to be worked out when we go to the plan commission looking at the subdivision requirements there has not been an impact study done. Impact studies are federal laws and those are required for extremely large projects and are typically geared towards environmental impacts. We've not done any impact studies and they're never required under any development, under any ordinance, under any classification. There was a comment by one citizen that they had to go through a detailed review for a month what appeared to be a minor subdivision and why can't we do that now before we rezone it and what we've talked about is we have to have the correct zoning. For her minor subdivision, she had the right zoning. So therefore, she went to the planning stage and there was a review by just exactly what I described earlier Mr. Thompson's office and Mr. Novotny's office of her minor subdivision. We're going to have the same type of review. She had three homes multiply that to get to the 146 and we're going to have that level of detail, that level of scrutiny when we have those reviews as well. Mr. Thompson commented on the schools. I'm confused and I'm glad our auditor is here with regard to the taxes but the development of a 146-lot subdivision will not raise the taxes in my opinion of anyone.

Atty. McClure, Let me try to maybe make sense of that. The 80 acres if it were to be annexed into the city would then have a different tax rate than unincorporated Washington Township. I believe that is most likely what the auditor's office reported which was going to be one of my questions for you to answer. I do think it's a good question for the citizens to understand the reality and the reality would be that this 80 acres would have no remonstrance petition or the file, those are good I believe now for 15?

Atty. Leath, 15 years I believe.

Atty. McClure, Then they expire but assuming the City of Valparaiso could find itself in a position to annex this 80 acres. Am I incorrect that it's only these 80 acres? That does not mean that you're no remonstrance petition signings by your property owner developer does not mean that all the people in between the city line and 325 East are just going to be magically put into the City of Valpo there would be a separate process for that.

Atty. Leath, To annex under the current law this property does not have the requisite contiguity or it does not touch the existing corporate boundaries of the City of Valparaiso so it cannot be annexed.

Atty. McClure, And if it did they can put themselves in a position that that hurdle is met.

Atty. Leath, Yes.

Atty. McClure, What occurs to the surrounding property owners that are not in this 88?

Atty. Leath, Well if the law allows them to hop skip over to this 80 acres then the surrounding property owners would not be in the city and they would not pay city taxes.

Com. Blaney, To be clear Valpo cannot annex anyone who doesn't want to be annexed right who doesn't agree to unless they've signed this waiver.

Atty. Leath, Unless they've signed a waiver and there's simply no contiguity today. Now there is a law we've all read about it with Aberdeen. I have researched the requirements for that. Special legislation is not permitted in Indiana. That law is written to target Aberdeen but some of the things in that could possibly apply here but they don't.

Com. Blaney, I think our point is that people who are in this room who may not want to be annexed and have their tax rates go up that's not going to happen unless they agree to it.

Atty. Leath, Can't happen to it and even if it were annexed.....

Atty. McClure, What are you saying this 80 acres?

Atty. Leath, Even if the 80 acres even if these 80 acres were annexed the residents here in this subdivision in Heirloom Subdivision as well as anyone in Washington Township will not pay the referendum because the referendum is a school referendum and Washington Township has their own school district. The City of Valparaiso has residents in Washington Township who don't pay that referendum because they're in Washington Township and their kids go to Washington Township schools East Porter County. So the school referendum never touches it, never becomes an issue because the school referendum can't possibly touch Washington Township. If the city of Valparaiso does annex into Washington Township and they have then those residents pay city tax rates and not the county tax rate.

Com. Blaney, But they can't be hostile...

Atty. Leath, They can't be hostilely annexed.

Atty. McClure, So if you're a property owner sitting across the street from this potential 80 acre division unless you have a different want or a different agreement with the City of Valparaiso it's nearly impossible to be annexed hostilely.

Atty. Leath, Under the law as it is today and annexation law is changing. It's one of the most fluid areas of the law certainly in the area that I practice in and it's becoming harder.

Atty. McClure, Yes. The process has been trending towards more difficult.

Atty. Leath, Absolutely true.

Atty. McClure, But not less difficult. I'm trying to make sure the citizens understand no matter what this board does as the law sits right now they're not going to be paying the referendum school rate in the City of Valparaiso because this is Washington Township and the children go to Washington Township schools. The only way you are going to these individuals in Washington Township would be paying the city tax instead of the unincorporated tax would be if they were annexed. The only way to really become annexed...instead of having an eight-hour law class right now it's nearly impossible to hostilely annex a private property owner. In this circumstance, we have presumably one owner or one corporation owner of 80 acres that is why this individual because of the city utilities is able to do the no remonstrance on the annexation. The City of Valpo still needs to have...and I can't remember if it's an eighth or a quarter or whatever you know whatever the city has to touch

Atty. Leath, One eighth, twelve and a half percent.

Atty. McClure, Right now as we sit and obviously things change we're not close

Atty. Leath, Zero.

Atty. McClure, I want to be clear as far as the taxes and the annexation. Just because these 80 acres could be annexed, does it mean that there's a five mile bubble around it that also just magically get annexed. It's these 80 acres that currently would have the no remonstrance sign if the utilities were extended.

Atty. Leath, Correct.

Atty. McClure, I guess lastly on storm water because again that's a hot topic as it always is here in the Porter County and that's why we have such a stringent storm water design manual. Mr. Novotny I'm going to try to summarize from a high level what this developer would have to do if in fact this is, well no matter what frankly, whether it's R2 or R1. Basically, from the four corners of this property the property is still going to have to accept whatever water is coming to the property whatever water is then hits the four corners of this property is going to have to be grabbed, piped, swale or ditched to a pond. That pond will have to hold it or several ponds will have to hold it. Let it settle and then be released into our definition of a waterway at our release rate in a nutshell. The water again come to the 80 acres it's coming anyway. Whatever water is falling on these 80 acres all of that will have to be computed and then there will have to be enough storage area on this property to hold it. To let it settle out so that we get the settlement out. The size of that pond

will also be large enough for a 100-year storm event at which rate, our release rate into one or more of the waterways. So therefore, we are in control of how fast the water is leaving this subdivision and how clean it is when it is leaving this subdivision. Have I misrepresented it from a high level that what is happening with storm water?

Mr. Novotney, It's pretty good for an attorney Scott. The only thing that I would add is that in receiving waterways if there's one or two drainage ways. The developer also has to show that those waterways have capacity to receive that discharge from the development site so that's the only nuance of that.

Atty. McClure, The downstream yes would have to have the capacity correct to handle the release rate that we're releasing this water.

Mr. Novotney, Correct.

Unknown Citizen, Can I make a comment about one of the answers?

Com. Good, We're not in public hearing right now but you could come up and this this isn't a public comment because we closed it.

Unknown Citizen, Just one thing okay when Mr. Leath answered the question about misrepresenting facts right before that he said this property is a quarter mile away from the Valparaiso line. That is assuming that that park has already been annexed, which as of today has that park been annexed?

Atty. McClure, Yes.

Unknown Citizen, Okay.

Atty. McClure, I'm looking at the zoning map right now.

Com. Good, Any comments from the board?

Com. Blaney, I think one comment I have is that a lot of the arguments and I understand nobody likes somewhere they've been happy living to change but the arguments are assuming 146 homes or zero homes and that's really not the option. Well when we're talking about the number of kids even though we're not supposed to talk about schools and the number of cars. The difference here is not 146 is my only point. It's a lot less than 146. I voted for this on a Plan Commission and a lot of the reasons I did is because of the sewer and water. Storm water is a problem out there and this is going to help that. We will have fire hydrants in this subdivision. We will have fire hydrants where there is city water. We do have growth coming.

Com. Good, (Slammed the gavel.) I just want to let everybody know we've sat here for two hours listening to all of your comments and now we're getting ready to speak. We never really interrupted any of you at this time. So I would like to try to keep it as civil as we can so we can get through our comments. Thank you. Go ahead Laura.

Com. Blaney, This does fit on our future land use map. There is 32 percent open space, which is well beyond. It's three times more than our required ten percent. I don't believe its spot zoning it's only a quarter a mile away from this Mega Park and city limits. This makes sense. We need to manage growth and this is an area that's well positioned for it.

Com. Biggs, I'm going on my 15th year as a County Commissioner. Rezoning's are almost always.....there's a lot of emotion that could come with them and in some cases or in a lot of cases rightfully so but I've always felt that a rezoning is a request to change the law for someone. That someone in this case is a petitioner. In this particular case, it is 80 acres. It is not eight acres, it is not two acres, and it is not 14 acres. As a Commissioner sitting here listening to this today and going by the experience that I have been able to develop over the last almost 15 years is I am being asked to change the law for someone who I have never met on a development that I have not yet to see against the wishes of 300 plus people. I have no reason to....my experience dealing with Todd over the years is he's an honest man. My experience dealing with our Plan Commission they do their job but I'm not about to sit up here and go against the wishes of 300 residents who I work for for the benefit of somebody who I've never met on a project I have never seen. That's how I feel.

Com. Good, Well from my perspective as Com. Biggs said these are always tough ones. I think that from my perspective the utilities are a game changer. I think that the open space of 32 percent is quite a bit for this type of development. We're getting into more and more of these

types of things as we look into them and we're trying to do the right thing but I will say this from the storm water and the road perspective I know we can take care of the roads. Actually, there's a good part of 325 that will be paid paved later this year. That was on the Community Crossing Grants, which were set up last year and then are paved this year. So there's a good.... It's 325 LLC right Jim. There's a Community Crossing Grant paving job that will be done later this year. That road did Pazor out. Pazor is our rating system. It did rate out low and it needed addressed and as the County did, identified it two years ago. It is now in the process of being paved this year. If we do move forward with this, the one thing that I am adamant about is the storm water. This Board has done nothing since its inception in the last three years is fixing problems that have been done in the last 15 to 20 years. There's a lot that we've been fixing out there. We know how to do it now. We have our own engineers. We're not paying consultants. These people are paid by the citizens of Porter County these engineers. As much as you know maybe, some of you may be angry with us in the process. I can certainly with much assurance tell you that the engineers and the developers feel the same way about us because we do not make it difficult we want it right. We have several subdivisions now that have been in the subdivision-planning phase for over a year because they can't get it right. We are not moving them forward until they do. There's a certain amount of discipline that goes with all of this and there's a certain amount of trust that you need to have to be able to move forward. I know I feel very confident in the County's abilities to be able to deliver this subdivision. Right now you got 80 acres of water out there in a field that has no grass or anything and it's going wherever it wants and a lot of that was caused by the houses that are on that road. They disrupted that drainage pattern when those houses were done 30 years ago. I mean that's what we deal with up here all the time too. I look at this as an opportunity if done correctly and we will make sure that that happens. We fix a lot of these problems that are out there. We have been doing it. We have a subdivision on the north side of Valpo, it's in Center Township and it had a subdivision next to it that had the roads pointed out to connect on. We connect on and fix the entire drainage problem of because that original subdivision went in a 200-acre field it was just 50 acres. So all the land around it was disturbed. We went in with another subdivision next to it and fixed the entire problem out there. No matter what you, say you don't have to agree but new development does fix things. It really does. The traffic, you're going have sidewalks in there, you're going to have fire hydrants. I just think that being so close to the city, being so close to this new investment of a park out there and having the utilities. I know a lot of people don't believe in that and think septic systems can go on forever. Well let me tell you something we deal with this every day up here people coming 15 to 20 years after their house is there and their septic system fails. I'm not going to point fingers if they didn't maintain it. I'm not going to say whatever happened but this is a big problem right now in this County and now you're going back to these residents that have lived there 20 to 25 years and saying you now have to put in another system that's about \$30,000.00 and it's a mound system. Now you have a mound in the back of your yard and how do you think that is going to affect the draining on your site. We have get a ton of this here, a ton of it and those people that are on those septic systems yell and scream at us because they just think they should dig it up. When your septic field is done, it's done. You either add on to it or if you don't have, the room to add on to it you put a mound system on and you go vertical. These are real problems that we see up here. I don't expect you to all understand that but we do and it's a big problem. In the last 5 years, 80% of the development that has gone on in this County has been with sewer and water with utilities. The actual homeowners now coming out and wanting to buy and put on septic and put on well they don't want it anymore. It's not a preferred choice by people coming and wanting to buy but with that you have all these legacy problems with septic and wells too. It's a much much bigger issue here. I understand where you are all at and I just think that good planning is good planning. I don't consider this spot zoning. It would be spot zoning if it were agricultural to R2 because now you are changing the use. You are changing it from farming to residential. This is just a classification within residential and again I think the 32% open space is a big deal. That is a lot of ground within that subdivision to enjoy and have the benefit of. So those are sort of some of my thoughts that I wanted to talk to the group about and get those out there. I think at this point we want to take the vote.

Com. Blaney, moved to accept the Rezone on 1st Reading, Com. Good, second, motion carried.

Com. Biggs, moved to oppose.

Com. Good, The 2nd Reading will be at our next meeting. I thank everyone for coming out.

With no further business, the meeting was adjourned at 12:20 p.m.

BOARD OF COMMISSIONERS
PORTER COUNTY, INDIANA

Jeffrey J. Good

Laura M. Blaney

Jim Biggs

Attest: _____
Vicki Urbanik, Auditor