

PORTER COUNTY PLAN COMMISSION
Meeting Minutes
January 28, 2021

The regular meeting of the Porter County Plan Commission was held at 5:30 p.m. on Thursday, January 28, 2021 at the Porter County Expo Center. Rick Burns presided.

Members present were: Laura Blaney, Kevin Breitzke, Brian Damitz, Nikky Witkowski, and Rick Burns. Michael Mirochna, Bob Poparad, Kenneth Williams, and Luther Williams were absent. Also present were Robert Thompson, Kristy Marasco, and Attorney Scott McClure, citizens, and representatives of the press. Kelly Cadwell was absent.

NEW BUSINESS

Case: MJ-20-0032

Applicant: The Gardens at Loomis Lake Subdivision

Location: 309 Spectacle Drive, Valparaiso, IN 46383 (Center Township)

Zoning: R2, Medium Density Single-family Residential District

Request: Primary Plat Approval for a proposed ten (10) lot major subdivision plus two (2) out lots.

Todd Leeth presented on behalf of Petitioner. Also present was Randy Peterson of Abonmarche and Carol Himes. Carol and her siblings are the owners of the property. Their Father, Dr. Kilmer obtained the property in 1963. Their cottage home is on Loomis Lake. Thirty years ago Dr. Kilmer was approached to subdivide the property. He decided not to and shortly after that the siblings purchased the property from their father. The property is 11.96 acres. They are seeking approval of the Primary Plat to subdivide that parcel into ten lots.

They first sought annexation into the City of Valparaiso. That annexation failed. Over 30% of the property is contiguous with the City of Valparaiso. There are existing utilities on this property that are City of Valparaiso. There was a large vocal concern by some who did not want this property developed in any way. Valparaiso Plan Commission voted 8-0 with one abstention to send this to the Valparaiso City Council with a favorable recommendation of annexation. The City Council defeated the annexation by one vote. The failed annexation had a conceptual plan that showed 39 lots.

After the failed annexation the property owners met with the County Park Department to see if there was a way to sell the property and preserve it. There were negotiations and contracts however, in spring the Parks Department stated they were no longer interested. All 11.96 acres are zoned R2. There are two out lots: Parcel A and B, a new road that leads to Spectacle Lake and nine building sites. Lot 10 is a large 3.7 lot. There is a water line and existing sewer line running through the property. The City Utilities Board has approved use of these.

Randy Peterson has prepared and submitted a drainage plan to the Storm Water Management Department. They have gone through a number of reviews. Each review resulted in a re-engineering, redesign and redrawing and resubmittal and then another review. What is presented tonight is the result of all of those reviews and changes. The Storm Water Advisory and Storm Water Management Boards have reviewed and have indicated the infrastructure, once built by the petitioners, will be accepted for maintenance by the County.

There are a multitude of requirements to satisfy for a development. Bob Thompson performs a review of those developmental standards that are in the UDO to make sure they comply with all of them. The petitioners have received a letter stating they comply with all of the subdivision and development standards. They have been working with the County and staff for over a year to get to this hearing tonight. It was not a rubber stamp by any means. Lot 10 is 3.722 acres. There is a cul-de-sac. The drawing being shown tonight is the most recent and includes four changes requested by the Development Review Committee. There is a duplex on Lot 10 that the family wants to maintain. In the future, the lot can be sold with the duplex on it, remove the duplex and sell the lot as is, or subdivide the lot. That subdivision would have to go through the same review as they are going through for this development. Lot 10 is no more or no less than 3.7 acres of property that may be subdivided in the future. In the development the minimum required size of a lot is 11,000 sq. ft. The smallest Lot in this development is 22,058 sq ft which is twice as big as the required minimum. This is a rural setting type of subdivision. They have 22.5% open space. Their lot widths are 94' to 107'. The process they are asking for tonight, is one of right. If they meet all of the requirements, approval has to be given. They have done all of the things the Ordinance requires.

Public Hearing:

George Moisoff – 201 Spectacle Drive. He stated if everyone knew what is going on, then why are they here tonight. He questioned the wetlands. They have never been told where the storm water is going. He pointed out the City did not want it as a project. Are the utilities going to be City or County?

A citizen - Since silt has been talked about, he asked if there has been an environmental study. The reply was this project has been reviewed many times and they meet the requirements of the County with the storm water standards. Staff will be inspecting this site weekly. As everything is built it is inspected by the County and accepted.

Does this mean the City will be looking at the retention ponds? The reply was the County. During construction inspections take place on a weekly basis. The applicant has to be present. In the future, there is an annual inspection and there is on line reporting for citizens.

Along Spectacle Drive are lots that were proposed for single family housing. Were these lots looked at for future impact? Who maintains Spectacle Drive?

A Citizen - She asked for the Readers Digest version of what is happening with the two out lots. The environmental impact on trees, wildlife and water are a concern to her. Several years ago the neighbors surrounding this area and the Park Department came together to try to purchase the parcel. She does not feel it has been explained in detail how that plan fell apart. She would like it explained in detail.

Andrea Proulx Buinicki – 301 Andover Drive. There are three areas of concern: road safety, drainage, and any environmental effects. She feels the plan presented is much more palatable. She has six requests. The proposal is for ten residential lots. There is a possible right of way through Lot 10 that indicates the possible future subdivision of Lot 10. There are five adjacent parcels to the north that are not part of the development. They are already zoned for Residential Lake. In reality they are looking at 15 lots. She would like to request that there be a written commitment between the developer and the Plan Commission to restrict this subdivision to ten residential lots. Spectacle Drive will barely handle the traffic from 15 additional residences. Spectacle Drive is 18' wide which is the requirement for a one-way road. She understands that at this time there is no plan to improve Spectacle Drive. So she requests this subdivision be limited to ten lots.

The drainage and flooding plan that has been done is for the ten lots that are there now. It does not include any additional division of Lot 10. The developer should be made to adhere to any erosion control standard. In constructing the swales, trees should be maintained. The developer should mitigate the light pollution of homes on Andover Drive. The developer should reorient lots 4 and 5 so lights do not go into the homes on Andover Drive. She presented letters from residents who could not be at the meeting tonight.

Stone - 4702 Rutland Road. This plan is much better than the last. She chose very carefully where she lives. She wants trees and the lake along with land. She discussed the sewer lines that are located through this property. She is concerned about safety on Spectacle Drive. The size of the lots is nice. She would like verification that there will only be a certain number of lots. What about access to Loomis Lake for this subdivision?

A resident – He is concerned about water draining into his back yard.

Gilles Charriere – 1606 Carriage Drive. This is one of the last habitats in the area. He is surprised that this Commission makes the decision. He feels the City of Valparaiso should be making the decision also since they are close. Natural habitats need to be protected.

Roland Chilian – 5105 Garden Gate Parkway. His concern is to have a comfortable lake to live on. Over the last 20 years he has seen more and more problems with the lake. There are already two houses in the area that the County approved and there are drainage issues from both.

Philip Doolittle – 584 North 76 East. He has lived in this area a long time and enjoyed it. Now he sees it being destroyed. He is a retired professional engineer. He does not see this as a planned development county. In the chain of lakes, the water quality has changed 200% over the last 20 years.

Walt Breitingner – 255 Park Avenue. He discussed organisms and water quality. The water is muddy and dirty. If this subdivision was proposed in a cornfield with detention ponds, he would say that is great. But near the edge of the lake is so sensitive that to him it does not make sense.

Tia Walker – 108 Andover. The cul-de-sac is her biggest concern. Her living room windows face the cul-de-sac so all the headlights coming in will hit her windows. She would like to see a larger barrier put up so they are not disturbed by the light. Will anything be in the middle of the cul-de-sac for greenery or will it all be cement? She has written a letter that listed all the current problems they are having with flooding. The five lots north of the subdivision can be built on as is. She wants to make sure the drainage calculations were done with that in mind. Lot 10 can be developed at any time. Spectacle Drive is a serious issue. It is really a one lane road.

Kathy Hensley – 102 Andover Dr. She wants to emphasize the unique nature of this parcel. It is in the middle of an established neighborhood. She was glad to hear about all of the adequate work being done but then heard Walt Breitingner say adequate is not enough. There is so much water that goes over Andover Drive. When the trees are removed for construction this will get worse. She also said this meeting could have been done virtually which would be safer. There are people that would like to have been here tonight but aren't because of covid.

John Arlow – 4907 Hillside Lane. His concern is the drainage. You can walk across Spectacle Lake in the summertime.

Melanie Match – 4907 Hillside Lane. The regular traffic going down Spectacle Drive is one thing. Construction traffic is another. There is flooding now. This will all make it worse.

Pam Staub – 209 Spectacle Drive. She has sent a letter regarding the road. It needs to be fixed now before more is added. She also sent an article talking about the dying lakes in Minnesota. Communities need to be proactive. It is the County's job to keep the lake clean. How did Flint and Spectacle Lakes go so bad if everyone is taking care of them. There was discussion among the Board regarding the storm water ordinance and changes of regulations over the years. Water quality is 80% better than it was twenty years ago. Pam Staub asked that they make sure they are using best practices now instead of when the problem is worse. She asked that the plan be safe and correct.

Aroma Singh – 203 Andover Drive. She is concerned about radon in the property. She recently purchased her property and it was full of radon. She asked if there is a study on what is in the area.

Robert Cotton - How does the 80% improvement translate into the ultimate improvement of quality in the lakes? Will this improve the lakes in becoming more clear?

Jeff Hoffman – 106 Andover Drive. On the southern edge of the property there was talk about a buffer and a drainage swale. Does the swale go into the buffer? He would like to see the cul-de-sac done better. He does not want headlights shining into his home. Who owns the buffer and maintains it?

Gary Brown (Izaak Walton) – 203 Harrison. Izaak Walton owns lots of wetlands. He knows wetlands help purify lakes. Porter County is unique to have the resources they do. He discussed the safety of children playing in the area. He asked what will be done for the wildlife. There needs to be an environmental impact study. He discussed the topography on the parcel. He also discussed the impervious surface and all the salt, insecticide and cleaning solution that will be washed into the lake.

Todd Leeth responded to questions and concerns. In regard to Lot 10 it meets the UDO requirements. Any future subdividing will have to follow the UDO. This Lot currently has a duplex on it. If this duplex gets torn down the owner of the lot has the right to ask for subdividing and all issues have to be addressed at that time. Lot 10 is not hearsay. He is telling everyone now that they do not know what will happen to that Lot in the future. A restriction can be put on that Lot tonight.

It is true that if the petitioner does not meet the subdivision code, then the subdivision does not have to be approved. Through the whole process and the many reviews, they have had to date, the petitioner has felt they have met all of the requirements.

It was asked tonight why there was no public hearing on the extension of the City utilities going through the property. Those utilities were extended many years ago. That project does not require a Public Hearing. Dr. Kilmer granted the easement for water quality of the lake.

They are not subdividing the land along Spectacle Drive. There are five lots zoned RL which were not included because the code does not tell them how to divide the lots. In the UDO for RL lots it says "as platted". Since the Petitioner does not know what the standards are, they did not include those lots in this development. If this parcel was annexed into the City, the lots would all be zoned the same and that is where they would get into the 39 lots. Spectacle Drive is a County Road and the County will continue to maintain it. Out Lots A and B are storm water management.

Todd Leeth read an email from the County Park Department's attorney, Bill Ferngren, from May of 2020. Paraphrased it said: The Porter County Park Foundation at this time has decided not to move forward with the acquisition of the Kilmer property. A basic premise and the primary function of the Foundation is to further the purposes of the Porter County Park Department and the acquisition of real property to be dedicated to the Park Department. The Foundation pursues the acquisition of property when the Park Department has made it known to the Foundation that the property will be accepted by the Department. The Foundation negotiated in good faith with the Kilmer Property. However, there were too many open-ended issues such as the possibility of using the property as detention and uncertainty of future development. It became clear that at this time the property does not meet the Park Department's current or near future needs. It is not a property that fits within its Master Plan. As a result, the Park Department does not want to add it to their inventory and makes the Foundation's pursuit of the property unnecessary. Todd Leeth stated the Petitioner negotiated in good faith. The Foundation did also. Ultimately the Park Department would not accept the property and that is where the negotiations fell apart.

The Petitioner will follow the law whether it is permits, soil erosion or storm water. Regarding the use of impervious surfaces, tree preservation, light pollution and reorienting the lots, they have followed the codes. This is an infill project and is very challenging. There is not a lot of room for error. They have gone from 39 lots to ten to the four in front and the possibility of three in Lot 10. The lights going into the homes on Andover is a common problem. It happens in all developments. They will follow the code and establish a buffer. In regard to planting and tree preservation; no more trees will be removed than are necessary. There is no lake access from any of the lots. This project is not being rushed. They have been working with the county for 52 weeks. They have had numerous reviews. This is not spot zoning. It is zoned R2 and has been for a number of years. The codes and standards are significantly different today than they were 32 years ago. Todd discussed the changes over the last 32 years. We are 80% better than we were years ago.

The traffic along Spectacle cannot be changed. The traffic impact has been decreased by the reduction in the number of lots they are now requesting. There was a suggestion that they do an environmental impact study. An environmental study is more than you might be led to believe. It is required only for government projects. Radon is an unusual problem and emits from the soil. We have a number of areas that are hot spots. The location of those spots is hit or miss. Builders check for this when they build the homes.

Valparaiso City Councilman Cotton asked about the 80% improvement and is it improving the lakes. Todd explained anytime the Board approves a storm water plan, it addresses water quality. It will improve everything downstream also.

Along the southern line there will be a swale. Otherwise, the lots would flow unmanaged to the neighboring properties and it does not comply with the code. Out lot A and B are owned by the Property Owners Association.

Randy Peterson of Abonmarche addressed water quality. He presented pictures that show the watersheds on the property. He explained the entire storm water system on the property. This system meets or exceeds 80% of the total suspended solids in the water being filtered out before going into the lake. The detention basin will act as a sediment trap during construction. The basin will be planted with grasses.

Andrea – 201 Andover Drive. Can the storm water calculations be modified to include the northern parcels?

A resident – there is no storm water retention areas with this project. It is simply a subdivision plan. The topography is not taken into consideration.

A resident – did not hear an answer about the wildlife.

Pam Staub – Regarding negotiations with the Park Board; the letter indicated the Foundation would not purchase because of detention ponds. She asked if anyone is familiar with newer technologies. They don't allow for any flow to come out. Has this been discussed and is it appropriate for this property?

Tia Walker – The plan isn't built yet so there is room to consider home owners on Andover with light coming into their home.

Todd Leeth – The five northern RL properties are going to be large lots. They are not part of the storm water review because they are not part of the subdivision. They are following the code. They are grandfathered and can be developed. There is a storm water plan. He showed the topography map. No storm water management plan can be done without the topography map.

The ordinance does not address wildlife. Their plan does not approach wildlife. When you build a subdivision in Porter County that is not a standard the developer has to address. There were many reasons why negotiations broke down with the Park Foundation.

Developing was going to happen on part of the property even with conveying some to the Park Foundation. When negotiations broke down the property owners began to work on developing the entire parcel. The light issue is addressed with buffers and they are doing that.

The Public Hearing was closed.

Comments from the Board were heard. Attorney Scott McClure explained, the purpose of a Public Hearing at the Primary Plat level is to let the neighbors know what is happening and to verify in Public that the code is being followed. Once it is verified that code is being followed, it then is the Boards responsibility to approve the request. There are many reviews. Each review can result in changes being made. That is why there are so many versions of a development. Tonight's version is what has been approved through the reviews. The primary plat is the first step and they still have to come back for another plat approval.

Motion: Kevin Breitzke moved to approve Case MJ-20-0032 contingent on Lot 10 being no more than 4 lots if subdivided and cul-de-sac landscaping. Laura Blaney seconded the motion and so approved with a 5-0 vote.

There being no further business to come before the board, the meeting was adjourned.

Bob Poparad, President

ATTEST:

Robert W. Thompson, AICP, Director