

LAKESHORE PRESERVATION DISTRICT

A Growth Management Tool

For Future Development at Porter Beach

Presented to:

The Town of Porter Town Council

By:

Porter Beach Overlay Committee

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BACKGROUND

The Porter Beach neighborhood presents the challenge of managing single-family residential development, within a lake environment with a natural dunal setting, based on a non-conforming recorded subdivision plat. The Porter Beach area is one of high dunes, with Dune-land soil type, steep to very steep topography, excessively drained on low sand dunes and beach ridges ending at the edge of Lake Michigan. Communities clustering near the lake shore, Porter Beach, Michiana Shores, Long Beach, Beverly Shores, Dune Acres, and Ogden Dunes are all spatially elongated. Their soil is characterized by stabilized sand dunes on which dwellings have been built. This soil has poor potential due to slopes and instability of the sand. Lack of moisture and shifting sands make it difficult to grow plants. Beach grasses are found to have limited success in stabilizing dune sand. The slopes and loose sand have the potential to hinder standard new home construction practices.

Much of this area should have been designated as public open space, however, since the location is very desirable, privately owned, subdivided, and zoned residential, most of the area will be developed. Adding to development difficulties mentioned earlier is the fact that most of the lots are much too small (25'x100') to build on, and the lots lack building setback lines on the plat. The Town has permitted as a matter of policy, structures to be built on multiple lots, without requiring re-subdivision. In this way several lots of record were permitted to be considered as one (1) zoning lot, thereby avoiding subdivision.

Low-density single-family usage with developmental controls and open space requirements to protect sensitive areas, offers the town the best compromise. This report proposes the idea of using a flexible zoning technique to create a lakeshore preservation overlay district, which will implement design and building standards that are unique to Porter

Beach.

A Lakeshore Preservation District would help preserve and protect the residential environment and balance residential developmental growth pressure and environmental sensitivity in the duneland lakeshore area. It is the goal of the Plan Commission to permit the continuation of residential development in Porter Beach, but to impose more rigorous restrictions on construction practices based on the unique character of the Porter Beach Community.

PLANNING HISTORY

The Porter Beach neighborhood was originally platted in 1893. The topography was more severe then and clearly unsuitable for development on the platted gridiron pattern. Since 1969, Block Four (4), Block Five (5) and Block Six (6) have been completely underwater. Property owners in Blocks 10 - 18, are partial victims of beach erosion. Past development has changed original street layouts, and in addition, substandard private roads with inadequate design and dead ends hamper the proper functioning of access.

In 1979, the Plan Commission recommended the extension of public services to the Beach. Sewer and public water were to be made a top priority. In 1982, the Plan Commission study panel, with town planner support and town engineer approval, recommended Porter Beach become a planned unit development (PUD) for better growth management.

In 1988, the town engineer felt that the town did not have an accurate legal description of the area. Without a replat of Porter Beach, officials had to work with outdated county plats. The town engineer recommended the boundaries and zoning districts be resurveyed. Before this engineering recommendation, a district judge warned the town of the immediate need to

correct errors on the official zoning map.

In 1989, there were preliminary discussions initiated by the Indiana Department of Natural Resources, which focused on extending sewer from the Waverly, U.S. 12 lift station into Porter Beach. The plan called for the removal of the sewage treatment plant at Indiana Dunes State Park after connecting to the Porter Beach sewer extension. This project was to be followed by public water supplied to Porter Beach.

In 1992 the recommendation and subsequent action by the town was the rezoning of Porter Beach to R-1 residential single-family. Existing multi-family units and land became non-conforming uses and not permitted uses in the future. The Plan Commission did not recommend stopping growth in Porter Beach. On the contrary, the adopted comprehensive planning policy for the Town of Porter called for managed growth, by requiring site plan review prior to the approval of the granting of a developmental standards variance, or street and alley vacations, (see Resolution 92-03). The Commission's intent was to conserve the natural character of the Porter Beach neighborhood and insure functional and compatible arrangements for residential structures. The promotion of fair and equitable enforcement of the subdivision regulations was seen as an attempt to assure property owners throughout the community that the town would impose management growth principles.

The resolution authorizes the Town of Porter Plan Commission to review and approve or disapprove plats for subdivision throughout the municipality, which show lots, blocks, or sites with or without new streets or highways. This authority was supposed to extend to the development or re-subdivision of undeveloped portions of recorded plats. No building permit or certificate of occupancy was to be issued for any parcel or plat of land, which did not conform, with the provisions of the lakeshore protection district's design standards.

In 1993, the Plan Commission recommended a mapping survey and plat of the

lakeshore preservation district. Expenses arising from the survey were supposed to be paid by the property owners. In all cases, property owners were supposed to submit a legal description and in selected cases a recorded plat, to the town engineer. Those who did not would be assessed the cost of town engineer services in order to obtain all necessary data pertaining to the specific lot(s). This requirement was only partially completed.

In 2002, the Plan Commission once again discussed the idea of treating Porter Beach differently than other residential areas. When the overlay zoning idea was discussed, the Plan Commission decided that Porter Beach was part of the town, and the town should have only one set of standards for R1 developments. The fact is that Porter Beach differs in development history, soils, topography, environmental sensitivity, and access and traffic patterns.

LAKESHORE PRESERVATION DISTRICT POLICIES

The intention of these regulations is to conserve the natural resources in the area, while at the same time, respecting private property rights. The long-term impact of these recommendations on air and water quality, waste disposal, natural resources and conservation of energy will be positive. This plan will foster sound growth thereby minimizing potential adverse environmental impacts. Porter's managed growth policies should be designed to encourage growth in areas, which can be served by public services, and to discourage it in areas, which do not have services readily available. The Commission would prefer to see better timing and sequencing of growth. Past development in Porter Beach should have been required to re-subdivide and be responsible for a fair share of the cost of providing reasonable and necessary circulation improvements, water, sewerage, drainage facilities and other improvements, including public use land and recorded walking easements. The planning goal

should be to promote a healthy and stable housing market within Porter Beach.

The landscaping of a lot should blend with the landscaping on adjacent lots or be so designed that landscaping on adjacent undeveloped lots could later blend with that on the applicant's lot. Access difficulties need to be corrected, along with utility issues. Porter Beach lends itself to the unique and non-traditional; however, the area must function and must avoid fluctuating property values due to the extreme.

A building, structure, or appurtenance may not be constructed in a location on a zoning lot, which creates a nuisance by interfering with the ventilation of existing dwellings on neighboring zoning lots; and a building, structure, or appurtenance may not be constructed in a location on a zoning lot, which creates an unreasonable fire hazard to neighboring buildings.

The following policies of this district shall be construed as being supplemental to the building rules adopted by the Administrative Building Code of Indiana.

APPLICABILITY STATEMENT

Any Article not covered by this document will revert to existing zoning standards.

DEVELOPMENTAL STANDARDS

1. No residential or other use shall be established or built on a zoning lot, which has less area or does not comply with the requirements set forth in this Ordinance.
2. No conversion of an existing structure, residence or building shall be permitted which violates this Ordinance.
3. Not more than one (1) dwelling shall be erected on a zoning lot, and no structure shall be located on more than one (1) zoning lot.
4. No Building Permit shall be issued for a newly constructed dwelling on a zoning lot with access from an unimproved street unless the applicant improves such street from the dwelling access to the nearest improved street or deposits with the Town of Porter, funds to pay for the improving of such street.
5. All utilities installed in connection with any improvements for which a Building Permit is required under this Ordinance shall be installed underground.
6. Zoning Lot Area – Except as otherwise provided, each single-family detached dwelling hereafter erected, together with its accessory buildings, shall be located on a zoning lot having an area of not less than 12,000 square feet and a width of not less than 100 feet, unless the zoning lot has a valid septic permit, as of the effective date of this ordinance, approved by the Porter County Health Department and is not less than 10,000 square feet.
7. Building Setback – No principal structure shall be located closer to a property line than fifteen (15) feet, and no pools, decks, fences, sheds, etc. within 15 feet of any zoning lot perimeter line, see #21 of the Performance Standards for fencing exceptions.
8. Zoning Lot Width – Each zoning lot shall have its narrowest dimension of not less than 100 feet, except for frontage on a cul-de-sac when the narrowest dimension shall not be less than 45 feet, except as otherwise provided in this Ordinance.
9. Dwellings on Nonconforming Zoning Lots – Notwithstanding the limitations imposed by any other provisions of this Ordinance, the Plan Commission shall permit erection of a dwelling on any duly and legally platted zoning lot which contains an area, width or depth less than that required herein for a one-family dwelling; provided, the Plan Commission shall not permit such erection if the zoning lot was diminished in area, width or depth subsequent to its final platting made in accordance with law.
10. Existing non-conforming structures may be maintained, and rebuilt if damaged to no more than the previous square footage using the same footprint, unless said structure currently encroaches into a street right of way, or utility easement. If the current structure does encroach, then it may be rebuilt up to the previous square footage using a different footprint, so long as other zoning restrictions are not violated.

11. Steep slopes in excess of 20 percent as measured over a 10-foot interval shall be preserved as undeveloped open space unless appropriate engineering measures concerning slope stability, erosion, and resident safety are approved by the town engineer.

12. No structure, planting or other material shall be placed - or be removed or other activities undertaken which may damage or interfere with established slope terrain or vegetation of adjoining property, create erosion or cause water drainage problems, or which may change water drainage or obstruct or retard the flow of water.

13. Proposed changes in contours, which will result in a significant ground surface slope as determined by the Town Engineer, will require a stabilization or retention system. This requirement is to prevent any unwanted, unintentional and potentially damaging movement of the ground surface or ground mass by creep, erosion or mass slides.

14. Plans or specifications submitted for any building permit will include the design for any necessary sand (ground mass) retention system. The drawings will clearly show the ground surface areas, which have or will have a significant slope with the horizontal, as determined by the Town Engineer. Any stabilization or retention systems (walls, piling, etc.) applications which are required by this ordinance will have a minimal design life of forty years and the design will be approved by an Indiana Registered Professional Engineer.

PERFORMANCE STANDARDS

The following is intended to preserve the natural terrain and contours, to regulate and control drainage and the blowing of sand, to prevent erosion, and protect adjacent property from damage resulting from land disturbing activities:

1. Definitions (applies to any section of this document).
 - a. Land Disturbing Activities: Any activity which may result in soil erosion from water or wind and the movements of sediments onto State waters, including but not limited to, clearing, grading, excavating, transporting and filling of land.
 - b. Clearing: Any depositing, removing or stockpiling of vegetative ground cover.
 - c. Filling: Any depositing or stockpiling of natural or man-made materials.
 - d. Excavating: Any digging, scooping or other methods of removing earth materials.
 - e. Grading: Any excavating or filling of natural or man-made materials or any combination thereof, including the land in its excavated or filled condition.
 - f. Transportation: Any moving of natural or man-made materials from one place to another other than such movement incidental to grading, when such movement results in destroying the vegetative cover either by tracking or the build-up of natural or man-made materials to the extent that erosion and sedimentation will result.
 - g. Building Height: The average distance from the elevation of the finished grade adjacent to the foundation wall, measured at the mid-point of all four sides of the structure up to the highest point of said structure, excluding chimneys, antenna, and other similar appurtenances.
 - h. Zoning Lot: A lot of record, which is a tract, plot, or portion of a subdivision or other parcel of land intended as a unit for the purpose, whether immediate or future, of transfer of ownership or of building development.
2. No person shall engage in any land disturbing activity until a plan has been submitted to and approved by the Building Commissioner a plan for such land such disturbing activity and that plan has been reviewed and approved.
3. An application for a permit for a land disturbing activity shall be filed with the Building Commissioner on the application form prescribed by the Town. Applications for any such permit shall include the following:
 - a. A general description of streets, highways or other landmarks in the immediate area surrounding the proposed land disturbing activity.
 - b. A legal description of the particular site of the proposed land disturbing activity.
 - c. A plot/site plan or survey, prepared, signed, and sealed by an Indiana licensed professional engineer or land surveyor.

- d. An accurate estimate of the amount of sand or other material in cubic yards expected to be excavated, graded, filled or transported during the life of the permit, and if excavation is to occur, the location of where the excavated material will be finally deposited.
4. The Building Commissioner may place conditions on the land disturbing activity permit, which in his opinion, may be required for the protection of public health, safety, and welfare. Special conditions shall be in writing, and shall be attached to and made a part of the permit.
 5. When sand or other natural or man-made materials are to be added or removed or moved in connection with the construction, alteration of structures or for accessory uses, approval by the Building Commissioner shall be required. Construction drawings, plot plans, and when deemed necessary, topographic maps shall be presented to the Building Commissioner for review.
 6. Changes in the approved plans may become necessary. The Building Commissioner must agree to appropriate modifications in writing, before the changes can be implemented.
 7. All abandoned wells shall be sealed in a manner that will render them watertight. All individual sewage disposal systems and water wells shall be located and installed in accordance with the State of Indiana and Porter County Board of Health regulations.
 8. Land with an elevation less than four feet above the highest ground water level is deemed unsuitable for residential building; provided, however, that land with an elevation of between two and four feet above such highest ground water level may comprise not more than 20 percent of the minimum lot area of a residential lot.
 9. Septic tanks and disposal fields shall be located and installed in accordance with the laws of the State of Indiana and the County of Porter.
 10. It is the duty of the owner, contractor, builder, or other person having control or supervision of a construction site to prevent loose sand from blowing or sifting onto public roads or adjacent property. This requirement may be satisfied by providing suitable ground cover, by erecting suitable fencing, or by immediate cleaning.
 11. Existing vegetation shall remain undisturbed during construction, except for an area 20 feet beyond the perimeter of the building. Existing foliage shall be protected by roping it off from construction activities. It shall be protected from paint-over spray and from trash. Sod is not permitted. Except as herein permitted, new planting materials shall be indigenous species or from the approved plant material list which will be developed and amended to this ordinance at a later date. In addition, each developed lot may install planting material which is not indigenous (but also not evasive) in a total planting area not to exceed 800 square feet.
 12. All wood exposed to weather shall be resistant to rotting, excessive fading, or discoloration, and shall be kept in a good state of maintenance.
 13. Air-conditioning compressors shall be screened or fenced so that they are not visible from the adjacent property and so that the sound transmission to neighboring properties is minimized.

14. Driveways and Parking Areas:

a. An area adequate for the off-street parking of at least two (2) motor vehicles or 180 square feet exclusive of drives or aisles on the private property shall be provided at each building.

b. A driveway or parking area shall be constructed of materials and in such a manner which prevents sand, stone, cinders, or other ground materials from being washed, thrown, or carried onto public roads.

c. A driveway or parking area, which slopes toward a public road, shall be constructed with a suitable drainage system on the property of the owner to prevent water from running or draining from the driveway or parking area onto public roads. Drainage systems shall be connected to dry wells or provided with gravel for absorbing run-off. Residents shall be responsible for maintaining the system. The required drainage system may be installed on public property in accordance with the approved plans, provided the topography does not allow it on private property.

d. A driveway shall meet the paved portion of the Town's street at an elevation no higher than the street elevation at that point, and extend back toward the building owner's property at or below this elevation for a minimum distance of three (3) feet.

e. Because of drainage problems, no private party shall pave adjacent public property, except for driveway access, which shall not exceed twenty-four (24) feet in width.

f. Driveway surfaces shall be: concrete, bituminous, brick pavers, or of a material approved by the Building Commissioner.

g. Roofs, walkways, and other elements of construction that contribute to run-off shall be designed and installed to prevent run-off onto public roads and onto other public and private properties.

15. The homeowner shall maintain and encourage natural drainage.

16. During construction, no zoning lot shall be used or maintained as a dumping ground for rubbish. Trash, garbage or other waste shall only be kept in accepted containers. Contractors shall furnish trash containers and, at all times, shall keep the premises free from accumulation of trash and scrap caused by construction. Trash shall not be allowed outside a designated trash and scrap area and any that does intrude beyond shall be cleaned up immediately. At the completion of the work, all remaining trash and scrap shall be disposed of legally. Tools, construction equipment, machinery, and surplus materials shall be removed from the site. The Town shall charge the contractor for any clean up of contractor's building area.

17. A certified as-built drawing, signed and sealed by a Indiana licensed professional engineer or land surveyor, shall be submitted to the Building Commissioner and Town Engineer, and is to document the built improvement locations and grading in accordance with the proposed locations and grade. Marked up drawings by contractors or builders will not be accepted as certified as-built drawings.

18. Pools over 10 foot in diameter and greater than 18 inches in depth are required to receive a Town of Porter building permit. A 6-foot safety fence must be erected a maximum of 10 foot from the pool walls and may not be within 15 foot of any zoning lot line. A dry well detention system must be installed for discharging of pool water. Pool water may not be discharged without first entering the dry well detention system. Heating and cleaning systems must be screened or fenced so that they are not visible from adjacent properties and so that the sound transmission to neighboring properties is minimized.

19. Accessory structures are allowed provided they are not within 15 foot of a perimeter lot line.

20. Landscape fencing, 48 inches or less in height, 16 feet or less in contiguous length and no less than 50% opacity is allowed outside of the 15 foot setback. The landscape fencing can not impede the traffic line of site as determined by the Building Commissioner. See #18 for restrictions.

21. Private ownership with property abutting the National Lakeshore boundary shall notify the National Lakeshore headquarters prior to any land disturbance. The notice shall serve to afford the National Lakeshore time to delineate their park boundaries, but shall not serve to give the National Lakeshore authority over the permitting process. Should an encroachment be identified, the National Lakeshore shall notify the building commissioner.