



Long Beach Community Alliance

February 20, 2017

Patrick Cannon, President
Commission Members
Advisory Plan Commission
Town of Long Beach
2400 Oriole Trail
Long Beach, Indiana 46360

Re: Request to Hold Action on Amendment to Side-Setbacks for Connecting Seawalls and Request to Expedite Proposal for Beach Protection Ordinance

Dear President Cannon and APC Members:

For the following reasons, the Long Beach Community Alliance (“LBCA”) respectfully requests that Advisory Plan Commission (“APC”) hold any action on amendments to existing side-set back requirements for new or existing seawalls on the Lake Michigan beach until such time as the APC proposes and considers an overall plan for beach protection as called for in the recently adopted Long Beach Comprehensive Plan.

1. Amending the existing set-back requirements for construction of anything on the beach, and particularly erosion accelerating vertical steel seawalls, without independent expert study of the potential erosion impacts and alternatives is entirely contrary to the express policy of the Comprehensive Plan to “protect and preserve the integrity and viability of the Lake Michigan shoreline, beachfront and its adjacent dunes.” The Comprehensive Plan expressly states:
 - “• To protect the integrity of the shoreline, beachfront and adjacent dunes, the density and bulk of shoreline development will be regulated; and
 - “• Long Beach will consult with experts to determine and employ best management practices for shoreline, beachfront and adjacent dune development and protection.”
2. Piece-meal consideration of connecting seawalls, whether new or existing, on a rushed basis, while the proposal for an overall beach protection ordinance continues to be delayed, could result in inconsistent policies for different types of construction activity on the Lake Michigan beach. This again, is entirely inconsistent with the 2017

Comprehensive Plan, which calls for high priority to be given to the implementation of the following:

“• Review/amend the Zoning Ordinance to be *consistent with* the residential land use policies of this Comprehensive Plan;

“• Consult with experts to identify *best management practices* for shoreline, beachfront and adjacent dune development and protection;

“• *Develop and adopt shoreline protection standards* based on identified best management practices; and

“• *Consult with experts* to inventory significant natural features and identify appropriate preservation techniques.” [emphasis added]

3. The Indiana Appellate Court, in the matter of *Gunderson v. State*, Cause No. 46A03-1607-PL-01698, ruled on December 7, 2016 that the public trust is impressed upon the Lake Michigan shore up to the “common law ordinary high water mark [OHWM].” Therefore, an amendment to Long Beach ordinances which would authorize construction further privatizing the Lake Michigan shore below the naturally-occurring OHWM, as defined under the common law and delineated pursuant to the physical characteristics defined under common law, is unlawful and will make the Town a party to misleading riparian owners and unlawful privatization of the Lake Michigan shore.

LBCA urges the APC to abide by the Comprehensive Plan which it just adopted. The APC should not consider or recommend piece-meal amendments to construction requirements that could adversely affect beach protection. Moreover, *it is imperative that the APC end the delay in the proposal of an overall beach protection ordinance*. Nothing could be more important to the residents of our community. We respectfully request that that proposal be moved to action item #1 for the APC and presented to the public as soon as possible.

Thank you,

Thomas King
LBCA Board Member
On Behalf of the Long Beach Community Alliance

Cc:

APC Members
Town Council Members
Town Attorney
LBCA Board Members