



Watch List species, Lady Slipper, found at the Kline Wetlands

**FROM THE LMEF BOARD OF DIRECTORS
- THE LAKE NEEDS YOUR HELP!**

The lake currently faces a high-density building development that would significantly increase the impervious surface within the watershed. The owner of the Culver Marina has filed an application with the Marshall County Circuit Court to begin the process of having the 55 acre marina site designated a self-contained Sewer Conservation District. The owner then proposes to add Phase I, a 47 unit residential development containing other accessory buildings and structures. This is considered a Planned Unit Development which mixes commercial, multi-family, and single family residential uses on one land parcel. Being designated a PUD also allows for a higher-density of building.

The Lake Maxinkuckee Environmental Council drafted a Watershed Management Plan (WMP) in 2005 to state goals for safeguarding the quality of the lake. Goal #4 in the document, approved by the Indiana Department of Environmental Management (IDEM), is to improve land use planning in the Lake Maxinkuckee watershed.

A key factor in land use planning in a watershed is the amount of impervious surface; land covered by buildings, driveways, roads, etc. This is important because when storm water hits an impervious surface, it can run off into the lake unfiltered, harming the water quality. When the WMP was written, 2003 data was used to estimate the impervious cover in the Lake Maxinkuckee watershed and found it to be approximately 8%. Water quality begins to decline when the amount of impervious surface exceeds 10%. The LMEF believes we are already near the 10% number when you consider all of the residential and commercial building that has taken place within the watershed in the last six years.

The PUD property is adjacent to the environmentally sensitive Kline Wetland and Conservation Area. A recently completed assessment of the Kline states that the additional storm water runoff from such a large area of impervious surface proposed in the PUD could overwhelm the wetlands and cause damage to the lake. Furthermore, LMEF is concerned about serious problems that could arise from the proposed PUD septic/treatment field system if it fails to perform properly. Because of these concerns, legal counsel has been retained by the LMEF. Mr. Steven Snyder of Snyder, Birch & Moran Attorneys at Law is a specialist in lake environmental law and will represent our position. A November 12th hearing held in Plymouth at the circuit court was a formality to ensure the application was completed properly.

The sewer conservancy application has now been forwarded to the Natural Resources Commission (NRC) in Indianapolis. The NRC will send it on to the Indiana Department of Natural Resources (IDNR), as well as to others, for research purposes. After the state agencies have examined the case and considered its environmental ramifications, the NRC will then schedule a local public hearing. This entire section of the process should take approximately 120 days, though the NRC has the right to file 30 day extensions if necessary to complete their studies and issue their findings.

We urge you to attend the NRC hearing to demonstrate your strong support for LMEF and the lake. Although you may not be given an opportunity to speak, our counsel has advised us that a large number of people in attendance could be critical to the outcome. When the meeting is scheduled, we would like to reach you with information concerning the date and time, so you can plan to attend. Please call (574-842-3686) or email (LMEC@culcom.net) our director with your contact details.

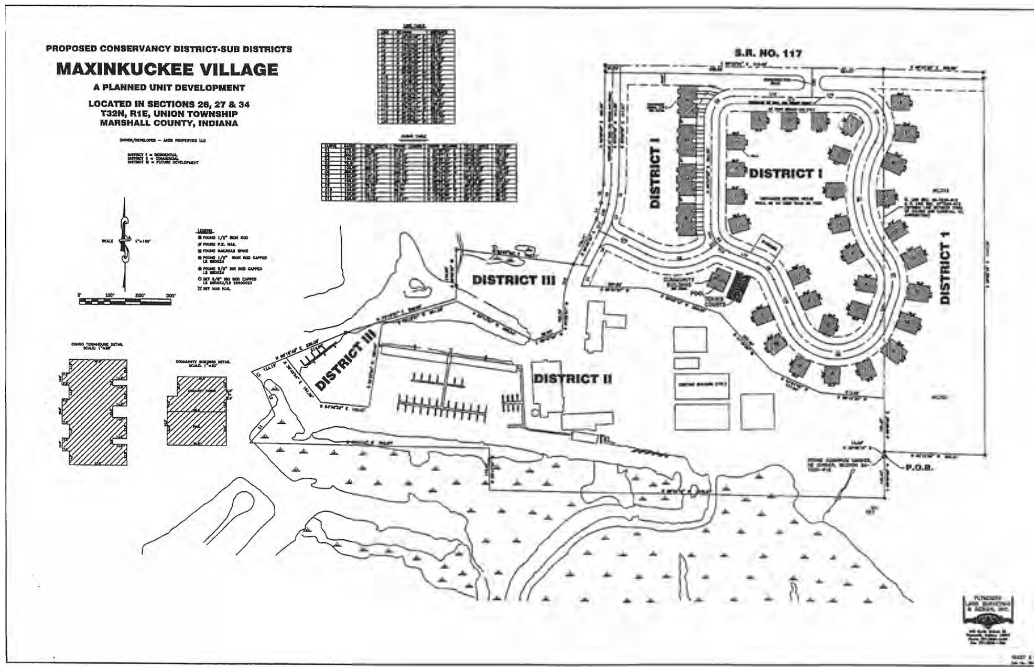
After the NRC provides their written findings to the Marshall County Circuit Court, the local judge will then schedule another public hearing to make his final decision, which may or may not hinge on the NRC findings. We will contact you about this public hearing also.

Meanwhile, there are two other ways you can express your concerns about this issue.

1. Complete and return (by the end of the year) the petition on page three. We will file it with the NRC and the court.
IMPORTANT: A large number of petitions could make an impact upon the decision makers.
2. If you choose, please send us your special donation to help defray the cost of our attorney. Your gift would lessen the need to use funds which are needed for Council projects for the lake. Your donation can be sent to LMEF, P.O. Box 187, Culver, IN 46511. Thank You!

If you have any questions regarding this development, please call or email us at our office. Thank you for your much appreciated interest and support.

THE PROPOSED PROJECT



(The land designated with small "grass stands" is the where the Kline wetlands begins, along with a small section of a private wetlands to the west.)

Please note the upper right hand section of this map (Exhibit C in Maxinkuckee Village application) is labeled District I. This shows the first phase of the proposed Planned Unit Development (PUD) which, according to the application, will contain 31 single family homes and four condo buildings with 4 units in each. There will be a total of 163 bedrooms, an estimated 173 bathrooms, a community building, tennis courts, pool, as well as a 160 seat restaurant with 35 employees (which is not noted on the plan). "In addition, there are plans to build other residential units within the territory included in the Conservancy District which are not a part of the PUD project at this time." (Petition for Creation of Maxinkuckee Village Conservancy District.)

If the Sewer Conservancy District is permitted, it will allow the property owner to develop what remains of the green space in the 55 plus acre site. The current structures on the marina's property account for about 126,000 square feet (2.89 acres) of impervious surface area according to county records. Add the estimated 125,000 square feet (2.87 acres) of hard-packed dirt and gravel roads and work surfaces and the existing development already accounts for almost 250,000 square feet (5.74 acres) of solid surface. The proposed PUD condo units and homes would add an estimated 100,000 square feet (2.38 acres) plus another possible 200,000 square feet (4.59 acres) of roads, parking areas, tennis courts, pool, community building if you estimate what is available on the drawings submitted into record. Essentially more than doubling the amount of impervious surface area on a site that sits partially in a flood hazard area.

We are opposed to the project based on the potential environmental detriment it could cause. There is no room for failure at this site. One mistake involving storm water runoff or a septic pollution accident could be devastating.

CULVER PLANNING DOCUMENT

The Culver Comprehensive Plan shows a lot of thought and foresight from those responsible for updating the original 1983 plan. It is meant to be a working document. The "How to Use this Document" section says that "the plan is required in the state of Indiana as a basis for zoning ordinance. Because of its emphasis on public participation it gives town leaders knowledge of what the community wants, needs and desires." The plan states "it is the legal basis for protection and conservation of sensitive environmental areas." It gives general goals like the one to protect and improve the health, safety, and welfare of the community. That goal is "derived from the original language that provides the legal foundation for community planning and is still considered the primary goal of planning within a community."

"Decisions shall not be solely based on the potential effects to individual property values", it states. "It is understood that some decisions must be made for the benefit of the entire community and this may occur at the detriment of one or a few persons."

It notes, "It is understood that land use patterns and changes to this pattern can have a positive or adverse effect on neighboring properties and potentially the entire community. Bases for deciding the type of district, size of district, and location of the districts are: 1) Need based on market factors, 2) Compatibility with the environment, 3) Compatibility with the topography, 4) Availability of infrastructure, 5) Availability of public services, and 6) Public health, safety and welfare."

"The plan's primary concern is to prevent new development or construction from destroying or damaging precious natural habitat and environmentally sensitive areas. Principal components are the identification of environmentally sensitive areas, and the maintenance and enhancement of the environment." (The Culver Comprehensive Plan - 2001)

The Culver Comprehensive Plan can be found in its entirety at www.townofculver.org.

**PETITION IN OPPOSITION TO THE CREATION OF THE PROPOSED SEWER
CONSERVATION DISTRICT TO SERVE A PLANNED UNIT DEVELOPMENT ADJACENT TO THE
CULVER MARINA AT THE SOUTHEASTERN END OF LAKE MAXINKUCKEE**

(One form will need to be completed for each person wishing to petition the above. Please copy and distribute this form to anyone interested with instructions to complete and return to LMEF, P.O. Box 187, Culver, IN 46511 by December 31, 2009. Thank you for your support.)

I, _____ hereby petition the courts of Indiana and all
(Please print your name)

**relevant governmental authorities within the State of Indiana to deny the proposed creation of the
aforementioned sewer conservancy district. I own property in the affected vicinity or reside in the
affected vicinity for all or part of the year _____.**
(Please print address of your local real estate)

“Approval of this Sewer Conservancy District could result in the potential degradation of the Kline Wetland by creating significant impervious area that may cause storm water to drain into the wetland and the lake.”
(Kline Wetland – Site Assessment Report, 2009)

“The environmentally sensitive areas in the Culver community include the lake itself, wetlands, any land located around the lake and its tributaries, as well as floodplain areas.”
(Culver Comprehensive Plan - 2001)

The 55.77 acres being considered for development is partially in the floodplain, immediately adjacent to the Kline Ditch, immediately adjacent to the Kline Wetland and Conservation Area, as well as Lake Maxinkuckee.
(Marshall County GIS)

“All current and future land use decisions shall be judged by and ultimately influenced by this (Land Use) map. The numbers used on the map reflect the desired housing densities in the community. “ The site being considered for high-density development has a current density rating of 1 = Very low density - which means an average of 0 to .5 living units per acre are allowed to be built.
(Culver Comprehensive Plan - 2001)

Signature _____

Address _____

Phone _____

E-mail _____

Please sign and return to LMEF, P.O. Box 187, Culver, IN 46511