



Public Employees for Environmental Responsibility

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jeff_reinbold@nps.gov

Subject: Proposed Uses of Pavilion at Indiana Dunes State Park

September 5, 2017

Dear Mr. Reinbold:

PEER, as well as Dunes Action and the Porter County Chapter of the Izaak Walton League of America, have received your letter/email of July 11, 2017. Unfortunately, the National Park Service (NPS) has failed to answer all of the questions that we have raised. In past communications, the NPS indicated that we would be kept apprised about issues and answers of concern to us. This has not happened. We still expect answers to all of our questions.

In the meantime, one of our greatest concerns is that the NPS continues to claim that the proposed uses of the Pavilion, especially a second-floor “fine dining” restaurant and a rooftop pub/bar are appropriate.

You said: “Because we feel the uses are appropriate, once an LWCF-compliant lease is in place, work can commence to renovate the existing pavilion without further LWCF review or approval.” We urge you to reconsider your position, since the rationale you presented to support your view simply will not withstand legal scrutiny.

We believe that the NPS does not have complete knowledge of the uses of the Pavilion that are being proposed by the DNR and Pavilion Partners, and that some of the information you do have contradicts your conclusion that they are “appropriate.” We have again reviewed the Indiana DNR’s document of June 2016, which you state is the basis for your understanding of the planned uses, and have comments related to your statement: “We understand you have heard of other planned uses. . . .”

The first floor Pavilion uses included in the DNR’s June 2016 “Consideration of a Public Facilities Designation . . .” (hereinafter “Public Facilities Request”) statement that we agree would not trigger a conversion and would not object to are:

- small public store
- ice cream parlor
- public restrooms inside the building
- casual dining restaurant [it should be styled as a fast-food restaurant]
- lifeguard station [not included in the 2016 DNR statement]

The uses that we believe would trigger a conversion and to which we object are:

- second-floor restaurant (including balconies) serving primarily non-outdoor recreation users



third-floor open-air pub and restaurant (on the roof), also serving primarily non-outdoor recreation users

outdoor dining (on terraces) between the Pavilion and the beach

A second-floor restaurant would be acceptable if it were casual in nature, similar to the restaurants currently operated by the DNR at its other properties with restaurants. It should not be a “fine dining” restaurant as frequently described by the DNR and its developer, Pavilion Partners. A “fine dining” restaurant would be intended for the non-park using public. If this style of restaurant is allowed to proceed, we believe that a conversion would be triggered.

The DNR’s Public Facilities Request refers on page 1 to:

A casual dining beachside restaurant that will be open to the public, including those who might drive in just for a meal or anyone using the beach, the campground or other park features. The restaurant on the second floor is also open to the public.

Please note that nothing anywhere in the document is said about the nature of the “restaurant on the second floor” except that it is “also open to the public.” We are unaware of any information provided by the DNR to the NPS about the intentions of Pavilion Partners regarding this restaurant, or anything to support your conclusions that this restaurant will primarily serve the park using public, or that it would not be “so upscale that they would discourage a park visitor from casually walking in after recreating in the area.” We do know that the developer from the beginning of the project has planned a “fine dining” restaurant and would like to sell alcoholic beverages (on a three-way permit) in all three floors of the Pavilion. The NPS should know that the DNR has seven state parks with inns and restaurants. Of the seven, only one serves alcoholic beverages with meals. The precedent is that alcohol not be sold in those casual restaurants.

Attached is a document (“Uses of the Pavilion from the press”) that lists numerous newspaper articles that quote information from Pavilion Partners and its supporters about the uses they anticipated for the Pavilion’s second floor. These articles show that even after the DNR’s Public Facilities Request, there were at least five newspaper articles that referenced the uses of the Pavilion. The developer, Chuck Williams, said that “plans for the pavilion include a restaurant and banquet area, which could be used for weddings and other activities.” Other articles refer to a wedding reception venue and a fine dining restaurant.

The justifications you have given to claim that some of the proposed uses of the restaurants in the Pavilion will primarily serve the park-using public are simply unsupportable. The uses described in the attached news articles have been mentioned since the beginning of the project and nothing in the DNR’s Public Facilities Request has contradicted that fact.

First, in your letter/email of July 11th, you say: “. . . we are satisfied that the restaurants in this instance will primarily serve the park-using public.” The bases on which you have made this determination are unsupportable. You say:

This is in part due to the presence of a park entrance fee for all visitors, which helps ensure that visitors are coming to the site to enjoy park resources, and are not simply coming to eat at the restaurant.

This is an illogical statement: (a) the recreating park visitors will not be looking for a “fine dining” restaurant serving alcoholic beverages. They want a casual restaurant where they can have a meal at a modest price and in beach attire; and, (b) if the developers style the restaurant as “fine dining,” the entrance fee of \$7.00 will not stop users who would come simply to eat at the restaurant. The Public Facilities Request itself, as quoted above, states that the restaurant is intended to serve “those who might drive in just for a meal.” Creating a “fine dining” second floor restaurant will in fact remove this space from its availability for public outdoor recreation users, which it would be if it were a casual restaurant.

Secondly, you say:

Further, the restaurants are supportive of outdoor recreation because there are currently no other dining options at the park. Establishing dining options at the park will allow visitors to extend their stays and enjoy the park resources longer.

We agree that restaurants of the appropriate style will be supportive of outdoor recreation. Having a first floor fast-food style restaurant and a second floor casual restaurant would be all of the dining options that the park-using public desires or needs.

Thirdly you say:

Although the project envisions a range of restaurant options, none appears to be so upscale that they would discourage a park visitor from casually walking in after recreating in the area.

Could you please explain how you came to the conclusion that “none appears to be so upscale that they would discourage a park visitor from casually walking in after recreating in the area.” How did you make the determination that “none appears to be so upscale”? What information about the nature of the restaurant is this based on? What is your definition of “upscale”? Pavilion Partners plans a “fine dining” experience, which is not appropriate for the outdoor recreating public.

There are many “fine dining” opportunities available in nearby communities. There is no need for such an experience at Indiana Dunes State Park. It appears that this idea is only being promoted for the sake of more revenue for the developer, not to meet the desires or needs of park users.

We believe that a first floor “fast food” style restaurant and a casual restaurant on the second floor (not styled or priced as a “fine dining” restaurant) would be “appropriate” and would not trigger conversion requirements. The NPS must assure that the Pavilion would not be available for banquets, wedding rehearsal dinners, weddings, wedding receptions, parties, showers, and so on. As Midwest Regional Director Cameron Sholly said: “Although weddings, wedding receptions and banquets can be conducted outdoors, they are not generally categorized as contributing to the outdoor recreation experience . . .” “Likewise, the construction of new banquet facilities not accessible to the public could not be approved as a public facility.” Allowing construction to go forward without further NPS oversight or approvals based on the limited information that NPS purports to have would not assure that this type of use would not occur.

Our groups totally object to the conversion of the rooftop to an “open-air pub and restaurant.” As in the case of the second floor dining area, this space must be available to serve the park-using public. The use of the rooftop should be its traditional use as an observation deck. Filling the rooftop with an 1,800 square foot bar/warming kitchen along with as many as 33 tables (presumably with umbrellas) would make the observation deck unusable by the public for its intended purpose. Adding these undesired additions to the rooftop would in fact remove this space from outdoor recreation and would trigger a conversion. This space should be used as it was historically and not be converted as the developer, Chuck Williams, told the *Chesterton Tribune* on August 3, 2015: “The roof [of] the pavilion [would] include seating for about 200 for birthdays, wedding rehearsals and corporate events. There will be a movable wall system so the roof can be used all seasons of the year, Williams said.”

Because of the nature of what the DNR and Pavilion Partners are planning for the second floor and the rooftop, they do not meet the requirements of the LWCF Manual or the NPS 2014 Memorandum.

You wrote, “The LWCF program has thoroughly reviewed the intended uses of the pavilion project, and we are satisfied that they are supportive of outdoor recreation at the park and would result in a net benefit to the public recreating at Indiana Dunes State Park.”

First, we should note that the “intended uses” described in the Public Facilities request upon which you claim to rely are extremely vague, and your interpretations of those vague descriptions are contradicted by numerous statements by the developer, as shown in the attached document. Second, not only are the intended uses of the Pavilion project that were discussed above not supportive of outdoor recreation and would not result in a net benefit, they in fact would result in a net loss of benefit. Because of this, we must inform you that the second floor “fine dining” restaurant and the rooftop bar/pub either alone or together trigger a conversion.

We have mentioned in the past that the uses of the Pavilion remain unclear because we do not have access to the developer’s latest plans. Plans we have from 2015 show only a “snack bar” on the first floor. There is nothing labeled as a “small public store” or an “ice cream parlor.” Where will these uses be located? The first floor plan also shows two spaces labeled as the “West Gallery” and the “East Gallery.” In the past, the developer has said that these spaces could be used for “private parties” and “wedding rehearsal dinners.” What uses are now planned?

There are too many questions remaining about the uses to which the Pavilion could be put that remain unanswered. The spaces for which we do have information dictate that this project is a conversion and the NPS must remove its approval for the project to advance until these matters are resolved.

Please acknowledge this letter as soon as possible and please give us an approximation of when we might receive a response.

Sincerely,

A handwritten signature in cursive script that reads "Paul Dinevski". The signature is written in dark ink on a white background.

Paula Dinerstein
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