

SAUGATUCK TOWNSHIP PLANNING COMMISSION

October 24, 2005

The Saugatuck Township Planning Commission met on October 24, 2005, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Darpel, Hanson, Jarzembowski, Marczuk, Milauckas, and Rausch

Absent: Olendorf

Also present: Planner Sisson, Thom Carpenter for Indian Point, Fred Emmerich for Deep Harbor Marina, Steve Smit for Southgate Commerce Park, Jeff Vos and Jeff Klemm for Maxwell Homes, and several members of the general public.

Chairman Hanson called the meeting to order at 7:05 P.M. Minutes of October 10, 2005, workshop meeting were approved as presented (motion by Milauckas/Rausch, carried).

Public comment: David Calvano presented plans for a 110-foot wooden nature walk with two platforms to be built along the Kalamazoo River at Peach Creek Ravines, the property having been rezoned from A-2 to R-2. Finger piers could be attached if the water level rises. Marczuk asked when he wanted to begin, and Calvano said winter, when the ground is firm, is the best time to drive pilings, and that would be done from the road, not from the river. He is pursuing a permit from the DEQ, which takes 4-6 months, and he wanted to know if this idea is apt to be approved by the Planning Commission. After explaining that assurance is not something the Planning Commission can give, Hanson asked if the walk started on property other than what was rezoned. Calvano explained that an existing neighbor had a 25-foot off-set and this would join it.

Hanson announced a training session in Lansing November 4 on historic preservation and reported that Atty Sevald has asked to be involved in meetings on John Balmer's project on 127th Ave.

At 7:17 P.M. Hanson opened the public hearing on Indian Point Site Condominium in R-2 at the west end of 131st Ave. for 18 home sites on 31.9 acres with 13.3 acres in open space. Secretary Rausch read the notice published in the newspaper. Thom Carpenter, Driesenga Associates, representing developer Robert Muusse, explained that the project would be situated on or accessed by Silver Lake Drive, a private road, and served by private wells and septic. Referring to his memo of October 20, Sisson stated that the project meets the standards for lot size and open space. He suggested making access to lot #3 from Red Oak Drive rather than from Silver Lake Drive for safety's sake and that there might still be some question about the legal description so title insurance would be advised. Rausch asked about the maintenance of the primary access road, which is shared with existing neighbors. Carpenter stated that the Master Deed and restrictive covenants would include provisions for road maintenance and clear title. He added that access for lot #3 will be Red Oak Drive.

Hanson called for public comments and Dayle Harrison, representing the Kalamazoo River Protection Association said the project was in the Natural River Overlay District and 150 feet of frontage per lot is required there, according to Sec. 40-591. There was some discussion about the description in Sec. 40-591 of where the Natural River Overlay District lies and how maps depict it, and Hanson said there continues to be a question about it. Steve Smit said the flood zones mentioned in the Ordinance are on the FEMA map.

Linda Salisbury, 6364 Silver Lake Drive, referred the Commissioners to her letter of May 9, 2004, on the previously proposed project at this site. She reiterated her concerns about public safety on a dead end road where there could be as many as 200 home sites if all the land is developed in the area and where there have already been emergencies which caused the road to be closed. She questioned the developer's statement that this project is filling a market need when there are so many properties on the market now and more proposed developments being added, and she did not think all this development complied with the Tri-Community Plan of protecting the river and shorelines. She pointed out that the larger lots on this plan ought to make the road along the river unnecessary for servicing the septic systems. She also reminded the Commissioners of the high water level on her property next door when the Allegan dam was opened seven years ago.

Hanson and Jarzembowski read aloud the letters from the Fire Department of October 19 and July 6, 2005, which referred to the International Fire Code and how this project fails to comply.

Bill Atman, 6356 Silver Lake Drive, said he was concerned about the maintenance of Silver Lake Drive. He reminded the developer that all the neighbors would have to be contacted.

Carpenter maintained that the project conforms to the R-2 zone, it has legal access to the road, the Health Department determines the location of septic systems, a stub could be built for the road, but the entire Indian Point area does not meet the IFC, and one project cannot be punished for the ills of the infrastructure of the township.

Dorothy Hanson, 6288 Riverside Road, Fennville, a real estate broker, asked how the township could say people cannot use their land because the IFC cannot be met.

Salisbury referred to a Supreme Court decision three years ago in a case involving the city of Chicago that "you do not have the guaranteed right to maximize your profit," and the township has the right to enact ordinances for the health and safety of its citizens which may adversely impact land owners.

Brandon Seitz, representing the DNR, pointed out that the dimensions depicted on the plan for the "exception" area do not jibe with the dimensions of their lease to that land. Carpenter said the title search is ongoing and Muusse will deed it over if it comes back in his favor, but it does not affect this project. He said this plan depicts the property the developer has clear title to.

There being no further public input, Jarzembowski made a motion to close the public portion of the hearing. Marczuk seconded and the motion carried.

Discussion ensued on the Fire Department's letters about the IFC, and Sisson said if the project complies with the Zoning Ordinance, you must approve it or be accused of "taking." However, when another body rules that an unsafe condition exists, the township is in a position where perhaps a moratorium on development should be declared until remedies can be made. Hanson commented on all the peninsulas in the township, bridge building? Zoning to 5-acre lots? Jarzembowski suggested the whole range of problems should be studied.

Rausch asked if the Planning Commission could request that each home have a sprinkling system, and Sisson said Yes. When Sisson said the IFC is not the township's standard, Hanson refuted this by saying the township passed a resolution to that effect and litigation could be based on that.

Milauckas made a motion to table the preliminary plan of Indian Point Site Condominium to the next meeting November 28 because the Planning Commission needs direction from the attorney on the IFC and access problems, from the zoning administrator on the boundaries of the Natural Rivers Overlay District, and from the title search for the legal description of the DNR/DEQ leased property. Rausch seconded and the motion was approved with one NO vote. Carpenter asked which of Secs. 40-938, 40-939 and 40-658 was the developer deficient in, and Hanson said none, but there are questions of health and safety which must be answered.

Hanson directed the Planning Commission to consider Emmerich's request for SAU on the expansion of Deep Harbor Marina on Riverside Road and recused himself as he had on July 25 for the public hearing. Marczuk assumed the Chair, and Milauckas asked for a review of the history of the applications and Sisson's memo of October 20. This site plan provides the information requested in July. In 1988 there was a request to expand from 46 to 90 slips, which was denied by the Planning Commission, and a month later, granted by the ZBA upon appeal. Then in 1991 Emmerich received approval from the DEQ and Corps of Engineers to expand from 90 to 116, although the Planning Commission did not review a request for those additional slips, nor approve them. The DEQ and Corps of Engineers have issued permits to expand further to 139 slips, and the application is for the Planning Commission to approve that expansion. Even though the 90 to 116-slip expansion has not been built, there are construction permits for it. Emmerich said the other 26 are partially constructed, the pilings in and ready for the docks to be hooked on. He said he pays property tax on these 26. The current request is for floating docks for smaller craft. He added that these additional slips were noticed to the public again in February, 2003, because the permits had expired, and the state and federal agencies received no public comment. Sixty-one slips are sold, but Emmerich said they did not want to sell all of the rest, rather they will rent them, because there is so much development in the area, which should bring customers.

Neighboring residents made concerns known, those concerns being similar to what was expressed at the July 25 hearing: adequate parking for boat trailers, adequate septic capacity for 139 boat slips, pollution of shallow stagnant water, noise from parties and boat motors, sediment being displaced onto the neighboring trailer park's shore. Dayle Harrison said this is in the Natural River Overlay District, which needs to be protected, and Supervisor Burns exceeded his authority in 1991 by granting verbal approval to the second expansion at his meeting with Cameron Jordan and the applicant's attorney, as the applicant maintains. Harrison said the DEQ and Corps of Engineers give public notice by posting it in the post office.

Emmerich stated that the septic system can handle 34 to 50 boats a day, the drain field has been recently rebuilt, there have never been any police reports on noisy parties, the water is deeper at the marina because it is an abandoned gravel pit, dredging was done in 1990-1991, and the channel is maintained by the condo association. In answer to questions from the P. C., Emmerich stated that there was an original river entrance to this marina, that he did not know if the Health Department was aware there would eventually be 139 slips, that he was advised by the P. C. in 1997 that he had to have sufficient progress or have it built within a year or two so he withdrew his request. Milauckas remembered the hearing in 1997, and Sisson said no action was taken.

Sisson suggested the ZBA should rule on expansion of a non-conforming use they have approved as a variance. Milauckas pointed out that the Planning Commission has never granted any expansion to this marina.

Jarzewski made a motion that the Deep Harbor expansion must revert back to the ZBA for their action. He amended the motion to deny this application because the Planning Commission has no jurisdiction. Milauckas seconded. Harrison pointed out that marinas are permitted by SAU in R-2 and by the state Master Plan for the Natural Rivers, but the township did not adopt the latter for the Natural Rivers Overlay District. Milauckas

reconsidered the dilemma to avoid requiring Emmerich's additional fees to apply to the ZBA and said that upon reading Sec. 40-591 (c) (2) (d) there is a question about what's included in "sales, rental and service of recreational watercraft." Therefore, Jarzembowski withdrew his motion, and Milauckas withdrew his support.

Milauckas made a motion to table Deep Harbor's expansion to the next meeting November 28 so the Planning Commission may obtain an opinion from the township attorney about whether it has jurisdiction under the Natural Rivers Overlay District (Sec. 40-591) to grant SAU for a marina. Darpel seconded, and it carried.

Hanson resumed the Chair and after a brief recess, Steve Smit, Focus Engineering, presented site plan review of Southgate Commerce Park located on 8.2 acres in I-1 at Exit 36, which would have a building of 62,000 s.f. containing 41 high-end storage units for large recreational vehicles. Since sewer and water are available, the units would have clean-out and dump facility for cleaning vehicles, but no bathrooms or other conveniences for living. There would be no manager or employees, no outside storage, and the lanes are wide to accommodate large turning radius. Two storm water detention areas have been designed to comply with DNR's wetland mitigation requirements, and they will be forested. Entrance is from Blue Star Highway. Lighting is shielded wallpacks on the building. There are existing billboards along I-196. The units will not be condo-ized as Al Blommaert retains ownership, and no fencing is proposed.

Hanson asked if someone wanted to start a business allowed in I-1 in one of the units, how would that be controlled, and Smit suggested it would need site plan review and there would be a parking issue. Sisson said the Zoning Administrator could issue a stop order if the information were given him. Rausch asked if the sign would be lit, and Smit said he was only showing where it would be located. She furnished him with the township's proposed list of indigenous trees for landscaping, and he promised to forward it to King MacGregor. Smit referred to the Fire Department letter asking for an additional hydrant at the dead end of proposed Birchwood Lane and said they could put one in, but it might not be in the exact location suggested. Birchwood Lane will eventually serve the other parcels fronting on Blue Star. Sisson's memo of October 20 was reviewed. He asked for more detail in landscaping, suggesting more trees, strategically located to add to the evergreens along I-196 ROW. He also requested additional trees along the north side of the larger detention area and suggested that the shrub/scrub cover pictured for parts of the detention areas might not be very attractive. Smit thought they could do something evergreen along there. Cutting down the blacktop at the southwest end of the building and adding some landscaping there was suggested. In the absence of elevation drawings, Smit said he thought the building would have metal sides and doors and a peaked, shingled roof. Darpel asked if the south end of the building visible from I-196 could be dressed up a little.

Rausch made a motion, seconded by Jarzembowski, to approve the site plan dated 9/1/05 for Southgate Commerce Park as complying with Secs. 40-813, 815 and 816 with the following conditions: (1) Letters from the Drain Commission and DEQ must be obtained; (2) Five-foot trees will be added along I-196 and along the north side of the larger detention area; (3) The southwest end of the drive around the building will be reconfigured to eliminate some blacktop and landscaping will be added; (4) A discussion with the Fire Department representative will determine where future additional hydrant installation will take place; (5) A verification of easement and maintenance plan for private roads is necessary; (6) The southwest end of the building will be decorated with deco-block; (7) The building will have metal sides and doors and a peaked, shingled roof; and (7) Full cut-off lighting will be attached to the building. The motion carried unanimously.

Jeff Klemm and Jeff Vos furnished the information required at the September 26 meeting for the Maxwell Homes' development called Orchard Valley and asked for preliminary approval of the site condo. Klemm

presented the mitigation plan for areas contaminated by treatment applied to the orchards, and Vos explained that they had modified the phases and balanced the open space, but they still need to reconfigure some lots to keep 100-foot widths. Sisson said a lot may be as narrow in frontage as 40 feet on a cul-de-sac, but as it gets wider, once it achieves the minimum 100 feet, it must not diminish from that. Curving roads cause the problem, and Milauckas wondered if a zoning ordinance amendment was in order. Vos wondered if this might happen before he comes back in 2007 for phase II. Vos explained the mitigation process, where only after all testing and digging has been done can they go to the DEQ, and said the contaminated soil skimmed off will be deposited on the berm near the highway, unless that is not already contaminated. That berm would be capped, vegetated and fenced off so as to be inaccessible to children. Rose and Wester, environmental consultants, will prepare the final report on testing and mitigation and present it to the DEQ. Vos said they have a letter from the Drain Commissioner and water main looping has been approved by KLSWA. The P.C. brought up the entrance in the Douglas portion and the possibility of leaving a lot empty for aesthetic effect, and Vos said they were still talking about that. Douglas has not as yet considered this project, however. Hanson said his discussions with the Fire Department brought out concerns of access by trucks, and Klemm said they intended to keep an existing gravel drive open until the final phase is built and the alternative access from 129th Ave. established. Roads in this site condo are public and will be maintained by the City of Douglas and the Allegan County Road Commission.

After review of the standards of Sec. 40-938, Rausch made a motion to approve the preliminary plan for Orchard Valley dated October 7, 2005, conditioned upon the reconfiguration of lots to conform to the minimum width requirement of the Zoning Ordinance and conditioned upon the approval of the plan by the City of the Village of Douglas. Jarzembowski supported, and the motion carried unanimously.

Meeting adjourned at 11:55 P.M. The next meeting is a workshop on Thursday, November 10, at 5:00 P.M. The next regular meeting is November 28 at 7:00 P.M.

Betty A. White, Recording Secretary

Sandy Rausch, Secretary

MOTIONS

- 1. Motion by Milauckas/Rausch to approve minutes of October 10 workshop meeting.
- 2. Motion by Jarzembowski/Marczuk to close public portion of the hearing on Indian Point Site Condo.
- 3. Motion by Milauckas/Rausch to table Indian Point Site Condo preliminary plan to next meeting for advice from the attorney, zoning administrator and DEQ.
- 4. Motion by Jarzembowski/Milauckas to revert Deep Harbor expansion to ZBA, amended, withdrawn.
- 5. Motion by Milauckas/Darapel to table Deep Harbor expansion for attorney’s opinion on jurisdiction.
- 6. Motion by Rausch/Jarzembowski to approve site plan review of Southgate Commerce Park with conditions.
- 7. Motion by Rausch/Jarzembowski to approve preliminary plan of Orchard Valley site condo with conditions.