

SAUGATUCK TOWNSHIP PLANNING COMMISSION

May 24, 2010

The Saugatuck Township Planning Commission met on May 24, 2010, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Conklin, Darpel, Hanson, Milauckas, Rausch and Rowe

Absent: Edris

Also present: Planner Mark Sisson; Atty James Bruinsma, Singapore Dunes LLC; Martin Jannereth of DNRE; Jason Kalajainen, OxBow; Jack Helder and Josh Young, JJ Sand Mining; Atty Randall Schipper for LePior family; members of the general public; and members of the print and TV media.

Vice Chair Rowe called the meeting to order at 7:00 P. M. Minutes of April 26, 2010, were approved as amended (Conklin/Darpel) by adding to “Also present” a representative of the law firm representing Singapore Dunes LLC.

Rowe invited general public comment, noting that public comment would be taken on all the items on the agenda. Larry Sybesma, 4656 66th St., commented on what he called a rally of special interest groups at Wicks Park recently in Saugatuck where the National Trust for Historic Preservation Midwest announced that the Saugatuck area and its dunes have been designated as needing preservation. He called on the Township to represent all its citizens and resolve the issues of zoning which caused the lawsuits by Singapore Dunes LLC.

Doug Gritter, 3391 Maple Green Dr., urged the Township to negotiate with Singapore Dunes LLC because the area needs this development financially. He decried the input from outsiders, namely the mayor of Grand Rapids, at the abovementioned “rally.”

R. J. Peterson, 116 Riverside Dr., praised Singapore Dunes LLC for the “site plan” presented at a meeting in Grand Rapids recently for its protection of dunes and endangered species, adding that it would add to the tax base for the township. He requested the P. C. not to add to the critical dune but to discuss R-4 zoning as the Township Board asked.

Dayle Harrison, 3108 62nd St., President of the Kalamazoo River Protection Association, said there is more tax monies from the McClendon property than when Denison had it, many Michigan laws have been enacted to protect the natural areas such as this, and no site plan application has been made to the township.

Milauckas responded that Peterson’s comments were only one side of the issue and that what has been heard tonight was not what he knew as the facts of the issue.

Sybesma, riffing through the pages of R-4 zoning, said it was all pages of NO.

Rowe introduced Martin Jannereth of the Department of Natural Resources and Environment who referred to the map of the area where the extension of the Critical Dune designation is proposed. He explained that Michigan bases its Critical Dunes law on the atlas of Critical Dunes, and an extension can be made of up to 250 feet from existing critical dunes and farther, if allowed by the local township. He announced that notices have been sent to property owners affected by the addition of the first 250 feet. They have 30 days to respond, preferably in writing. He said there is no pressure on the township to go forward with its decision on additional extension.

In the ensuing discussion, it was brought out that the 1989 dunes designation neglected this area and the DNRE is trying to correct that. Development in Critical Dunes means more care in engineering to build, regulation of contour, no clear cutting of trees, preparing safe access to property, building on top of or in the valley of a dune preferably, among other things, and getting permits from the DNRE. Hanson asked Sisson if the information provided by the DNRE was sufficient for the Planning Commission to make a decision on extending the Critical Dune, and Sisson responded YES.

Rowe read a letter from Atty Bruinsma for Singapore Dunes LLC which stated that property owner McClendon is committed to preservation of the dunes, conservation, and good government and he asks the P. C. not to go forward tonight because of the lawsuit. He claims bias on the part of the township since this issue has not come up in 20 years and believes it is instigated by the Saugatuck Dunes Coastal Alliance. He states he has only just received this notice on the first extension from the DNRE and has not had time to review it.

Harrison stated that the KRPA raised this issue in the '90's when a house was built in the area, and there have been lots of discussions before the advent of the Coastal Alliance. JJR knew about this when they did the original study of the property for McClendon. He added that it is consistent with the Tri-Community Plan.

Gritter asked why this is an issue now, suggesting that it only adds fuel to the fire.

Milauckas referring to the September 17, 2009, letter to the township from the DNRE requesting the extension, asked Jannereth how it did come up, and Jannereth said he thought it was Harrison's KRPA which first brought it up some time ago when work was proposed for access to the property. He added that there are eight parcels involved but the largest is Singapore Dunes LLC. Milauckas asked Atty Bruinsma what time frame he would suggest for the decision since he has 30 days to review it, but Bruinsma said he didn't know. Milauckas said he understood McClendon requests the township to hold off on any decisions, including docks, in the area, and Bruinsma said YES. Further discussion revealed that the State will move forward after the 30-day period, that there is an appeal process for property owners which might last year. If an application is made to build in the interim there is no control over land change, but if after the process has begun there will be control. Jannereth revealed that Singapore Dunes LLC has already applied for road construction in the area. Hanson said this is an opportunity for the Planning Commission to make a recommendation to the Township Board to consider agreeing to

the DNRE's commencement of the process. He said the Planning Commission is not deciding anything.

Rausch made a motion to recommend to the Township Board that, as indicated by "DNRE Documentation," they authorize the DNRE to begin its process to protect the environment by extending the Critical Dunes designation in certain areas of the Township more than the 250 feet the DNRE is allowed to do by Statute. Support by Conklin. Hanson read the Resolution, draft date 5/20/10, and it was amended by adding to the fifth "whereas" (page 2) "as indicated by DNRE Documentation."(Rausch/Conklin) Roll call vote: Milauckas, yes; Conklin, yes; Darpel, yes; Rowe, no; Hanson, yes; and Rausch, yes. Motion carried 5 to 1.

After a brief recess, the meeting reconvened at 8:40 P.M. to continue the discussion of docks and piers in the R-4, etc. Sisson presented his second draft of the Zoning Text Amendment, including amendments to Sec. 40-351, 40-907, 40-908, and adding a new subsection (e) to Sec. 40-909 creating standards to minimize the potential for adverse environmental impact. Sisson asked if the P. C. was satisfied with R-4 being SAU, should R-3 be the same and how should density be regulated. He stated that applicants would come to the P. C. first with their plans and then go to the DNRE. There was concern about how to determine whether an applicant had demonstrated he had conformed to the standards in Sec. 40-909 (e). After some discussion, Hanson said he thought if they took a minimal approach, they would be worrying about spacing, hazards to navigation, dredging, and exhaust from motorboats.

Rowe opened the discussion to public comment and Harrison suggested that the exemption for shallow-draft vessels indicated one could have as many as 30 rowboats which could cause havoc. He wanted the north shore separated from the south shore and he was concerned about there being no limit on the length of the dock.

Kalajainen said he preferred SAU because the north shore and south shore were such different areas. Because the OxBow dock would provide space for painters, he would prefer the longest dock possible. OxBow canoes pulled up on the beach would probably be disallowed under the section that prohibits "storage." He wondered about having to share a dock with a neighbor you couldn't stand.

An e-mail from Kay Smalley who is also on OxBow Lagoon was entered into the discussion. She is concerned about disallowing the storage of boats on the beach and about the possible requirement to share a dock with OxBow students. She wondered if electric motors would be okay.

Attorney Bruinsma for Singapore Dunes LLC advised he did not have any specific comments regarding the proposed dock ordinance amendment; however, he confirmed the property owner requests the township hold off on the dock ordinance amendment and other action relating to Singapore Dunes, including review of the R-4 zoning and review of the property owner's proposed PUD amendments because of the lawsuit.

After some discussion, Milauckas made a motion, supported by Rausch, to table the docks amendment to the next meeting. Motion carried.

Rowe continued the discussion on the driveway to Helder's sand mining operation at M-89 and 62nd St. Sisson said in his e-mail of 5/24/10 the P. C. had three options:

1. Approve the SAU for the driveway and its incursion into the floodplain based on his findings, adding conditions, accepting the modified site plan or asking for revisions;
2. Table the SAU asking for additional information;
3. Deny the SAU, crafting a resolution outlining the rationale. This would require a new public hearing if a different access route to the mining operation (already approved) were found.

At 10:05 P.M. Rowe opened the discussion to public comment and Josh Young reported he had provided the amended site plan including the compensating cut and the 50-foot buffer from the mining operation. Sisson said he wanted contours better defined. Other access routes were discussed referring to a map of the area, but Young insisted the access in question from 62nd is the best. Helder almost threatened a lawsuit against the Township for the value of the sand because of the time and money spent on this already. He said this access will be built as a farm road eventually anyway.

Atty Schipper, representing the LePior family, presented a letter dated May 24 which responded to Sisson's findings and stated that the ultimate question is who should bear the risk of flooding. After a great deal of discussion, it was ascertained that the neighbor's concerns were based on the lack of faith in a plan not conceived by an engineer, worry over the possible instability of the proposed road and what its wash-out would do to their property, and the noise and traffic from all the trucks.

Milauckas made a motion, supported by Hanson, to table the Helder driveway SAU to the next meeting so the applicant can provide an independent engineering report confirming the adequacy of the proposed driveway, that there would be no more flood impact from the project than there is already. Motion carried.

Meeting adjourned at 11:35 P.M. The next regular meeting is June 28 at 7:00 P.M.

Betty A. White, Recording Secretary

Sandra Rausch, Secretary

MOTIONS

1. Motion by Conklin/Darpel to approve amended minutes of April 26, 2010.
2. Motion by Rausch/Conklin to recommend to Township Board that they approve Resolution to invite DNRE to begin process to extend Critical Dune designation additional 250 feet.
3. Motion by Milauckas/Rausch to table zoning amendment on docks and piers in R-4 to next meeting.

4. Motion by Milauckas/Hanson to table Helder's SAU for driveway in floodplain to next meeting so applicant can provide engineering report.