

SAUGATUCK TOWNSHIP PLANNING COMMISSION

June 28, 2010

The Saugatuck Township Planning Commission met on June 28, 2010, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

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

Absent: Rausch

Also present: Planner Sisson, Jack Helder and Josh Young for J. J. Mining, Atty Randy Schipper, and members of the general public.

Chair Edris called the meeting to order at 7:00 P. M. Rowe asked that the sand mining item be placed #6 on the agenda and Milauckas added discussion of his e-mail correspondence.

Minutes of May 24 were approved as amended (Rowe/Conklin) by adding between paragraphs 5 and 6 on page 3 the following paragraph suggested by Milauckas: "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."

Public Comment: Kate Smalley, 3423 ½ Park Street on the OxBow Lagoon, referring to her e-mail correspondence for the May 24 meeting, repeated her request to exempt small boats and kayaks, etc. on OxBow Lagoon from the R-3 and R-4 dock requirements.

Dayle Harrison, 3108 62nd Street, suggested the P. C. refer to the Saugatuck Natural Harbor Area document as a guide in its attempt to limit disturbance of natural species. Hanson said he thought rules regarding small boats should be included in that document rather than in a zoning ordinance. Harrison requested that the area between Pine Trail Camp and the R-1 Zone be included in the R-4 Zone. Edris asked Harrison, who represents the Kalamazoo River Protection Association, to put that request in writing to the Planning Commission and the Township Board. Harrison also suggested raising the height restrictions for McClendon's buildings to encourage smaller footprint in the sensitive environment; however, Edris said this should be requested by the property owner, Hanson referred to the small town atmosphere recommended in the Tri-Community Plan, and Sisson argued that attached vs. detached construction offered the same advantage.

When Edris called for discussion of the sand mining project, Atty Schipper objected because his client was not yet present, so the Commissioners proceeded to discussion of the proposed R-4 dock ordinance amendment. After consideration of page 2 of the draft dated 5/21/10, it was decided to delete the bold italics referring to SAU. Sisson said he

would revise the definition of Boat Slip to better define boat ramp. Consensus was that beaching of non-registered boats would be allowed, but not boat ramps.

Hanson made a motion to table the R-4 dock amendment until later in the meeting. Rowe seconded and the motion carried.

Edris reviewed the discussion from May 24 regarding the proposed J. J. Mining access drive off 62nd Street and the decision to require an independent engineer's evaluation of the adequacy of its design. Sisson stated that proposing a reasonable alternative access route would be denying J. J. Mining's chosen route and would require a new SAU application and review. Sisson said the P. C. must decide if it has enough information from his 5/21/10 memo presented at the May 24 meeting to make a decision on the chosen route. He opened discussion of the evaluation from Latitude Engineering made by Cal Becksvoort on the floodplain access route, first examining the five questions he had given the engineer to answer.

- 1. Will the proposed site access roadbed and the associated drainage improvements authorized under the acquired permit: a. significantly and unnecessarily affect the capacity of the floodplain or floodway; b. if so, how would the design be modified to reduce or eliminate the effect?
- 2. What is the estimated frequency that floodwaters will rise above the surface of the proposed access roadway?
- 3. Are the materials used and the manner in which the roadway and drainage structures are engineered adequate to withstand heavy truck use specifically in conjunction with frequent flooding, strong currents and prolonged saturation?
- 4. Are there alternative design considerations for the improvement of safety and durability of the roadway?
- 5. Are there unidentified or increased flood hazards or flood safety risks being created by the roadway that are not addressed by the MDEQ issued permit and if so, how might they be addressed?

Generally, Becksvoort endorsed the design of the roadbed and drainage plans, but he did recommend that "the road bed for the access roadway should be constructed of a clean and compacted sand material that will readily allow the consistent release of any water that may be entrapped in the road bed. This sand road bed material can then be surfaced with a layer of topsoil to provide for a seeding medium and the establishment of vegetative cover. This will provide for slope stabilization while still providing for adequate soil drainage of the road bed. The roadway surface should have a minimum of four inches of bituminous millings material placed and graded to provide for adequate load bearing capacity of the anticipated truck traffic. The roadway design does not indicate if any aggregate material (gravel) is to be placed on the compacted road bed material before the placement of the bituminous surface material. I would recommend that the roadway section include a minimum of eight inches of MDOT 22A aggregate base directly under the proposed bituminous material surface of the roadway. The material depth over the culvert is adequate if a reinforced concrete pipe is used for the culvert system. The pipe should meet the specifications for Class III Reinforced Concrete Pipe (C76-III RCP)." (See attached report in full.)

Atty Schipper said Becksvoort had three weeks to do his report but only gave Schipper two days to review it. He noted that there was no consideration of an alternate access route, that flooding downstream was discussed in the engineer's report but no mention of the possibility of its backing up into his clients' property and what would happen if the drive washed away and the culvert were blocked. His questions were answered by the engineer in e-mails (see attached). Also mentioned in the e-mails was a suggestion to plant deep-rooted grasses rather than woody vegetation on either side of the road bed to prevent erosion.

Milauckas asked if there were a cross-section of the proposed road bed after discussion of the suggestions for its composition in the engineer's evaluation. Young said there was no cross-section pictured in any of the information he had provided, but he said he had no quarrel with the recommendations from the engineer. Conklin mentioned that the 100-year floodplain for this general area should be corrected on page 3 of the engineer's report to read "660.1" instead of "600.1."

Milauckas stated that this application has been more work for the Planning Commission, the neighboring property owners, the attorneys, and the planner than any he had been involved in. He, Harrison and Darpel lamented the fact that the accesses to ag areas went through residentially established areas. Sisson discouraged alternative access by way of M-89 as not good "traffic control" and added that the courts do not look favorably upon excluding resource mining. Edris said the township attorney has advised that the Planning Commission doesn't need to eliminate every alternative in order to accept the one chosen by the applicant.

Rowe made a motion, supported by Hanson, to adopt Sisson's 5/21/10 findings on the proposed access drive to the mining operation (see attachment to May 24 minutes). In the ensuing discussion it was pointed out that the easement for alternative #3 drive proposed by the neighbors was not legally available and no assumptions should be made that it could be available, according to the township attorney, but that it was available for purchase, according to the neighbors. A roll call vote: Darpel, yes; Milauckas, yes; Edris, yes; Hanson, yes; Rowe, yes; and Conklin, yes; unanimous.

Hanson made a motion, supported by Rowe, to adopt and approve the five questions about the proposed access drive posed June 22 by Planner Sisson and the June 24 review, evaluation and suggestions by Latitude Engineering's Cal Becksvoort. A roll call vote: Conklin, yes; Rowe, yes; Milauckas, yes; Darpel, yes; Edris, yes; and Hanson, yes; unanimous.

Hanson made a motion, supported by Milauckas, to approve the SAU for the proposed access drive to J.J. Sand Mining, based on a review of Zoning Ordinance Secs. 40-590 and 40-693, conditioned on the original findings by Planner Sisson dated 5/21/10, the 6/24/10 report from Latitude Engineering's Cal Becksvoort, and on Becksvoort's "Suggested Conditions Pertaining to the Authorization of the J&J Sand Mine Flood Plain SAU." A roll call vote: Darpel, yes; Milauckas, yes; Hanson, yes; Edris, yes; Rowe, yes; and Conklin, yes; unanimous.

After a brief recess, the meeting reconvened at 9:45 P.M. to continue a lengthy discussion on the proposed dock ordinance amendment. Finally, there seemed to be consensus that since docks are regulated by the MDEQ, docks in Zones R-3B and R-4 should be permitted by right, governed by the Water Access Ordinance Article XII, but that Sisson should include a clarity waiver for small water craft in his new draft for the amendment.

Edris asked for e-mail suggestions for dates in August for a special meeting to review the 2005 Tri-Community Plan to see if it still meets the needs of the Township.

Milauckas' first e-mail correspondence concerned use variances. The township attorney has advised that the township has granted use variances before the current Statute's effective date; therefore, the ZBA can grant use variances.

Milauckas' second e-mail correspondence, dated June 25, is addressed to the Township Board and asks whether the Planning Commission will be invited to attend their meetings/negotiations with legal counsel relating to the Singapore Dunes LLC lawsuit and whether those negotiations will take place at public meetings. Hanson's answering letter, dated June 28, indicated that two members of the Township Board, named as defendants in the lawsuit, have begun informal conversations with Singapore Dunes LLC, but no information is being provided about these conversations and they have no authority to speak for the Township. The Board values the help of the Planning Commission but not at this time. The attorney advises not to conduct public meetings on this issue at this time.

Edris announced that Jane Wright has information on an upcoming MTA workshop on land use, and since he cannot attend, he encourages others to do so. The public hearing on wind energy will be rescheduled for the July meeting.

Meeting adjourned at 11:10 P. M. The next meeting is July 26 at 7:00 P.M.

Betty A. White, Recording Secretary

Sandra Rausch, Secretary

MOTIONS

1. Motion by Rowe/Conklin to approve amended minutes for May 24.
2. Motion by Hanson/Rowe to table dock amendment discussion to later in the meeting.
3. Motion by Rowe/Hanson to adopt Sisson's 5/21/10 findings on J&J Sand Mining and access drive.
4. Motion by Hanson/Rowe to adopt and approve Sisson's June 22 five questions and Latitude Engineering's Cal Becksvoort's June 24 review, evaluation and suggestions pertaining to the access drive.
5. Motion by Hanson/ Milauckas to approve the SAU for J&J Mining's access drive through the floodplain.

