

SAUGATUCK TOWNSHIP PLANNING COMMISSION

December 17, 2012

The Saugatuck Township Planning Commission held a special meeting on December 17, 2012, at the Laketown Township Hall on Beeline Road, Holland, Mi 49423.

Present: Conklin, Harrison, Milauckas, Rausch, Rowe, Rudich and Welk

Absent: None

Also present: Atty Bultje; Planner Sisson; James Bruinsma, Stephen Neumer and Hank Byma for Singapore Dunes LLC, members of the general public and of the press.

Chair Conklin called the meeting to order at 7:05 P.M. The agenda was amended to place the MeadowArgus public hearing after the public comment period and to add a discussion of a December 8 editorial in the Holland Sentinel (Rowe/Rausch). Minutes of the November 19 special meeting were approved as presented (Rowe/Milauckas).

Public Comment: Milauckas made a motion, supported by Rowe, to limit public comment to three minutes until all have had a turn, and then allow an additional two minutes. Motion carried, 6-1.

The following correspondence was received: (1) From Myers, Nelson, Dillon & Shierk, dated Dec. 4, asking that the recusal of Planning Commissioner Harrison be rescinded, dated Dec. 11 and 17 dealing with the conditions set forth by Planner Sisson regarding Singapore Dunes LLC; (2) From Smithgroup JJR two letters dated Dec. 10 regarding the wetlands in Phase I of Singapore Dunes LLC; (3) Emails between Byma and Sisson of Nov. 28 and 30 regarding wetlands and redrawing of lot 17; (4) From Olson, Bzdok & Howard dated Dec. 12 objecting to the interpretation of the Critical Dunes Overlay vis a vis open space requirements and the alleged failure to meet standards; (5) From LSL Planning dated Dec. 17 insisting all agencies must be consulted before preliminary approval and that setbacks are not adequate; (6) From Kristi Sherfinski, Waukesha, WI, dated Dec.11 concerning wetlands and normal Lake Michigan levels; (7) From Stephen W. Allen, Geum Services, Richland, MI, dated July, 2008, treatise on the prairie warbler; (8) From Prof. Lissa M. Leege, Georgia Southern Univ., dated Dec. 15 concerning the wetpanne hydrology in the proposed roadbed; (9) Email from Dick Waskin dated Dec. 17 urging preliminary approval for Singapore Dunes LLC; (10) From Dayle Harrison, Notice of Appeal to the ZBA; (11) James Cook, 3507 64th St., dated Dec. 17 and (12) From Jane Dickie, 6108 Old Allegan, dated Dec. 14, both urging the Planning Commission to take its time considering the Singapore Dunes LLC application.

Conklin opened the meeting to general public comment: (1) Scott Howard, Olson Bzdok & Howard, reviewed his letter noted above; (2) Shawn Seymour, LSL Planning, reviewed his letter noted above; (3) Steve McKoewn stated that the open space requirement should apply to the critical dunes R-3B and the road application should be separate from the site condo application; (4) Rick Brigham, Fremont St., was concerned about the endangered species on the Singapore Dunes site; (5) David Swan, Saugatuck,

displayed an aerial map of the Singapore Dunes property and quoted three biologists, listed in the correspondence above, who have studied the site for years regarding wetlands and water levels and the habitat of the prairie warbler; (6) Larry Dickie, 6108 Old Allegan, urged requirement of dunes permit; (7) Jon Helmrich, 3522 64th St., urged getting expert advice; (8) Steve Allen, Richland, MI., described his 2007-08 study of the prairie warbler on the north side of the Singapore Dunes property.

Conklin closed the general public comment period and opened the public hearing on MeadowArgus.. Secretary Rausch read the notice published in the newspaper for the public hearing on the request from the MeadowArgus Condo Association for an amendment to its previously approved PUD to add 4 lots from proposed Phase II to Phase I and to let the remainder of Phase II revert to metes and bounds status.

Milauckas brought up the fact that part of Meadowargus lies in the city of Douglas and said he talked to the Douglas Zoning Administrator, who said he did not know about this application. Milauckas read an email response from the Douglas ZA stating there were outstanding unresolved issues of storm water, road, etc. Sisson stated that MeadowArgus is a site condo, not a PUD, Phase I receiving final approval in 2006, but Phase II only preliminary approval, so no construction possible in that part of the project. Therefore, this is an amendment to add 4 lots to the site condo, even though Phase II is included in the documents. He said before a decision can be made, there are several issues to be cleared up.

Glenn Sperry, the attorney representing the condo association, said there is nothing to review as far as Douglas is concerned, this is a failed project which resulted in a tax sale and he asked that it be put on the agenda for January so loose ends can be cleaned up. He said the association would like to eliminate the “must be built” from the documents because there is no money to build them. Owner Pearson intends to request a rezone to A-1 or A-2 zone for Phase II at a later date. The intended purpose is to change the residential tax classification.

Rowe made a motion, supported by Harrison, to table this application. Motion carried.

Next on the agenda was the issue of Dayle Harrison’s recusal. Rausch read a portion of the letter from Bruinsma, dated Dec. 4, in which Singapore Dunes LLC removed its request to have Harrison recused from discussion and voting on their application. ”Although we are withdrawing our objection to Mr. Harrison’s participation in the review process, we are not waiving our rights to due process, nor are we waiving any rights under the Consent Judgment. Singapore Dunes LLC is preserving their due process rights that include their right to a review by a fair unbiased decision maker.” Mr. Bruinsma acknowledged at the meeting that the basis of such a claim would need to establish future conduct or statements by Commissioner Harrison in addition to the prior allegations.

Harrison referred to his letter of October 17 in which he maintained he could be unbiased considering this application under different zoning . Atty Steve McKoewn spoke on Harrison’s behalf.

Rowe made a motion, supported by Rausch, to rescind the recusal of Dayle Harrison from the Singapore Dunes application. Discussion ensued on whether the Planning Commission's integrity is compromised since it had decided Harrison had a conflict of interest and whether the applicant might sue if the Planning Commission made an adverse decision with Harrison as part of the Commission, Atty Bultje said the Planning Commission's rescinding the recusal doesn't change the conflict of interest, and he would like to see Harrison voluntarily recuse himself. Roll call: Rudich, yes; Welk, yes, Conklin, yes; Rausch, yes; Rowe, yes; and Milauckas, yes. Harrison did not vote. Motion carried. Bultje asked Conklin to ask Harrison to recuse himself. Conklin asked Harrison, and he refused.

After a brief recess, the meeting reconvened at 8:50 P.M. Conklin opened the continuation of the discussion of Singapore Dunes application. Bruinsma stated that he had received a letter from Sisson requesting certain changes and more information; for instance, how the rest of the property might be developed in the future and which trees would be affected by the construction of the road. Bruinsma said the fire inspector walked the entire area of the road and was apprised of the fire suppression system.

Conklin said the Planning Commission has received so many letters about concerns for the endangered species and wetlands on the site that she would like to know what the Commission can and can't do. Atty Bultje responded that the State has statutes concerning wetlands and endangered species, there are Federal laws regarding endangered species, and the local authorities can enact their own ordinances, but Saugatuck Township has not done so. Steve Allen said lots 22, 23, and 24 are adjacent to the area he studied in 2008 where the habitat of the prairie warbler lies. Bultje said the PC does not usually require such elaborate conditions for a preliminary approval.

Sisson proceeded through his letter to Bruinsma of November 28. Of the eleven items listed in the memo, number 1 regarding written verification that the state preferred on-site septic systems in the dunes and number 3 regarding setback in the critical dune were not resolved, and a twelfth item needed to be added requesting reconfiguration of lots 17 and 18 because of the wetlands. In response to Harrison's concerns about preserving native species and wetlands, Sisson said the PC could list issues for the state to consider in its review. Bruinsma responded to Harrison's request for more information about an on-site meeting Dec. 10 by JJR by saying boundaries were reviewed, five flags for immediate changes noted, lot 23 will be revisited next month, and critical dunes application will be made at the January meeting.

When Harrison brought up the critical dunes along the Kalamazoo River, suggesting that setback should apply accordingly. Harrison, referring to section 40-337 of the Saugatuck Township Ordinance relating to regulation uses and developments in the designated critical sand dune referenced section 40 (e) (2) which states that no building or structure shall be located closer than 100 ft landward from the crest of the first landward sand dune formation along Lake Michigan or along the Kalamazoo River. He also referred to

Section 40-337 (f) that requires a similar setback of 100 ft for road, street and access driveways and that roads should be located in natural gaps or troughs within the dune area. He indicated that application by Singapore Dunes LLC did not comply and did not identify or delineate the setback and that several of the lots along the river appear to be landward of the setback requirement. He suggested that a new application with the setback line delineated be submitted. He stated that the Ordinance regulation along the river were primarily for aesthetics and not regulated by the state critical dune act.

Bruinsma responded that although the State allows for local authorities to enact critical dunes ordinances, Saugatuck Township's critical dunes overlay is not a justifiable critical dunes ordinance, and the State Statute of July 2012 does not allow a local authority to impose more restrictive regulations than the State. Neumer added that what Harrison was suggesting would destroy the project, and he pointed out that there are already many other homes on the steep slopes along the river. Bultje said he did not believe there were regulations regarding critical dunes outside of the R-3B zone. Harrison suggested this application should be submitted to the ZBA to see if it should be a PUD.

Another issue was open space and whether its requirement was included in the R-3B critical dunes area. Sisson said it was his opinion that when the planning commission created the requirements for open space of the mentioned zoned district they never intended them as applicable to the requirements of the critical dunes overlay. Bultje explained that Sec. 40-332 establishes the area of the R-3B zone, which includes open space requirements, and Sec. 40-337 establishes that portion in the critical dunes, but the latter does not talk about open space. Instead, it imposes a 2-acre minimum lot size. When Milauckas suggested appealing to the ZBA for an interpretation of the ordinance, Bultje countered, "You drafted the ordinance, and now you ask the ZBA what it means? I'm not crazy about that." He added that if approval is given with the condition that the ZBA upholds the interpretation of the Ordinance, that would stay the process. Harrison made a motion that the Planning Commission request of the ZBA an interpretation as to the requirement of 35% open space in the critical dune area, Sec. 40-337. There being no support, the motion failed.

The Planning Commission reviewed the Resolution provided by Atty Bultje dated 12/17/12. He added 3. Q. "The building footprint of Lot #5 shall be adjusted to comply with the 100-foot critical dune setback requirement." After some discussion, Section 3. D. Access Points, the last sentence dealing with the 30' path along the seawall was deleted. Welk made a motion, supported by Rudich, to adopt the "resolution to grant Singapore Dunes preliminary plan site condominium approval," with the elimination of the last sentence in 3. D. and the addition of 3. Q. Roll call vote: Welk, yes; Rudich, yes; Rausch, yes; Conklin, yes; Rowe, yes; Milauckas, yes; Harrison, abstain. Bultje challenged Harrison's abstention, and he agreed to vote Yes. Motion carried unanimously.

Milauckas provided copies of an editorial in the Dec. 8 Holland Sentinel which accused Saugatuck Township Planning Commission of stalling to avoid granting approval of the Singapore Dunes application. He said he thought it was out of line for a newspaper to

start this up again and intimate that the township is denying a property owner his rights. After some discussion, Milauckas agreed to draft a letter in response on behalf of the Planning Commission. Rausch said she would help.

Meeting adjourned at 11:48 P.M. Next meeting to be announced.

Aaron J. Sheridan, Recording Secretary

Sandra Rausch, Secretary

MOTIONS

1. Motion by Rowe/Rausch to approve amended agenda.
2. Motion by Rowe/Milauckas to approve minutes of November 19 as presented.
3. Motion by Milauckas/Rowe to limit public comment to 3 minutes.
4. Motion by Rowe/Harrison to table request of MeadowArgus for amendment to PUD.
5. Motion by Rowe/Rausch to rescind recusal of Dayle Harrison from discussion of Singapore Dunes application.
6. Motion by Harrison without support, failed.
7. Motion by Welk/Rudich to adopt Resolution to grant preliminary approval to Singapore Dunes Site Condo, with conditions.