

SAUGATUCK TOWNSHIP PLANNING COMMISSION

January 28, 2013

The Saugatuck Township Planning Commission held a regular meeting on January 28, 2013 at the [Saugatuck Township](#) Hall 3461 Blue Star Hwy., Saugatuck, MI 49453.

Present: Chair Conklin, Harrison, Rowe, Rudich and Welk

Absent: Milauckas, Rausch

Also present: Township Planner Mark Sisson; Attorney Glenn Sperry representing the owners association of Meadowargus as well as members of the general public.

Chair Conklin called the meeting to order at 7:02 P.M. Motion by Bill Rowe and seconded by Brad Rudich to approve the amended agenda that includes discussion of 2 letters to the editor: (1) Saugatuck Township Planning Commission Response to the Holland Sentinel Editorial by Joe Milauckas; (2) Thank You letter to Betty White by Chair Conklin. Motion carried 5-0.

Motion 1

December 17, 2012 meeting minutes were amended as follows:

Page 1 paragraph 4 concludes “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.”

Page 2 paragraph 6 concludes “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.

Page 3 paragraph 5 the first sentence ends with the word “accordingly.” Addition of wordage as submitted by Dayle Harrison as follows “Harrison, referring to section 40-337 of the [Saugatuck Township Code of Ordinances](#) 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.”

Page 3 paragraph 6, second sentence is deleted.

Page 4 paragraph 3, second sentence was rephrased as “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.”

Motion by Bill Rowe / Brad Rudich to approve December 17, 2013 minutes as amended carried 5-0.

Motion 2

No public comment from the audience.

Deliberation continued on the failed Meadowargus Site Condominium project plan that originally received conditional approval of Phase I and preliminary approval of Phase II January 23, 2006.

Mark Sisson, Township Planner explained his memorandum to the Township Planning Commission dated January 25, 2013 and outlined the current state of the failed project as well as a Resolution draft from Attorney Glenn Sperry dated January 25, 2013 to amend the approved site condominium plan. The proposed resolution for an amended development plan would incorporate more than enough open space to satisfy 40% requirement of the current R-1 Zone District.

Mark recommended the Township seek satisfactory assurances that (1) the street be completed in accordance with Township standards (2) drainage improvements are made pursuant to a 433 Drainage District (3) suitable utilities are installed to support development and “as built drawings” are submitted to the Township.

Mark stated the Resolution from Attorney Sperry is a request for building permits to continue to be issued as if original conditions for the plan development have been met. He further explained the Resolution includes general terms of a development agreement that includes posting of a performance bond satisfactory to the Township to rectify unmet conditions of the amended plan, primarily assurances 1-3 as mentioned.

Glenn Sperry, attorney for owners association of Meadowargus described the intent of the Resolution is to restore a failed project within a 5 year period by resolving with the township to (1) amend the failed site condo approval development plan to reconfigure and downsize the original plan by deleting Phase II entirely with the exception of 4 lots, thus deleting the original plan requirement for sidewalks, a public pathway and public street access (2) amend the nature of the development by reducing the total amount of single family residential building sites or condominium units from 62 to 38 (3) enter into a development agreement with the Township and furnish a performance bond satisfactory to the Township in the amount of \$68,750 or 25% exceeding total cost of meeting the

street requirements of the amended planned of development (4) agree the association will levy assessments sufficient to pay the cost of compliance of drainage conditions per Section D of the original approved plan.

Harrison raised a concern that road access would no longer be public and that a planned public pathway through the development would be eliminated in the proposed Resolution. Harrison clarified with Sperry that necessary utilities have been installed and are in place for proposed additional lots.

Rudich questioned if \$68,750 in performance bond revenues is satisfactory to cover total costs of engineering, contingencies and the work for scope for all the planned improvements.

Sperry clarified that the performance bond revenues would be restricted to street improvements, but that an assessment levy has been agreed to by a 2/3 majority of the association in accordance with Condominium Act that is intended for drain improvements and utilities including engineering services like “as built” drawings and pressure testing of water and sewer utilities.

Sperry explained that \$50,000 for the cost of street repair was based on an escalating cost of asphalt and an estimate provided from Jeff Voss, original project engineer of the Meadowargus project. Mark Sisson suggested that language for the performance bond be changed to include drain improvement expenses. Sperry responded that the association has no objection to including these expenses in the language of the bond.

Bill Rowe asked Mark if the performance bond amount was in his opinion adequate for necessary improvements. Mark suggested the township require a certain percentage of the bond revenue be on hand and that there “was no guarantee” especially given the violate prices of asphalt.

Harrison asked Mark if the City of the Village of Douglas has an opinion on the current state of the project or concerns similar to those of the township regarding the issuance of building permits without plan conditions being met. Mark said he spoke to Ryan Kilpatrick, Community Planning from the city and that the project was as a PUD and that conditions, primarily the street and drainage, have not been met. Mark said Douglas “probably won’t” issue building permits if an amendment and development agreement is not resolved.

Harrison asked Mark if the Township would continue issuing building permits. Mark believed the township should not issue permits unless the approved plan conditions are met or satisfactory plan amendments and/or development agreement is resolved.

Harrison reiterated his concern of a loss of public access through the property as proposed in the Resolution. Harrison asked Mark about the easement for a sidewalk or pathway that was included on the Master Deed of the Meadowargus plan that was intended to provide public access to common areas of the original plan should the

township or public choose to act and develop access through the property of the development. Sperry said the Meadowargus development is not obligated to this easement under the Condominium Act in its current state. Conklin responded to Dayle the street would no longer be public as proposed in the Resolution, serving less than 50 units, public access from sidewalks and/or pathway through private property is an issue of discussion for a later date.

Discussion ensued regarding the cost of improvements to rectify unmet development plan conditions. Sisson and Harrison discussed liens to be applied to vacant lots. Harrison and Conklin then discussed the length of terms for the proposed performance bond that would be satisfactory for the township and owners association. Rowe felt it was reasonable and satisfactory to rely upon a performance bond to complete the project and meet conditions of the plan development given the amount of the bond and length of terms.

Rich Beebe, 3490 65th Saugatuck, MI 49453 made a public comment to Glenn Sperry to clarify who he represents. Glenn responded that he represents applicant being the owners of the condo association of Meadowargus as well as its principal owner of a non-majority number of lots, Joe Pearson.

Harrison and Sperry discussed the option of implementing tax special assessment district. Sperry reiterated the owners association has voted to install and collect their own assessment district under the condominium act not the state statute pertaining to public special assessments.

Motion was made by Rowe and second by Harrison to table discussion of the Meadowargus application until the next regularly scheduled meeting to be held in March. Motion carried unanimously.

Motion 3

Conklin opened discussion to review the Sanctuary development site plan.

Mark Sisson discussed the current state of the Sanctuary site condominium development owned by Macatawa Bank and introduced Al Ellingsen's email dated January 23, 2012 that includes attached correspondence from Macatawa Bank representative and environmental specialist Derrick Schabbel, LEED AP. Mark noted that prior approval of the Sanctuary site plan called for tree preservation and preservation of trees in the area between the units or lots of development. It was the intention of the approved plan that trees and vegetation remain between the units or lots.

Al Ellingsen addresses the planning commission in his email and describes the correspondence from Schabbel as a request to the planning commission to "unilaterally grant permission" to clear trees and vegetation on lots 27, 28, 29 and 30 and in the general common element in order to remediate alleged contaminated top soil.

Ellingsen's email correspondence further stated that approval of this request is inviolate and contrary to provisions of the approved site plan and that Schabbel's request to

continue remediation activities, as they are, would require amendment to the site plan at a formal hearing of the planning commission.

Conklin noted into the record an environmental study from Macatawa Bank that was recently provided to the township and that will be copied to the entire planning commission.

Harrison then requested public comment regarding the Sanctuary discussion prior to the planning commission discussion. Conklin agreed.

Public comment was opened prior to the commission member discussion.

Rich Beebe, address noted above and adjacent property owner of the development discussed the soil contamination concerns at the Sanctuary. He was not in favor of the removal of trees or vegetation or any other soil remediation activities that are contrary to provisions of the approved site plan. Rich also stated he was strongly in favor of having a public hearing should any consideration be made on behalf of the planning commission to allow for Macatawa Bank to act outside of the approved provisions of the existing site plan for Sanctuary.

Discussion ensued regarding the correspondence of Macatawa Bank and Al Ellingsen's correspondence. Maggie asked Mark to verify whether or not any state law would be applicable to the vegetation removal and/or soil remediation activities of the applicant.

Motion was made by Bill Rowe and seconded by Harrison to direct Al to communicate to Macatawa Bank that their request will to continue their activities will require an application for a public hearing to review the Sanctuary condominium site plan.

Motion 4

Conklin then opened brief discussion of the letters added to the agenda.

Motion was made by Rowe and seconded by Harrison to table the letter authored by Commissioner Joe Milauckas entitled "Saugatuck Township Planning Commission Response to the Holland Sentinel Editorial" until Joe returns from vacation. Motion carried unanimously.

Motion 5

Conklin then read her letter of thanks to the long time Planning Commission minute taker, Betty White. Extreme thanks was expressed by all commission members present.

Motion was made by Rowe then seconded by Ed Welk that the letter of thanks be sent to the newspapers from the entire planning commission. Motion carried unanimously.

Motion 6

Meeting adjourned at 9:10 P.M. Next meeting to be announced.

Aaron J. Sheridan, Recording Secretary

Sandra Rausch, Secretary

MOTIONS

1. Motion by Rowe/Rudich to approve amended agenda.
2. Motion by Rowe/Rudich to approve minutes of December 17th as amended.
3. Motion by Rowe/Harrison to table discussion of Meadowargus till March meeting.
4. Motion by Rowe/Harrison to request AI to communicate to Macatawa Bank.
5. Motion by Rowe/Harrison to table discussion of Joe Milauckas letter to editor.
6. Motion by Rowe/Welk to publish thank letter on behalf of the entire planning commission.