

## SAUGATUCK TOWNSHIP PLANNING COMMISSION

April 28<sup>th</sup>, 2014

The Saugatuck Township Planning Commission held a regular meeting on April 28<sup>th</sup>, 2014 at the Saugatuck Township Hall, 3461 Blue Star Highway, Saugatuck, Michigan 49453.

**Present:** Chair Maggie Conklin, Dayle Harrison, Joe Milauckas, Kathleen Miller Cook, Bill Rowe, Brad Rudich & Ed Welk

**Absent:** None

**Also Present:** Zoning Administrator Al Ellingsen & Township Planner Mark Sisson

Chair Conklin called the meeting to order at 7:00 pm

### III. Review & Adopt Agenda

Milauckas asked if there was any further information on the potential amendments in regards to the fracking ordinances, Rudich said nothing at this time but as soon as Sheri meets with Ellingsen they should be ready shortly after that. Harrison asked to add the fracking matter to the agenda. Conklin suggested adding it as XI, and adjourn would change to XII. Rowe moved to adopt agenda as presented, Welk second. Motion passes unanimously 7-0.

### IV. Public Comment & Correspondance

Jon Helmrich - Discussed briefly the "MI Place" Initiative and wanted to encourage all Planning Commission members to join.

### V. Review budget reports & information

Rudich mentioned that the Planner & Attorney fees were only \$154 for the month, which was great! As a whole the 420 department is budgeted as a group and not a line item, therefore the PC is currently within their budget and have 3 more months until the new fiscal year. Harrison asked why they no longer receive the Planning & Zoning publication. Conklin remembered it being like \$146/year for one copy that was then distributed to all interested members. The PC is interested in receiving this publication again. Rudich said he would look into this and Sisson said he can share a few back issues that he has. Sisson also mentioned that for \$400 you can receive enough of these for the entire commission.

### VI. Review minutes of March 24th, 2014 meeting

Under section VIII Cook just updated ". Cook feels this is a relevant point, how much land is really left in the R-4 and who is on it (Ellingsen says less than 12 acres)".

The PC questioned under section 9 if this was indeed what Al said "Ellingsen said this started because people requested to build a barn in a residential district, therefore there was industrial use zoning created to accommodate these requests"

## **VI. Review minutes of March 24th, 2014 meeting -continued**

Updated this motion under section 8: Milauckas moves the Planning Commission set for public hearing at the next meeting that the **R-4 zoning** district be reverted back to the previous zoning that was in existence prior to the establishment of the R-4 district. Rowe second. Passes unanimously 7-0. (originally said R-4 re-zoning)

Milauckas moved to approve the March 24 Planning Commission minutes with the three minor changes that were pointed out. Rowe second. Motion passes unanimously 7-0.

## **VII. Review draft ordinance amendment to revert R-4 area to R-3B and R-2(To be provided by Mark Sisson).**

Sisson said per Ellingsens request to put together a notice for reverting Deams property back to R-3B and the rest of the property (Oxbow etc) on the east side of the lagoon to R2, so he did just that. Sisson also put together an amendment to the ordinance to change the zoning matter back to those districts (which were provided to the PC in their informational packets). If the PC is comfortable with this approach and reviewed allowable uses compared to what is now permitted in R-4 versus the R-3B and feel that is a suitable exchange for the property on the west side of the lagoon, then go for it. Sisson said same thing goes for the R-2. Conklin wanted to re-iterate the areas of R-4 that used to be R-2 and going to going to be reverted back R-2, as well as any areas that used to be R-3B that are currently R-4 will go back to R-3B, this is true with the exception of the Singapore Dunes Property & consent judgment. There are no text changes; this is simply two map changes.

Conklin asked if there has any building in the R-2 or R-3B that would be out of character during the time it was R-4. Sisson doesn't know that answer. Oxbow is out of conformity to the R-4 and probably R-2, although this is not an issue, Rowe mentioned they come to ZBA often – as their hands are really tied. Milauckas asked if the consent judgment reverted the Singapore Dunes Property back to pre-existing zoning by court order? Sisson said they remain R-4, although the court bans the PC from enforcing it.

Milauckas said in terms of the zoning, we are not reverting all of the R-4, just the ones that are not affected by the court order. Milauckas mentioned the next map that comes out will require some sort of notation mentioning this court order (like an asterisk). He also asked if all of the Singapore Dunes property south of the channel was annexed into the City of Saugatuck. Sisson said everything but the Deam's property is owned by the City of Saugatuck, and has been annexed. If Diehm wants to be part of the city they can do that, and the township will most likely have no say in that. Milauckas last question is in regards to 40-337; the first paragraph which designates what area in the township is critical dunes, has been subject to a lot of different interpretations which describes the critical dune in the R-3B zone district. The last interpretation is that the critical dune area is only the R-3B and not beyond that. Milauckas wants to see if Sisson agrees with that, and he does. Milauckas wanted to know if this should be cleaned up at some point, and Sisson agrees it's too confusing – it should be more clear, although this is an entirely different discussion. Milauckas is concerned about how vague it is. Sisson asked what is the value of doing this (local regulation) with the little number of properties will be affected by this, since the Singapore Dunes is excluded anyway. Rowe & Conklin feel this is a big question.

Harrison feels it appears to be more complicated that what the intent was. When the PC did the R-4 and the zoning opinion that was tied directly to, as well as Sisson's opinion, support Bultje's position or vice versa, that for some reason that it was specifically identified in one part of the ordinance, it doesn't apply – and generally he thinks they use that argument as a way to remove that as a barrier for the McClendon project, but on the

## **VII. Review draft ordinance amendment to revert R-4 area to R-3B and R-2 - continued**

south side we don't have any assurances that he knows of that cements the Tallmadge Woods as being protected (there is a conservation easement that has been modified many times). So Harrison see's no harm in making sure the R-3B restrictions and critical dune overlay also apply to the R-2 as a safeguard (set-backs, building on dune slopes, etc). Milauckas feels this isn't the time to get into this ordinance clean up if we are simply reverting back to pre-existing zoning. Conklin and Rowe agree and see it as two separate things. Milauckas said perhaps this should be addressed with the cleaning up of ordinances with the fracking project. Conklin, Sisson & Rowe all agreed and said it's a great idea. Harrison wants to know what levels of protection we have in the R-2 during the meantime until this is addressed. Rowe said we are really only dealing with 6 residential properties, and Sisson said we still have the flood plain overlay. Harrison said although the conservation easement restricts some of the development but doesn't restrict some of the development in the southeast corner next to the river. He thinks there is a possibility that Oxbow could build up along the river's edge, and questioned if we want to see that? Harrison does not think it hurts the PC to put Oxbow property in the R3-B. Harrison is asking that we be more protective and change a couple words in the section 337 saying that the critical dune overlay district applies to this portion of the R-2. Conklin has added this to her list of things to do. Sisson explained that Harrison is requesting that Tallmadge woods be converted to R-3B instead of R-2, which would change the notice and description. Milauckas asked Harrison what regulations he thought were significant in the R-3B that the R-2 in itself doesn't provide. Harrison said setbacks from the river which is 100 feet in R-3B and its 75 feet in the R-2. Harrison also said where you can build in regards to the dunes is different. Cook is supportive and feels if it is warranted protection; it is something we need to move on quickly versus taking our time to act while thinking it through.

Milauckas suggested we table this until someone can lay out what the differences are in the R-2 and R-3B. Harrison suggested this be done prior to the public hearing. Conklin and the Commission agreed. Sisson said Harrison hit the nail on the head, if Tallmadge Woods deserves the extra level of protection that the R-3B would give, minimal lot size, additional setbacks, then do it. Conklin suggested noticing both. Sisson said one part of the notice would be exactly as it reads, another part of the notice would state "also consideration of the following described property as R-3B as opposed to considering R-2". Sisson said don't notice separately, notice together with an either/or consideration.

Rowe moves to table this until next month, Welk second. Motion passes unanimously 7-0.

## **VIII. Continued discussion regarding reverting part of Industrial Zone to Agricultural or Residential Zone.**

Sisson wanted to know is the Down Zoning supported by the master plan. He suggested not moving forward with this kind of change without support from the master plan. Rowe suggested tabling this until the master plan can be reviewed. Sisson said there is too much land there that will ever be utilized for the industrial zone purpose, it really is agricultural land. He suggested perhaps allowing rural and agricultural development in single plots as opposed to allowing a subdivision.

Harrison said there is a lot of residential action happening in the industrial zone and feels it is incompatible, and there is a need to reduce the industrial zone. Conklin agreed with the premise of reducing the industrial zone (as did Rowe), although she is adamant about keeping the area that floods every spring from houses being build on it if possible (or at least not easy to do) because they will flood. Milauckas says you can't tell the owner not to build, if they buy the property, they should be able to do what they are zone to do and apply for the permits needed to build, perhaps on higher grounds.

## **VIII. Continued discussion regarding reverting part of Industrial Zone to Agricultural or Residential Zone-cont**

Sisson said he is not saying this isn't worth amending your master plan to do it, but he wouldn't proceed without the two in concert. Harrison said they need justification for the changes. Conklin said we do, John Haggerty, who sent the letter has requested it. Harrison said he guessed the people who bought the property, should go back to realtor and former property owner about disclosure, Conklin said it was purchased from the bank and Rowe said banks do not have to provide disclosures on foreclosed property. Sisson said to look at the property for its capabilities and decide what zoning is appropriate based on the rationale for that piece of property in the tri-community plan.

Milauckas motioned to table the discussion to another meeting when they have more time and information to devote to it. Rowe second. Motion passes unanimously 7-0

## **IX. Discuss memo from Mark Sission regarding "Outdoor Sales and Services" in the C-3 Zone as a permitted use or a SAU**

Sisson said while there is a property owner who would like to move on it, the PC does have time to decide on this. Sisson said rather than call it a special use and allow it; it's not a good practice to stretch things to that extent when there is a clear rationale that it not be in the C-3. Sisson says given the question what is the best way to resolve it, he believes it is to go in and amend the ordinance. The other approach is up to the applicant he can come forward with a conditional rezone and request to downzone it to C-2, creating a situation for which they would be eligible for a special use permit. Sisson went on to say in his view, he said to talk to application and let him know he can do it one of two ways, the PC can proceed to do a text amendment in the C-3 zone; or he can file an application to make it happen sooner (conditional zoning), this will take 90-100 days to accomplish, versus February. Harrison asked if the PC would like to hear from the property owner and not just the lessee and they agreed they do.

Rowe moves this table this discussion until their July meeting, Rudich second.  
Motion passes unanimously 7-0.

## **X. Township Board Updates and Planning Commission Comments, with Mr. Rudich.**

Rudich only comment was that the Township board has started advertising for Al Ellingsen's position and one application has been received so far. Rowe – any thoughts on the applicant?  
It was the Michigan Township Services Planner, who proposed that they would work for the Township so many days a month. Sheridan also mentioned he had someone from Benton Harbor/St Joe area although they have not seen that application yet.

## **X. Township Board Updates and Planning Commission Comments, with Mr. Rudich. - continued**

Milauckas asked Conklin if she could talk a bit about the Tri-Community Planning Meeting from last month. Conklin said they meet again in two weeks, the last meeting got a lot of work done and as long as everyone comes to the next two meetings they will be done with this revision/update to the tri-community plan. Harrison asked Conklin if they could be sure to include something in regards to the industrial zone (as previously discussed in this meeting).

## **XI. Fracking**

Harrison mentioned that in the ordinance we have special guidelines for special approval uses (gravel pits for example). Harrison had a few key points the PC could use in regards to the rebuilding of ordinances and fracking. Harrison wants to draft something in regards to standards in special approval uses such as set-backs, noise, hours of operation...that sort of thing. He would to create some general language created to get the ball rolling on these ordinances as he feels the process has stalled. Conklin said he's welcome to do it as long as it doesn't overstep the states boundaries.

## **XII. Adjourn**

Conklin adjourned the meeting at 8:42p.