



SAUGATUCK TOWNSHIP

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Saugatuck Township Regular Planning Commission Meeting March 28, 2017

AMENDED APPROVED MINUTES

The Saugatuck Township Planning Commission met on March 28, 2017 at the township hall on Blue Star Highway, Saugatuck, Michigan, 49453.

Present: Miller Cook, Rudich, Prietz, Conklin
Absent: Welk, Milauckas
Recused: Rowe, due to possible financial conflict with Cottage Homes
Also Present : ZA Kushion and Attorney Scott Smith

At 7:00 pm Chairperson Miller Cook called the meeting to order.

Pledge of Allegiance

Review and Adopt Agenda: Move Item #7 after Item #9. Rudich clarified that Item #7 is not a Public Hearing but is a continuation of the discussion from last month's meeting Public Hearing. Rudich motioned to approve the agenda, Prietz seconded. Motion approved unanimously.

Review of February 28, 2017 meeting minutes: On page 1 last paragraph and page 2, first paragraph, add answers to questions by PC members. On page 2, seventh paragraph, take out 'with' in the sentence 'Maintain' the existing vegetative buffer along with the west property line. On page 3, fifth paragraph, add 'to' in the sentence 'ask the Zoning Administrator gather needed information'. On page 3, ninth paragraph, change 'Milauckas asked if this is a PUD or a site condo development' to 'Milaucakas asked if this PUD is a site condo development'. On page 3, twelfth paragraph, change 'Mr Harrington expressed his concern about water issues on the property' to 'Mr. Harrington expressed his concern about the use of an onsite septic system on lots located adjacent to the proposed boat basin that connects to the river.' Rudich motioned to approve the minutes as amended, Prietz seconded. Motion approved unanimously.

Public Comments: Larry Dickie, 6108 Old Allegan Road, Mr. Dickie requested that the Planning Commission delay approving the change in zoning from residential to commercial until there is a specific plan for commercial development instead of just an idea of what might be developed there. Lori Goshorn, 3512 64th St, expressed her concern regarding potential traffic issues if a commercial development is built.

Public Correspondence: Correspondence from Dayle Harrison (3-28-17), Daniel DeFranco (3-28-17), Lana Pollock (3-11-17), Michigan Historic Preservation Network (3-21-17), Janet Tyson (3-27-17),

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Victor Bella (3-28-17), Judy Levick (undated), Harriet Jones (3-28-17), Jeff Grill (3-28-17), Thomas Harrington (3-27-17), Mike Lorr (3-28-17), Steve Loar (3-28-17), Dana Mains (3-28-17), The Bily family (3-28-17)..

Public Hearing for a request for Preliminary Site Condominium and Preliminary R-2 PUD zoning for 23 residential single family home lots surrounding a boat basin. Parcels 03-20-004-006-00, 03-20-004-002-00

Prietz read the Public Hearing notice

Brian Bosgraaf from Cottage Homes, Mr. Bosgraaf presented his plans for the development. Miller Cook asked for further information in print form on the details of the plan. Mr. Bosgraaf explained that the area meets all of the requirements of the township ordinance. Miller Cook asked about the location of the helicopter pad. Mr. Bosgraaf stated that it would be elsewhere on the property. Rudich asked how the open space would be owned and maintained. Attorney Smith explained that the open space would be held as general common elements by the condominium association and would be required to remain as open space if the site condominium and PUD request are approved.

Miller Cook opened the Public Comment section of the Public Hearing.

Larry Dickie, 6108 Old Allegan Rd, Mr. Dickie asked if the Planning Commission is allowed to make a decision if they have not been able to consider all of the correspondence that has been received. Miller Cook thought that there was a deadline for when the correspondence is received relative to when the Planning Commission meeting is held. Rudich stated that it did not preclude them from making a decision on the request. Mr. Dickie stated that facts, figures and legal arguments is what the Planning Commission needs to hear when making decisions, not emotional appeals. He asked that the Planning Commission take into consideration the master plan in this matter.

Steve McKown, 2845 Lake Breeze Dr, Mr. McKown asks the Planning Commission to be careful in approving a condominium plan that includes a lagoon and marina that does not yet exist but is noted in the plan as an open common element. He thinks that, in order to approve the request, the water would have to be taken out of the plan or else the commission would be approving the excavation of the marina when approving the site plan. He also asked that there be clarification on the possibility of a dockominium association inside of the condominium association which might include the possibility of someone who is not a condominium owner but might be a dock owner.

Fritz Royce, 144 Lakeshore Dr, Mr. Royce stated that he is opposed to this development because it violates the master plan. He also stated that visitors come to our area because of its natural beauty which would be lost if this development is approved.

Brand Dykstra, 5933 134th Ave, Mr. Dykstra is concerned about the piecemeal development requests for this property. He also would like the houses to be built in the interior of the property so they would not be seen from the surrounding areas.

Cynthia McKean, 3498 Riverside Dr, Ms. McKean stated that she thinks it is important that the project

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be approved as a whole, not in several parts. She stated that the purpose of a PUD is to create a benefit that is not possible with the underlying zoning. She also stated that looking for an excuse to reward a developer for what he wants is a gross misuse of the PUD.

Ruth Johnson, 399 Park St, Ms. Johnson stated that a scale model of the project would be more helpful than a flat plan.

Conklin moved to close the Public Comment portion of the Public Hearing, Prietz seconded. Motion approved unanimously.

Board Discussion: Conklin asked how the PUD site plan request could be separated from the marina request. Attorney Smith stated if the commission would approve the PUD site plan request, it should be required as part of the approval that federal and state permitting of the boat basin be acquired before final approval of the PUD is given. Conklin asked if the footprint of the development would change if the marina did not happen. Attorney Smith stated that if the applicant comes back for final approval without the needed permits for the marina, the site plan would be different and it would then go back to the preliminary site plan approval stage. Conklin asked that the reason the houses are not being built in the interior of the property was because they would then be in a critical dunes area. Mr. Bosgraaf clarified that the whole area is critical dunes but building is not permitted in steep slope areas which are located in the interior of the property. Conklin asked the commission is looking at this development in stages because they have no control over the rest of the property development. Attorney Smith stated that, according to the Singapore Dunes settlement, there is a limit of 125 homes altogether on the property along with other limitations. He also stated that large pieces of property are usually piecemealed in its planning and development. The developer cannot be compelled to present his plans for the whole development when requesting approval for one part of it. References to other parts of the development were taken out of the site plan development map so that approval of this PUD would not be considered approval of the development in total.

Discussion regarding potential conditions of approval suggested by the attorney. These conditions include having required federal and state permits for the boat basin and private wells and septic systems, private road construction, fully dimensioned plans submission, legal description for the area, excluding anything shown on drawings outside the area of the PUD and site condominium project, time limit on construction, emergency access, no open space reduction, no changes to any yard or accessory building setbacks, community building stays the same size as depicted in plans and compliance with all conditions for the special use approval of the marina. Rudich suggested changing 'Township Manager' to 'Zoning Administrator' in condition #10. Prietz asked about the condition requiring construction in a single phase beginning no later than March 15, 2016. Attorney Smith explained that the township's zoning ordinance states that preliminary plan approval is only good for one year. This date can be adjusted depending on the date of final plan approval.

Conklin moved to approve the preliminary site condominium plan and PUD zoning with all of the conditions listed, Rudich seconded.

Board discussion: Miller Cook is not comfortable approving the plan because of the timing of

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information received. She would like more time to look over the correspondence and other information from the developer and the attorney.

Conklin motioned to postpone the preliminary site condominium plan and PUD zoning request until next month's Planning Commission meeting, Prietz seconded. Motion approved unanimously.

Public Hearing for a Special Approval Use for a Private marina, Parcels 03-20-004-006-00, 03-20-004-002-00.

Prietz read the Public Hearing announcement.

Mr. Bosgraaf presented his plans for a private marina. Only property owners would be able to purchase dock space which includes property owners from the rest of the development not included in the site condominium portion. There would be no fuel sales, pump out, marina in or out slips or boat ramps. Conklin asked why there were more boat docks than there were condominium units. Mr. Bosgraaf explained that the additional boat docks were for property owners in other parts of the development. Mr. Bosgraaf also stated that there would be no live-aboards.

Greg Weykamp, Edgewater Resources, Mr. Weykamp presented plans for the boat basin and marina. Conklin asked how the size of the boat basin was calculated. Mr. Weykamp stated that the intention was to have the smallest area possible for the boat basin based on having a minimum impact on other areas of the development. He stated that the permitting process for the boat basin is under the jurisdiction of the US Department Corp of Engineers and the Michigan Department of Environmental Quality. Rudich asked how many boat slips are planned for the boat basin and if any boat slips would be added on later. Mr. Weykamp stated that there are 34 slips and since that is what the application says, it cannot be changed at a later time. Conklin asked the maximum size of boats that would go into the boat basin. Mr. Weykamp stated that the maximum size would be boats measuring 120 feet or less. Rudich asked if excavation of the boat basin would result in sand mining. Mr. Weykamp stated that since excavation of sand would be part of the process of creating the boat basin, removing sand would not be considered sand mining. Prietz asked if the docks are permanent or floating. Mr. Weykamp stated that there would be a mix of both. Miller Cook asked if the local harbor authority had been consulted. Mr. Weykamp stated that this is not within the jurisdiction of the Kalamazoo Lake Harbor Authority. Conklin asked if Mr. Weykamp had ever built a boat basin in a critical dune area. Mr. Weykamp answered that he had built boat basins in critical dune areas. Conklin asked where the spoils of the excavation for the boat basin would go. Mr. Weykamp stated that the sand will be used for beach nourishment, onsite for road construction, etc. and what was left over would go offsite to other construction sites.

Miller Cook opened the Public Comment section of the Public Hearing.

Jon Helmrich, 3522 64th St, Mr. Helmrich stated that he does not think the request should be granted because it does not meet the township's zoning requirements, specifically Ordinance #40-337. He stated that removing the amount of sand needed to create a boat basin would have a materially adverse effect on the contours of the land. He had concerns regarding the answers to questions on the application for special approval use provided by Cottage Homes. He would like the request to be

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tabled until a third party environmental impact study is commissioned before a decision is made.

Larry Dickie, 6108 Old Allegan Rd, Mr. Dickie stated that Mr. Bosgraaf had mentioned in his first presentation regarding the project that friends of property owners would be able to visit with their boats. He wonders if there will be any transient slips for that purpose.

Steve McKown, 2845 Lake Breeze Dr, Mr. McKown stated that he thought that the amount of sand being removed for the boat basin would qualify as sand mining. He referenced ordinance #40-337c3 and stated that it is not possible to dig a hole 1500 feet long and 130-200 feet wide and 14 feet deep and not adversely affect the natural contours of the land. He thinks that allowing anyone outside of the condominium association to own a boat dock creates a commercial use – if the homes don't exist but lots are owned, ownership of a dock may not legally be allowed under condo association rules. He asks if the proposed use of this land is compatible with land that is adjacent to this parcel. He stated that if there was not a boat basin, there would probably not be any homes located along the river. He is concerned because the river is very busy and adding a large number of new boats might create a public safety issue.

Jane Dickie, 6108 Old Allegan Rd, Ms. Dickie asks the Planning Commission to do due diligence and contact customer of Edgewater Resources to get their opinion on how their projects were conducted.

Tony Ragona, 6437 134th Ave, Mr. Ragona asks if the boat slips will be negotiable within the development, will someone be able to buy two slips or be able to rent to someone outside the development. He wonders how rules will be enforced after the development is completed.

Keith Charak, 560 Main St, Saugatuck, Mr. Charak asks how the boats will get into the boat basin. He asks who will do the dredging. He is concerned that there might be possible Native American artifacts on the property.

Dick Waskin, 6576 Heron Ridge Rd. Mr. Waskin urges the Planning Commission to be careful with their rules as well as having the developer abide by those rules. He pointed out that a lot of the sand that is now on the property was put there when the channel was created and isn't necessarily pristine sand dunes. He stated that the state is trying to establish safe harbors along the coast of Lake Michigan and wonders if the boat basin would be considered a safe harbor for that purpose.

Brand Dykstra, 5933 134th Ave, Mr. Dykstra doesn't believe this development fits the master plan. He believes that PUD is a commercial development. He would like the Planning Commission to consider this development as a whole.

Cynthia McKean, 3498 Riverside Dr, Ms. McKean is concerned about the changes to the hydrology of the land that might occur because of the excavation of the boat basin. She wonders about the environmental and boat traffic issues that might come up because of the boat basin.

Jon VanderBeek, 6419 Palmetto Court, Mr. VanderBeek is concerned that not having a pump out station close by would mean that boat owners would dump into the river. He wonders if owners of the homes will complain about the activity at the cove across the river.

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Frank Alferi, 2493 Lakeshore Dr, Mr. Alferi stated that Saugatuck Township went over their water related ordinances for water frontage and decided not to allow new excavation for the purpose of increasing water frontage, referencing Section 40-906h. He stated that he was involved with the truck stop issues in the past and compares this marina to a floating truck stop in the middle of the river.

Rudich motioned to close the Public Comment portion of the Public Hearing, Conklin seconded. Motion approved unanimously.

Mr. Weykamp responded to several of the questions brought up by the public comments. The channel up to the north part of Kalamazoo Lake is considered a federal navigation channel and is dredged by the Army Corps of Engineers. The river depth will be greater than the marina depth. The Department of Environmental Quality will be reviewing the project in relation to dredging and sand mining. The sturgeon population should not be affected because nothing is changing in the river itself and the boat basin would qualify as additional habitat. There are many pump outs around the area so there are many available close by. He stated that the turning basin is designated as a safe harbor area by the state. Miller Cook asked if Mr. Bosgraaf knew about the ordinance regarding keyholing and if he thought he was in compliance. Mr. Bosgraaf stated that he couldn't answer that at this time. Mr. Weykamp explained that a keyholing designation is more of an issue when there is a large ratio between water frontage area and land acreage area. The frontage area of this development is 4000 linear feet with hundreds of acres of land. Conklin asked if the marina could be made smaller. Mr. Weykamp stated that the permitting agencies could possibly dictate something different. Rudich asked if there was an order of approval for requests. Attorney Smith stated that the special use approval could be approved separately from the site plan. He said that he doesn't see anything in the ordinance relating to development along the water that would be applicable to this particular situation. He stated that the ordinance 40-337 that was referenced by several people refers to the R-3b district, not the R-2 district which is where this development is located. He stated that any special approval use does run with the land. He stated that this is not sand mining as noted in the ordinance but if there is a question, there are state and local controls in place. He stated that if Native American artifacts are found, there is a federal process that is to be followed.

Discussion regarding possible conditions of approval suggested by the attorney. These conditions include obtaining all required federal and state permits, no fuel sales, pump out services or facilities, boat storage facilities, boat launch facilities or in-and-out boat services provided at the marina, no itinerant use shall be allowed, the marina cannot be constructed, occupied or used unless the residences are constructed as provided and the marina shall only have amenities shown on the approved PUD site condominium plan. Attorney Smith suggested adding a condition forbidding live aboards at the marina. Prietz asked Mr. Bosgraaf about a single owner having multiple docks. Mr. Bosgraaf stated that the owner could have two boats, one on each side of the dock.

Rudich motioned to table the special approval use request for a private marina until next month's Planning Commission meeting, Prietz seconded. Motion approved unanimously.

Public Hearing for a request for rezoning from R-1 Residential to C-1 General Commercial, 6523 & 6527 135th Ave. Parcels 03-20-003-049-00, 03-20-003-049-010, 03-20-003-049-20

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Miller Cook stated that the future land use map in the master plan shows that half of this land is slated to be moved into the commercial zone. Rudich thought that having a commercial development in that area would fit in well. Miller Cook stated that there had been no objections from anyone who had been noticed regarding the zoning change. Conklin would like to have a traffic light at that intersection. Attorney Smith stated that this would not be considered spot zoning since there are commercial uses and commercial zoning around the parcels. Mr Starring, owner of the dune schooner rides, stated that he has no objection to the rezoning and thinks it would be an improvement of the area.

Prietz motioned to approve the request for rezoning from R-1 Residential to C-1 General Commercial, Rudich seconded. Roll call vote: Conklin, yes, Miller Cook, yes, Rudich, yes, Prietz, yes. Motion passes.

Board Discussion: No discussion

Township Board Updates and Planning Commission Comments: No updates or comments.

Prietz motioned to adjourn, Conklin seconded. Meeting adjourned.

Next Planning Commission Meeting: The next Planning Commission meeting will be on April 26, 2017.

Janna Rudich, Recording Secretary

1. Motion to approve the agenda of the March 28, 2017 Planning Commission meeting. Rudich motioned, Prietz seconded. Motion approved unanimously.
2. Motion to approve the amended minutes of the February 28, 2017 Planning Commission meeting. Rudich motioned, Prietz seconded. Motion approved unanimously.
3. Motion to close the Public Comment section of the Public Hearing for a preliminary approval request of a site condominium and R-2 PUD zoning. Conklin motioned, Prietz seconded. Motion approved unanimously.
4. Motion to approve the preliminary approval request of a site condominium and R-2 PUD zoning. Conklin motioned, Rudich seconded.
5. Motion to table the preliminary approval request of a site condominium and R-2 PUD zoning until the next month's Planning Commission meeting. Conklin motioned, Prietz seconded. Motion approved unanimously.
6. Motion to close the Public Comment section of the Public Hearing for a special approval Uue for a private marina. Rudich motioned, Conklin seconded. Motion approved unanimously.
7. Motion to table the special approval use request for a private marina until next month's Planning Commission meeting. Rudich motioned, Prietz seconded. Motion approved unanimously.
8. Motion to approve the request for rezoning from R-1 Residential to C-1 General Commercial. Prietz motioned, Rudich seconded. Roll call vote: Conklin-yes, Miller-Cook-yes, Rudich-yes, Prietz-yes. Motion approved unanimously.