

PLANNING COMMISSION
Minutes for Regular Meeting of
March 5, 2014

PRESENT Dave Roesler, Tom Thompson, Jan Deur, William Josephson, Leslie Sprott, John Warner and Mark Dykhouse.

ALSO PRESENT Zoning Administrator Sandel, Recording Secretary Dion and 20 interested parties.

CALL TO ORDER Chairperson Roesler called the March 5, 2014 meeting to order at 6:30 p.m. and led those in attendance in the Pledge of Allegiance.

AGENDA **Motion by Willie Josephson, second from Jan Deur, *ADOPTED*, to accept the March 5, 2014 meeting agenda as written.**

7 AYES

MINUTES **Motion by Jan Deur, second from John Warner, *ADOPTED*, to accept the January 8, 2014 meeting minutes as written.**

7 AYES

PUBLIC COMMENT

1. Greg Kruse, 5617 South Shore Drive, handed out 2nd notice letter dated February 24, 2014 regarding 4058 Michillinda Rd., addressed to Sally Dion Secretary Planning Commission, government closest to me: Chairperson Roesler stated it would be taken under advisement and put on the next meeting agenda.
2. Kevin McCabe, P.O. Box 341, Whitehall, asked for progress on abandonment of the McMillan Road End, said he heard that it was being abandoned and the neighbors on either side would be taking the property over. Chairperson Roesler advises that is a Township Board issue, not the Planning Commission.

PUBLIC HEARINGS

1. Parcel number 61-06-012-300-0032-00, 6748 South Shore Drive, White Lake Yacht Club, request to amend the zoning district and zoning map from Inland Lakes District zoning to Waterfront Marine District zoning.

PUBLIC HEARING OPENED 6:33 p.m.

Chairperson Roesler explained the process that would be followed for tonight's public hearing. He asked that those wishing to make comment wait until they are recognized by him before they go to the podium, he asked them to state their name and address, state their comments to the board, comments will be limited to 3 minutes, however, he is reserving the right to change that after all have spoken if there is enough time to allow more. He asked that if you agree with a comment previously made to please just state that instead of repeating what was already said. Decisions are made using the standards given in Zoning Ordinances; they are not based on personal opinions.

Zoning Administrator Sandel gave brief explanation of reason for request, they have swimming pool, meeting room, docks, and his opinion is the Waterfront Marine District fits and the Future Land Use Map shows as such.

CORRESPONDENCE

- 1. Paul Kuipers and Kelly Dausey, 6757 South Shore Drive**, seeking clarification on several things to help them as property owners facing the WLYC to understand the potential impact of the change on our property value and neighboring aesthetics.

Ryan Briegel, spoke on behalf of the White Lake Yacht Club, he advised they are not planning on tearing down the existing club and rebuilding. They want a contingency plan in case of fire, etc. He asked that any other questions be referred to Brad VanBergen of Winberg Construction, Inc. regarding this request.

PUBLIC HEARING CLOSED 6:40 p.m.

COMMISSIONER COMMENTS

Commissioner Thompson advises he believes the White Lake Yacht Club didn't get included in the Waterfront Marina District when South Shore Marina did because it was a club not a business. If this zone change request is approved he believes the existing uses must be documented as bench mark/starting point.

Commissioner Deur asks how do the Uses Permitted by Right and the Uses Permitted by Special Land Use in the Waterfront Marina fit currently. He understands only so many docks are allowed for so many feet of frontage, do they meet this currently? What are they now, a Use by Right or Use by Special Land Use? Zoning Administrator Sandel states they are legal nonconforming now and would be in either district. Commissioner Deur agrees with Commissioner Thompson for the need of a bench mark/starting point of the existing uses.

Commissioner Warner asked if this would be spot zoning. Zoning Administrator Sandel advises no it would not; it's already on the Future Land Use Map as Waterfront Marine District.

Commissioner Sprott asked why they need a contingency plan, they could rebuild on the same footprint. Zoning Administrator Sandel advised they could not build on same footprint because of handicap requirements.

Chairperson Roesler asked if they will still be legal nonconforming if changed to the Waterfront Marine District. Zoning Administrator Sandel advises, yes, if they want to do anything else they would need to come to the Planning Commission, of all the zoning districts the Waterfront Marine District is the best fitting.

Commissioner Deur states there is some logic because of the Future Land Use Map; however, he has concerns about Special Land Use provisions that may be already there that would normally have to go to the Planning Commission for approval. He stated he had spoken with Attorney Even and he would like to review this further before a decision is made.

Motion by Jan Deur, second from John Warner, ***ADOPTED***, to
TABLE, until the next meeting giving the attorney time to review.

7 AYES

2. Parcel number 61-06-013-100-0017-00, 5207 Scenic Drive, Parkland Acquisition Three LLC, request for Site Plan Review to replace fire damaged building which has since been demolished.

PUBLIC HEARING OPENED 6:54 p.m.

Zoning Administrator Sandel advised of errors on the site plan submitted with the application for Site Plan Review. Parcel number 61-06-013-100-0010, 5271 Scenic Drive needs to be added as it is part of the proposed plan; the site plan also indicates the zoning district is the Inland Lakes District; it is in the Lake Michigan Shoreline District. The Muskegon County Road Commission and Muskegon Conservation District have responded, however, we have not heard from the Muskegon County Health Department, Muskegon County Drain Commissioner or White Lake Fire Authority.

Mr. Jon Rooks, Parkland Acquisition Three LLC, explained this property was available for sale for a number of years, the fire happened, they purchased it and researched what was the best plan and what steps were needed to restore the property to what it was and upgrade some other buildings also. He stated they need to meet the DEQ requirements, they need to be 80' from the bluff, and the former lodge was not, he is proposing to rotate the buildings allowing 40% to still be within the old footprint of the former lodge and meeting the 80' from the bluff. He also said the DEQ has a requirement that no structure can be bigger than 3,499 square foot, thence, the proposal to replace the former lodge with two three story buildings, each building containing four 4 bedroom rental units. Each building will provide a 2 stall garage below with three levels above. The basement/garages will have at least 50% below grade. He is working concurrently with an environmental consultant to apply for necessary MDEQ permits. The drive has been modified to accommodate the new buildings and parking will be provided utilizing existing site parking with new spaces as shown on the preliminary site plan. Mr. Rooks said there will be no further development now or in the future. He said they took neighbors' complaints about old owners and tried to propose something other than a bar and restaurant. His proposed plan also indicates the improvement of 11 other buildings, he does not want to make them bigger; however, he wants to add kitchens which would make them single family rentals. They would use these as weekly rentals; they would be easier to maintain, etc.

PUBLIC COMMENT

1. **Tracy Mahoney-Knoth, 5230 Scenic Drive**, she is also speaking on her parents behalf, Richard & Darlene Mahoney who reside at 5214 Scenic Drive, letter dated March 3, 2014 was read citing concerns with water issues like they had in 2000, not enough time to respond to notice sent, the proposed plan does not conform to the "grandfathered" use, **opposed**.
2. **David Bossenbroek, 900 3rd Street**, representing Crampton Properties and Michillinda Beach Association, asks if the non-conforming use is going to change, appears they want to make changes, cites concerns with water issues, impact of septic systems with added kitchens and bathrooms, is the use being expanded or diminished, are existing cottages year round now? Are they planning to be?
3. **Dennis Hughes, 5333 Scenic Drive, owner of the White Duck Market**, states wells did get sucked dry, however, it was the DEQ's fault not the owners fault, he believes that the Michillinda Beach Association has more density than the lodge property, he does not believe they should be asked to scale down the proposed plans, it would be unfair, it should be given a chance, **supports**.

CORRESPONDENCE - EMAILS

1. **Thomas R. & Mary T. Barry, 5262 Scenic Drive,** requesting that the Planning Commission table this proposal until the following criteria is completed: 1) The developer be required to submit a complete environmental impact survey approved by the Environmental Protection Agency, State of Michigan, The Muskegon County Health Department, the Muskegon County Road Commission, The Muskegon County Drain Commission and the Fruitland Township Board, 2) A property density study be approved showing the usage does not exceed current zoning limits which were seasonal and now are changing to year-round, 3) Meetings should be held at a time when neighbors are in residence for their input to be heard, in closing stated this ill-conceived plan could develop a potential 22 residences on a property that is zoned for 3 residences, this violates every code long held by Fruitland Township.
2. **David & Kathy Twardock, 5161 Scenic Drive,** states that prior to the fire, the property was operating as a non-conforming use consisting of a lodge with common areas, a restaurant and commercial kitchen. The proposal does not restore the prior non-conforming use nor does it move the property toward the conforming residential zoning, rather it consists of high density residential development and the conversion of existing non-residential buildings into residential buildings. The inclusion and addition of multiple kitchens is clear evidence that these are residential units, not restoration of the Lodge. This is in violation of the Township zoning ordinance which requires restoration of the non-conforming use or redevelopment in a conforming manner. The proposal further suggests that the residential units will be rented. Effectively the new use will be rental apartments on the shores of Lake Michigan. This is clearly not within the scope of the required zoning, opposed.
3. **Mr. & Mrs. Don Huntington, 5129 Scenic Drive,** requests to determine the environmental impact of the proposed changes, cited concerns of the impact on the local water table and septic situation.
4. **Katrina Veerhusen, 5009 Scenic Drive,** states she has carefully reviewed Mr. Rooks proposed development and finds them lacking in specificity. Believes they were given little if any information as to the possible occupancy of the property if the plan is approved. Stated that Mr. Rooks says the structure that burned had 17 units and that his proposed new buildings would contain a total of 8 units, but each of those 8 units would contain 4 bedrooms, for a total of 32 bedroom, presumably sleeping at least 2 person each, for a minimum of 64 people at full occupancy. By contrast, they have no information regarding the number of beds or size of the previous 17 units. Given the concerns about the water table in the Michillinda area in recent years she believes it is essential for the Commission and the Lodge neighbors be provided more detailed information with respect to the number of guests the Lodge property may be hosting under the terms of the Rooks' proposal as well as something more than Mr. Rooks' opinion that the water supply will not be impacted, there are also traffic and noise issues attendant to the number of overnight guests which may be on the property on any given night, requests the Commission consider continuing the hearing on Mr. Rooks' proposal until June 1, 2014 or later because the Michillinda Beach Lodge Association cottages are literally uninhabitable and all of the owners, are residing elsewhere.
5. **Anne S. Martin, 5081 Scenic Drive,** requests the commission demonstrate utmost competency in understanding plan details, a genuine sensitivity to the surrounding neighborhood, and an impressive commitment to making the right decision regardless of persuasion or popularity regarding the current and future proposals to rejuvenate the property at Michillinda Beach Lodge. The development must be measured within the code as written which has proven effective to properly restrict overly ambitious property use.
6. **Peter Veerhusen, 5009 Scenic Drive,** believes the proposed plans are intentionally vague to give a lot of wiggle room as far as future development goes, states this location never should have segued into commercial use due to the low and tenuous water table and the rural and

residential nature of the locale, urges the most conservative and restrictive approach taken in permitting this property for any sort of hospitality use.

Mr. Rooks stated he is proposing less than ½ as many units and that the burden of kitchens is far less than the existing lodge. He also stated he has spoken with many who want to see this re-developed.

PUBLIC HEARING CLOSED 7:24 p.m.

COMMISSIONER COMMENTS

Commissioner Josephson states they are reducing the number of units, however, what is being proposed is 4 bedrooms in each unit, there will actually be more people in just the lodge area. If it is three stories it will be 50' tall, if this is allowed he has concerns with it, without new lodge or dining it will no longer be a landmark, it will be just for people renting, very concerned with water & sewer issues, it will be double the occupancy, adding kitchens to the existing cottages according to existing zoning ordinances would make them each single family dwellings.

Commissioner Spratt believes the proposed plan changes the use, for key-holing 105' is needed to use the beach; this would only allow four dwellings, she believes if they had one big dining area it would be helpful, asked if the proposed use would be considered Grandfathered. Zoning Administrator Sandel stated that it's possible what is being proposed would change the use because the existing buildings outside of the lodge are accessory uses to the lodge because they do not have kitchens and therefore are not single family dwellings or the entire development could be considered a resort depending on your findings.

Commissioner Warner echoed Commissioner Josephson's comments, proposed plan would violate ordinances, and how would we avoid rentals for longer than weekly, needs more details.

Commissioner Dykhouse states concern with possible water issue and needs more information.

Commissioner Deur referenced article from MLIVE, where Mr. Rooks stated the plan was to replace what was there before the fire, most people that he has spoken with would prefer the property would continue to have public access, with dining and no single family dwellings. He also believes this could be an even more nonconforming use of the property, and that Zoning Board of Appeals would have to rule whether what is being proposed has a less harmful effect on the neighborhood. He asked Mr. Rooks how many neighbors had he spoke with? Tonight there was only 1 person speaking in support and the rest were opposed.

Commissioner Thompson asked if old wells are being used on the property, stated he assumes the cottages will be heated, etc., new units proposed only show total size, what size is each living unit, all are calling for four bedrooms each, with no public restaurant will this area still be used for weddings?

Chairperson Roesler advised we do not have response back from the Muskegon County Health Department, we only have the information that Nederveld provided, he explains the fire was tragic, however, he doesn't understand what the fire has to do with making the cottages single family dwellings, the scope went way beyond the Intent of the Ordinance, he believes we need to have Attorney Even review. They could replace the lodge maybe with location change for the DEQ; however, the proposed plan is for a totally different use. He doesn't feel there is enough

information to make a decision at this time. He stated they have 90 days to make a decision so this can be tabled for further review.

Motion by Tom Thompson, second from Leslie Sprott, **ADOPTED**, to **TABLE**, until the next meeting to give more time for response from all entities and also giving the attorney time to review.

7 AYES

OLD BUSINESS

1. Reports from Sub-Committees

- Fences, walls, hedges, berms and screens language in Lakefront Districts

Commissioner Josephson stated no report.

- Zoning for Sylvan Beach (sub-committee is Commissioners Sprott, Thompson, Warner and representative from Sylvan Beach).

Commissioner Sprott stated she emailed Alan Jackman; his response is he is willing to be part of the sub-committee when he returns.

- Review Swimming Pools in the Lake Districts (sub-committee is Commissioners Josephson, Thompson and Dykhouse).

Commissioner Josephson provided the following language for review:

Section 3.27 Swimming Pools (Current language)

- A. A swimming pool or appurtenances thereto shall not be constructed, installed, enlarged, or altered until a building permit has been obtained.
- B. The outside edge of the pool wall shall not be located closer than thirty (30) feet from any rear lot line or twenty (20) feet from any side lot line. Swimming pools shall not be located in the front yard.
- C. All swimming pools shall be constructed and enclosed by a barrier in accordance with applicable construction codes as adopted by Fruitland Township.

Proposed discussion for possible changes to ordinance:

1. Allow swimming pools in Lakefront Districts in front or rear yards.
2. Pool fence (4 feet high required) minimum ten (10) feet from property line, must be see-through.
Pool fence minimum fifty (50) feet from bluff line.
3. No structures allowed inside of rear yard setback.
Diving boards 36" high maximum allowed as structure within setback.
Front yard setback requirements remain the same.
4. Leave pool setback at 20 feet- could get variance for narrow lots.
5. Allow building pool within 100 feet rear yard setback (to 50 feet from bluff line for fence).

6. Change Section 3.31 E to allow pools in Lake Michigan Shoreline Setback.
...The required setback for all structures, buildings, and new construction above and below ground, including septic systems, except for swimming pools, is a minimum 100 feet landward from the Ordinary High Water Mark of 580.5 IGLD 1985 or 100 feet landward of the bluffline.
7. Front yard setbacks Section 3.27 B 'swimming pools shall not be located in the front yard.'
Change in Lakeshore Districts to allow in front yards?

Commissioner Josephson stated that pool ordinances in other Townships provided by the pool place allowed more than they wish to. They do not believe any other districts need to be amended, just the lakefront districts.

Commissioner Deur asked what type of fence is considered see through, chain link or wrought iron. He doesn't agree with saying what size and kind of fence is allowed.

It was brought up that the proposed change to Section 3.31 to allow pools in Lake Michigan Shoreline Setback needs to be further reviewed, if the average is used it may not always be the 100'.

Consensus is to leave the side setback at 20'; a request for variance could be made for narrow lots.

The sub-committee will meet again and draft this proposed language into the current ordinance and bring back for review and further discussion.

2. Discussion on Article III, General Provisions, Section 3.31 Average Setback Lines

- Intent
- Possible conflicts with Zoning District Site Development Standards regarding Streams, Creeks & Lakes.

Zoning Administrator Sandel and Zoning Coordinator Dion will work on proposing language for the areas we feel need clarification.

NEW BUSINESS

1. Discuss changing the number of days applications must be submitted to be put on the next month's Planning Commission or Zoning Board of Appeals agendas. It is twenty (20) days now, if applicant waits until cutoff date depending on the meeting date it could be too late for publication for the next meeting and it doesn't give the Zoning Administrator time to check to see if the application is complete.

Consensus is to propose change to thirty (30) days. Zoning Coordinator Dion will scan existing ordinances to be sure it is amended in all places. It will be put on list of things ready for Public Hearing.

2. Medical Marijuana Subcommittee Update.

Commissioner Deur stated that Attorney Even wants to meet with the sub-committee to discuss changes that may be required due to recent court rulings and legislative actions.

3. Potential change to Sign Ordinance.

Commissioner Deur advised that according to Clerk Karolyn Rillema, the County would like Election/Campaign sign ordinances uniform, she will keep us updated.

ADJOURNMENT

**Motion by John Warner, second from Willie Josephson, ADOPTED,
to adjourn the March 5, 2014, regular meeting at 8:33 p.m.**

7 AYES

Respectfully Submitted,

Sally Dion, Recording Secretary