

PLANNING COMMISSION
Minutes for Regular Meeting of
May 7, 2014

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

ALSO PRESENT Zoning Administrator Sandel, Recording Secretary Dion and **8** interested parties.

CALL TO ORDER Chairperson Roesler called the May 7, 2014 meeting to order at 6:30 p.m. and led those in attendance in the Pledge of Allegiance.

AGENDA **Motion by Jan Deur, second from John Warner, ADOPTED, to accept the May 7, 2014 meeting agenda as written.**
ALL AYES

MINUTES **Motion by Leslie Sprott, second from John Warner, ADOPTED, to amend the April 2, 2014 meeting minutes, page 2, revise motion vote for zone change for White Lake Yacht Club from 6 AYES to 4 AYES and accept as amended.**
ALL AYES

PUBLIC COMMENT None

PUBLIC HEARING

1. Parcel number 61-06-113-200-0019-00, 5010 Whitehall Road, Michigan's Adventure, Inc., a Michigan corporation, requests to amend the zoning district and zoning map from Neighborhood Commercial District to Amusement Park District for this parcel.

PUBLIC HEARING OPENED 6:36 p.m.

Camille Jourden Mark was here on behalf of Michigan's Adventure. She explained that the purchased the 10 acre parcel to the North of them would like to have the zoning changed from Neighborhood Commercial District to Amusement Park District and combine with their already zoned Amusement Park District parcel. The existing home on the 10 acre parcel will be demolished and they plan to expand parking for the Human Resource Building. At this time there is not a plan for the back portion of the property.

PUBLIC HEARING CLOSED 6:39 p.m.

COMMISSIONERS COMMENTS

Commissioner Thompson states the parcel is currently Neighborhood Commercial, he sees no concerns with changing to Amusement Park District.

Commissioner Deur states normally when a zone change is approved it can only be approved for the zoning adopted on the future land use map, however, because this owner is a neighboring property owner this can be done.

Commissioner Dykhouse agrees with Commissioner Thompson.

Commissioner Warner stated he can see the need for more parking for the Human Resource building, he does not see any issues with changing the zoning to Amusement Park District.

Commissioner Sprott stated she hopes with the additional parking that maybe safety measures could be taken as this seems to be a very congested area at opening/closing times daily.

Camille stated she understands the safety concerns and if this zone change request is approved they can work with the Muskegon County Road Commission in proposing an entrance/exit separately.

Commissioner Josephson has no concerns.

Motion by John Warner, second from William Josephson, ADOPTED, to recommend approval to the Township Board of Trustees for parcel number 61-06-113-200-0019-00, 5010 Whitehall Road, Michigan’s Adventure, Inc., a Michigan corporation, to amend the zoning district and zoning map from Neighborhood Commercial District to Amusement Park District.

ALL AYES

OLD BUSINESS

1. 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.

Chairperson Roesler states this application was withdrawn by the applicant.

2. Reports from Sub-Committees

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

No report.

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

Commissioner Sprott stated a meeting has been set for May 22, 2014.

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

The following language was proposed for review. The only comment Attorney Even had was that we should have a definition for swimming pools. Building Official Rod Siegel provided us with the definition used by the 2009 Residential Building Code. This definition was added below.

PROPOSED LANGUAGE 5/2014

ARTICLE II DEFINITIONS

**SECTION 2.19 DEFINITIONS – S
SWIMMING POOL**

Any structure intended for swimming or recreational bathing that contains water over 24 inches (610mm) deep. This includes in-ground, above ground and on-ground swimming pools, hot tubs and spas.

ARTICLE III GENERAL PROVISIONS

SECTION 3.27 SWIMMING POOLS

- 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 unless it is placed at least two hundred (200) feet from the road right-of-way.
- C. See Site Development Standards for rear yard setbacks in the Lake Michigan Shoreline District, Inland Lakes District and under Limitations on Construction in the North Duck Lake Overlay District.
- E. D. All swimming pools shall be constructed and enclosed by a barrier in accordance with applicable construction codes as adopted by Fruitland Township.

ARTICLE VIa LAKE MICHIGAN SHORELINE DISTRICT

SECTION 6.04a SITE DEVELOPMENT STANDARDS

<u>Swimming Pools</u>	<u>Fences shall be a minimum of 50’ from the bluff line and shall not exceed 4’ and be in accordance with applicable construction codes as adopted by Fruitland Township. No structure except swimming pools shall be allowed inside of the rear yard setback. Diving boards shall have a maximum of 36” when located in the rear yard setback.</u>
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ARTICLE VIIIa INLAND LAKES DISTRICT

SECTION 8.02a SITE DEVELOPMENT STANDARDS

<u>Swimming Pools</u>	<u>Fences shall be a minimum of 50’ from the Ordinary High Water Mark of 580.5 IGLD 1985 and shall not exceed 4’ and be in accordance with applicable construction codes as adopted by Fruitland Township. No structure except swimming pools shall be allowed inside of the rear yard setback. Diving boards shall have a maximum of 36” when located in the rear yard setback.</u>
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ARTICLE VIIIb NORTH DUCK LAKE OVERLAY DISTRICT
SECTION 8.02b LIMITATIONS ON CONSTRUCTION

- 3. *Fences for swimming pools shall be a minimum of 50' from the Ordinary High Water Mark of 580.5 IGLD 1985 and shall not exceed 4' and be in accordance with applicable construction codes as adopted by Fruitland Township. No structure except swimming pools shall be allowed inside of the rear yard setback. Diving boards shall have a maximum of 36" when located in the rear yard setback.***

The question came up about what if an applicant proposed using a safety cover which according to the 2009 Michigan Residential Code is a barrier exception. The existing language states that (All swimming pools shall be constructed and enclosed by a barrier in accordance with applicable construction codes as adopted by Fruitland Township.) Consensus is the Commissioners still want to require a fence around the pool.

Jason Haywood, Signature Landscape LLC spoke briefly. He stated that some Townships allow a safety cover as the barrier, however, he understands the Commissioners wanting a fence requirement around the pool that are in accordance with applicable construction codes as adopted by Fruitland Township. The proposed language could be amended to define barrier and then change fence to barrier.

The sub-committee will meet again to look at defining barrier, rewriting the language in question and working with Attorney Even to have language ready to hold public hearing on at the rescheduled June 11, 2014 meeting.

Motion by Dave Roesler, second from William Josephson, *ADOPTED*, to approve the above proposed language with any additions proposed by the sub-committee and reviewed and approved by Attorney Even and set public hearing for June and to reschedule the June meeting to June 11, 2014.

ALL AYES

3. 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.

4. Discuss Proposed Regulations for Wireless Communication Towers

Commissioner Warner stated he believes the proposed Section 3.36, 2. b. needs a minor revision as follows: A statement that the proposed wireless communications equipment and wireless communication support structure will be installed in accordance with the manufacturer's specifications and applicable Township codes. A set of drawings by a professional engineer **licensed in the State of Michigan** for the installation of the wireless communications equipment and wireless communications support structure shall also be provided. Consensus was to make that change and send the proposed language to Attorney Even for review.

5. Potential change to Sign Ordinance

Commissioner Deur advised there has been no update from the County Clerk. This can be removed from the agenda and put back on if needed.

6. Medical Marihuana Subcommittee Update

Commissioner Deur advised there is still no report and this can be removed from the agenda and put back on when there is something to report.

COMMISSIONERS COMMENTS

Commissioner Thompson advised that Buzz's Lakeside Inn (LSI Real Estate LLC) has requested approval from the Army Corps of Engineers for docks, moorings and a swim raft. According to the public notice dated April 24, 2014, comments of a positive or negative nature may be submitted in writing and postmarked or delivered by the expiration date which is May 14, 2014. Any person may request, in writing, within the comment period specified in this notice, that a public hearing be held to consider the application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing. He states that Buzz's Lakeside Inn is a non-conforming use which according to zoning can continue as it is, however, cannot be expanded; he believes this request is expanding the use. He also told Commissioners that several years ago a case went all the way to the Supreme Court, about The Ark which was a floating boat/house, that was on White Lake, because it did not own lake-bottom riparian rights were not allowed and it had to be moved.

The owner of Buzz's Lakeside Inn was in the audience. He asked if he could make comment.

Chairperson Roesler advised no, this is not a Planning Commission item; it is being brought forth during Commissioner Comments.

Mr. Kaehler commented anyway. He then explained the docks, moorings and swim raft were for only resort use, not rental, there would be no power, water available. It will not be run as a marina; it will be used for renters of the forty (40) rooms and guests coming to eat.

Chairperson Roesler reiterated that the Inn is non-conforming which according to zoning can continue as historically used, however, the use cannot be expanded. He went on to state that the DEQ looks for Environmental issues and the Army Corps of Engineers looks at navigation. They do not look at zoning. Proposing to expand a use is a problem for the Township.

Mr. Kaehler advised he has already been given approval by the DEQ and that the Township would have been notified of that, if they had an issue with it why was he never notified.

Commissioner Deur talked about the Citizen Planner Course, he has been made aware that there is a twenty (20) person minimum, they do not have that many yet, it is being offered around and he will keep everyone updated.

Chairperson Roesler asked that all Commissioners review the first 22 pages of the current Master Plan and be ready to discuss at the next meeting. When done with full review each Commissioner will be paired up with a Township Board member or staff member to discuss any proposed revisions.

ADJOURNMENT

**Motion by John Warner, second from Mark Dykhouse, ADOPTED,
to adjourn the May 7, 2014, regular meeting at 8:00 p.m.**

ALL AYES

Respectfully Submitted,

Sally Dion, Recording Secretary