

## SAUGATUCK TOWNSHIP PLANNING COMMISSION

December 15, 2004

The Saugatuck Township Planning Commission held a special meeting and public hearing, in lieu of the regular meeting scheduled for December 27, on December 15, 2004, at St. Peter's Parish Center, St. Peter's Drive, Douglas, Michigan 49406.

Present: Darpel, Hanson, Jarzembowski, Marczuk, Milauckas, Olendorf, and Rausch

Absent: None

Also present: Atty Doug Donnell; Planning Consultant Paul LeBlanc; Z. A. Ellingsen; Atty Tom Shearer; Karen Wolters, Pres. Wolters Realty, Inc.; and many members of the general public.

Chairman Milauckas called the meeting to order at 7:15 P.M. and asked the Planning Commissioners and consultants to introduce themselves to the audience. He then opened the public hearing on a request from Wolters Realty to rezone to C-3 parts of property now zoned C-1 and A-2 on the north side of M-89 west of Blue Star Highway near I-196 interchange 34 to allow for an automobile service station/convenience store/carwash to be built with SAU. Secretary Rausch read the notice published in the local newspaper.

Milauckas stated that the description of the property in question, as described in Exhibit B of the application, should be the south 760 feet of the south 1/2 of the southeast corner, that is from the centerline of M-89. Tom Shearer, attorney for the applicant, stated that the application is to rezone the property from the Northern boundary of the M-89 ROW to a depth of 700 feet. However, he added that the application is for either rezoning to C-3 with a SAU granted to permit an automobile service station or to rezone this property into the Interstate Transportation Overlay District, as explained in Exhibit B, paragraphs 4 and 5. He further stated that his client did not intend to rezone A-2 property north of the 700 feet.

Milauckas also clarified that the public notice only refers to C-3 rezoning, not to the Interstate Transportation Overlay District. Atty Donnelly said if Atty Shearer wished to waive any deficiencies in the public notice, the township could take up the Interstate Transportation Overlay District as well as the C-3 rezoning. Shearer agreed.

Milauckas verified that proper notice has been sent to surrounding property owners. He explained that any decision tonight would be a recommendation to the township board, and any use to be made of the property is not being considered tonight, only rezoning to C-3 or to the Interstate Transportation Overlay District. Another public hearing would be necessary if the rezoning is granted to consider these SAU requests.

Olendorf recused himself and neither participated in the discussion nor the vote because he lives near the property in question and he is a board member of the Lake Michigan Shore Association. Milauckas explained that he himself is a lot owner in Ravines Acres roughly 600 feet from the property in question and he is a member of the Douglas Lake Shore Association, which assisted the Lake Michigan Shore Association in opposition to this project previously. However, he said he was never involved in any decision-making or funding issues related to this project. Atty Donnell said he did not think Milauckas' property ownership or activities with the Douglas Lake Shore Association presented a conflict of interest on his part. Milauckas added that he has no bias in this issue. Shearer questioned him about how recent he had been present at meetings in which this project had been discussed or whether he had contributed any money to any opposition. Milauckas

answered that he had been present at such a meeting recently but he did not participate in the discussion and he had not contributed money to opposing this project. Nevertheless, Shearer registered an objection and said he thought Milauckas should recuse himself. After conferring with Atty Donnell, Milauckas proceeded to chair the hearing.

At 7:40 Milauckas opened the hearing and invited Atty Shearer to present his application. Shearer stated that he represented Wolters Realty, Inc. of Coopersville which is involved in the ownership of BP gasoline stations. He gave the history of this project going back to the year 2000, the Planning Commission and ZBA hearings, court cases and final Court of Appeals decision that Wolters Realty had not exhausted administrative remedies in the township. He introduced Karen Wolters, President of Wolters Realty. He said his client wished to leave the majority of the property in A-2 as a buffer, but if the specific portion described in the application is changed to C-3, he would return with a SAU application. He said this would be the best use for this property because it is near an interstate highway, and he listed the commercial enterprises surrounding the intersection of M-89 and Blue Star Highway. He said they have never talked about building a truck stop.

Shearer introduced Dan Emperor, a real estate appraiser from Grand Rapids, who commented on the recent rezoning to C-1 of a portion of the property in question. He stated that the most valuable property is along the interstate highway interchanges, and C-1 is a neighborhood commercial for less intensive uses, too small for the uses prevailing along interstate highways. That is why they want to expand the commercial zone and make it C-3. He maintained the C-1 zone suppresses the value of the property.

Milauckas called for comments from the Planning Commission and Marczuk asked Shearer if the application was for a truck stop, and Shearer replied, "No." Marczuk further asked if there is a "slave/master hook-up" for the diesel trucks, and Shearer said, "No."

Milauckas then asked for public comment, and Dr. Joan Saintz, 2225 63<sup>rd</sup> St., Fennville; Ed Fencl, 2492 Lakeshore Drive; Bill Petter, 500 Blue Star Hwy, South Haven; Tom Steel, 1664 Lake Michigan Drive, Fennville; Joe Leonatti, 712 Allegan, Saugatuck; Jim Birkes, 2344 Lakeshore Drive; Deborah Matthai, 6936 Hickory Lane, Fennville; Pat Denner, 3455 Clearbrook Court, Saugatuck; Larry Edris, 2534 Lakeshore Drive; Rick Vorel, 2315 Forest trail Circle, Fennville; Doug Otting, 6850 Dale Court; John Noonan, 6940 Pier Cove Lane; Mike O'Brien, 590 Hoffman, Saugatuck; Judith Schneider, 207 Maple, Saugatuck; Jan Schroeder, 6944 Lakeshore Court; Nick Otting, 6850 Dale Court; Dayle Harrison, 3108 62<sup>nd</sup> St., Saugatuck; Fred Hamlin, 6803 Dale Court; and Frank Alfieri, 2394 Lakeshore Drive, all voiced their opposition to the rezoning to C-3. Reasons given included the following: Planning ahead for adequate sewage and filtration must be done before any C-3 zoning; legal description should read "I-196" instead of "I-96," paragraph 5 of Exhibit B of the application is incorrect because property lying west of I-196 has not been zoned for Interstate Transportation Overlay District; C-3 zoning would not be harmonious with the adjacent residential and local commercial uses and would change the character of the neighborhood and be hazardous to the health, safety and welfare of persons and property nearby; C-3 zoning on this site does not conform to the township or tri-community master plans; there is no need for an automobile service station as one already exists across M-89 from this site; most of the area is residential and what commercial activities are there get little if any business from interstate traffic; increased traffic would create hazards; recent enlargement of C-1 makes the parcel useful for less intensive commercial activities and residential PUD's; Lake Michigan only 1/2 mile away is vulnerable to run-off of potentially hazardous discharges from such highly intensive commercial uses, the high value of the real estate nearby would be adversely affected; contaminated water supply in nearby properties already and possibility of contamination of neighboring stream; infrastructure lacking for the intensive uses of C-3, detention basin would

be inadequate, the P. C. does not need to grant the desires of one individual, this rezoning would be precedent-setting and nearby properties would explode with intensive commercial projects and change the rural nature of the area into a bustling enterprise zone; possibility of further expansion of intensive activity to other Wolters property since access to Blue Star Highway has also been retained; overwhelmingly residential nature of neighborhood cited by a member of the Wolters family when she wanted to split off a non-conforming 1-acre lot upon which the Wolters family home sits; integrity of entrance to communities of Saugatuck and Douglas should be maintained. Several of those speaking represented the Lake Michigan Shore Association which opposes the rezoning.

In answer to a question by a member of the audience, Atty Donnell read all the uses permitted in C-3 by right and with SAU.

Letters in opposition to the C-3 rezoning included in the record came from a group of “concerned citizens” and Aqua-Tech Consultants, both of which contain technical studies of the area and its present and potential future contamination problems. Other letters in opposition also came from Paul Hourihan of Fennville; Joan Saintz; Lynn Pike of Golden, Colorado; Janet Schroeder; Rose Deets, 2513 Lakeshore Drive; Frank Alfieri on behalf of the Lake Michigan Shore Association; Edwin Galka, 2264 Blue Star Hwy.; Don and Debbie Snider, 6976 Lakeshore Ct.; Jim and Patricia Birkes; Edward Fencl; and Kelly R. Johnson, 2454 68<sup>th</sup> St.; and one from Lynn Kirkaldi of Fennville regarding the SAU application.

Milauckas called upon Consultant Paul LeBlanc to summarize his findings and recommendations in regard to the rezoning. He read from his memo dated December 10, commenting that at the time he wrote this memo he was not aware of the application for Interstate Transportation Overlay zoning. Other than the concerns already expressed by audience members, he said there is no need for additional C-3 zoning in the township because the amount currently available exceeds the demand. He enumerated six criteria for considering rezoning: (1) Is development under the current zoning reasonable? Yes; (2) Is the rezoning consistent with the goals, policies, and future land use of the comprehensive plan? No; (3) Is the site capable of accommodating the allowed uses, based on size and environmental conditions? Yes for C-1, but not for C-3; (4) Are the rezoning and all the allowed uses compatible with the surrounding land uses? Not generally; (5) Is the public infrastructure capable of servicing all of the uses allowed in the proposed district? Not for C-3, fire protection inadequate to fight fires caused by the kinds of materials used in gas stations; (6) Is there a need for additional land in the proposed district? No, 106 acres of C-3 exist in the township of which 98 are vacant.

LeBlanc recommended denial of the request to rezone to C-3 for the following reasons: Rezoning to C-3 would create an isolated island of C-3 in the midst of low intensity commercial and residential zoning; the rezoning is inconsistent with the goals, policies and overall direction of the adopted Comprehensive Plans; the uses permitted are not compatible with the existing and potential land use patterns of the adjacent properties; the C-3 zoning could place demands on the public infrastructure beyond the ability to service the allowed uses; a number of permitted C-3 uses, including the use proposed by applicant, involve a higher risk of fire, and the lack of public water supply to the property creates an undesirable risk to public health and safety; other locations already exist in the township for the uses proposed; the applicant has not demonstrated a need for additional C-3 zoned property; approval of the rezoning would create a surplus of C-3 land in the township; the Zoning Ordinance provides ample flexibility for the owner to combine the A-2 and C-1 portions of its property to accommodate an integrated development plan, possibly involving both residential and low intensity commercial, with adequate buffer for adjacent property uses.

There being no further public comment, Rausch made a motion to close the public comment portion of the hearing and Darpel seconded. The motion carried.

There was a brief recess, at which time Atty Shearer and his client Karen Wolters exited the meeting because of Shearer's family emergency. At 9:35 the meeting resumed and Milauckas said adding the Interstate Transportation Overlay District to the discussion did not accomplish much because there is no such thing as a separate Interstate Transportation Overlay District; it is only an overlay over another zone. Donnell further explained that the Zoning Ordinance allows an automobile service station as a right without SAU only in the C-3 zone if it is in an Interstate Transportation Overlay District, but that SAU is needed for an automobile service station in a C-3 zone which is not in an Interstate Transportation Overlay District. He surmised that Shearer was asking for C-3 and Transportation Overlay, but he urged the P. C. to take up the C-3 zoning and added that if the C-3 is denied, the Interstate Transportation Overlay District becomes a moot point. Only if the C-3 is granted would it be necessary to take up the Interstate Transportation Overlay issue.

The Planning Commission discussed LeBlanc's recommendations. Milauckas said Atty Shearer had told him to continue with the proceedings, he had nothing to add, and asked the P. C. to be fair in its determination.

Rausch made a motion, supported by Darpel, to adopt the following resolution:

WHEREAS, Wolters Realty, Ltd. ("Wolters") submitted an application for rezoning of the following-described property:

The South 760 feet of the South 1/2 of the Southeast 1/4 of Section 32, Town 3 North, Range 16 West lying East of I-196 except the South 290 feet of the East 410 thereof; also except the North 700 feet of the South 990 feet of the East 324 feet thereof; also except the East 474.11 feet of the North 244 feet thereof

Currently, said property is located in the C-1 and A-2 Zoning Districts, and Wolters' application requested that said property be rezoned to the C-3 District;

WHEREAS, Wolters' counsel, at the public hearing, requested the Planning Commission to treat Wolters' rezoning application as requesting rezoning to the C-3 District or Interstate Transportation Overlay District, and Wolters' waived any defect in notice of the public hearing which did not reference a request for rezoning to the Interstate Transportation Overlay District;

WHEREAS, the Planning Commission agreed to treat Wolters' rezoning request as one seeking rezoning to the C-3 District or the Interstate Transportation Overlay District consistent with Wolters' request and waiver of notice defects;

WHEREAS, the Planning Commission has reviewed the Application materials submitted by Wolters, received written input from the public and conducted a public hearing on December 15, 2004, at which Wolters and its attorney were allowed to make a presentation regarding Wolters' request, and further input from the public was received;

WHEREAS, said public hearing was held pursuant to notices required by law; and

WHEREAS, the Planning Commission received further input from its Planning Consultant, Paul LeBlanc.

### **RESOLUTION REGARDING REZONING REQUEST BY WOLTERS REALTY**

NOW, THEREFORE, IT IS HEREBY RESOLVED AS FOLLOWS:

The Planning Commission recommends that Wolters' Application for rezoning of the subject parcel be DENIED.

1. The Planning Commission has evaluated the Application for rezoning in the context of the Township and the Tri-Community Comprehensive Plans and has concluded that the more intensive C-3 use of this parcel is inconsistent with both of these plans. In particular, both plans call for C-3 land uses to be limited to the areas around Exit 36 and Exit 41 where such development has already become established, particularly at Exit 41. The Planning Commission agrees with the report of Mr. LeBlanc discussing these master plans and the lack of consistency of the rezoning request with these master plans.
2. The Planning Commission has concluded that the current zoning of this property does not deprive the owner of many viable and economic uses of the property which are consistent with the Township and Tri-Community Comprehensive Plans. Such uses in the C-1 and A-2 Districts are specified in Sections 40-367, 368 and 40-182, 183 of the Township Zoning Ordinance.
3. The proposed rezoning is not consistent with the largely residential and low intensity commercial uses in the surrounding area. Uses permitted in the C-3 District are the highest intensity commercial uses allowed under

the Township Zoning Ordinance, and are inconsistent with the nature and character of the area surrounding this property, which is predominantly residential with several low intensity commercial uses.

4. There is no public sewer or water available at this site, nor is such service anticipated at any time in the near future. Some of the permitted C-3 uses involve the handling and storage of highly flammable material such as gasoline, and the availability of public water is important to provide adequate fire fighting capabilities and to minimize the health and safety risks to the public. Furthermore, some of the uses permitted in the C-3 Zoning District involve significant wastewater discharges, such as discharges from a car wash, and public sewer is better suited for disposal of such wastewater than on-site disposal methods.

5. There is already an abundance of vacant, unused land located in the existing C-3 District in the Township, and no shortage of C-3 zoned land exists in the Township. Rezoning this property to C-3 is not necessary because of any inadequate supply of C-3 zoned land in the Township.

The Planning Commission recommends that the Township Board deny the applicant's request for rezoning.

Ayes: Hanson, Milauckas, Darpel, Rausch, Marczuk, Jarzembowski; Nays: None.

RESOLUTION DECLARED ADOPTED.

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Secretary, Saugatuck Township  
Planning Commission

Olendorf rejoined the Planning Commission at 10:05 P.M.

Darpel made a motion to approve the revised minutes of October 25 and Rausch seconded. The motion carried. Rausch made a motion to approve the minutes of October 28 and Darpel seconded. The motion carried. Marczuk made a motion to approve the minutes of November 22 and Darpel seconded. The motion carried.

Milauckas read a letter from Joe Leonatti regarding linking green spaces in bike paths and offering his help. Milauckas said he had responded to the letter referring Leonatti to the Comprehensive Plan and stating that there is a map of proposed non-motorized trails available in the Township Office.

Milauckas brought up the letter from Kathleen Byrne of Blue Skies Nursery in which she asked to be reimbursed for the "useless" paved bike path she put in at the request of the P. C. Rausch referred to the minutes of Feb. 26, 2001, in which the P. C. asked Byrne to create an 8-foot bike path of bark within the 16-foot area near the ROW. It was determined that Byrne had done more than was requested, and a response will be

made to her after referring to the file and site plan. Milauckas said the township has, in the meantime, decided to make the sidewalks or paths on the other side of Blue Star Highway. Jarzembowski said he would investigate the issue.

Milauckas said there were several items to be adjusted in the Tri-Community Comprehensive Plan and the map of future land use accompanying it, and these were discussed. The Commissioners agreed that one area on the map which seemed to be a yellow island in the midst of orange in Section 20 should be medium density like the property surrounding it.

Future items to be discussed at the January meeting were prioritized, the Tree Preservation Regulations, including a buffer along Blue Star Hwy., to be first because of recent clear-cutting of vacant property near Exit 36. It was agreed that if this could not be dealt with adequately then, a special meeting in February would be held. Milauckas appointed a committee to investigate the possibility of proposing an Ordinance on building appearance and style standards made up of Darpel, Jarzembowski, Hanson and others to be recruited from the community, the chairman to be announced later. Outdoor lighting was another issue for consideration.

Olendorf reported that there is a new state statute which requires that upon the first vacancy on a County Planning Commission, a person representing the field of education and public schools must be appointed, and he volunteered to advise the Allegan County Planning Commission of this and fill the position himself, if need be.

Meeting adjourned at 10:55 P.M. The next regular meeting is January 24, 2005, at 7:00 P.M.

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Betty A. White, Recording Secretary

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Sandy Rausch, Secretary

### **MOTIONS**

1. Motion by Rausch/Darpel to close public hearing on Wolters' application for rezoning to C-3 part of their property on M-89 near the Exit 34 Interchange of Interstate I-196.
2. Motion by Rausch/Darpel to adopt a resolution to recommend to the Township Board that they deny Wolters' application to rezone their property on M-89 to C-3.
3. Motion by Darpel/Rausch to approve revised minutes of October 25.
4. Motion by Rausch/Darpel to approve minutes of October 28.
5. Motion by Marczuk/Darpel to approve minutes of November 22.