

SAUGATUCK TOWNSHIP PLANNING COMMISSION

March 27, 2006

The Saugatuck Township Planning Commission met on March 17, 2006, at the township hall on Blue Star Highway, Saugatuck, Michigan 49453.

Present: Darpel, Hanson, Marczuk and Rausch

Absent: Jarzembowski, Milauckas, and Olendorf

Also present: Atty Bultje; Planner Sisson; Robert Muusse, Atty Bowens and Thom Carpenter for Indian Point Site Condo; Bill Schmidt, DNR; Chris and Anne Wiley; Pete Palazzolo; and various members of the general public.

Chairman Hanson called the meeting to order at 7:06 P.M., noting that a forum is present. The minutes of February 27, 2006, were approved with a corrected spelling of Fred Schubkegel's name, page 4 (Marczuk/Darpel).

There being no public comment on general topics, Hanson introduced Indian Point Site Condo tabled in February, and Thom Carpenter said the new Master Deed, containing the proper legal description agreed to by the DNR, has been reviewed by the township's attorney. Rausch asked if the underground reservoir for fighting fires in the area mentioned in the minutes of February 27 was included in the Master Deed or By-laws, and Carpenter said Muusse has agreed to provide the land for an underground reservoir, not to build it, but that is not included in the documents. Rausch asked about the special assessment district Note #17 on the site plan, and Atty Bowens said this would not be in the documents, but the township, that is the Township Board, according to Atty Bultje, and developer would enter into a contract to provide for the maintenance of roads. In the event a special assessment district is established, these 18 lot owners would covenant to pay their portion. Sisson asked if the same arrangement would be set for the underground reservoir with the lot owners also paying their share, and Bowens agreed. Bultje said these encumbrances would be included with the purchase of individual lots. Muusse mentioned the \$10,000 bond he offered to post for repair of Silver Lake Drive in the event of damage incurred by construction, and Bowens said that would also be between the township and the developer and would not appear in the condominium documents.

Besides a few typos and references to "Saugatuck Charter Township" which must be corrected, and the addition of "sand" to Sec. 7.4(m) and "non-motorized" to the fifth line of (q), Hanson said there were statements in the documents which seemed to indicate that changes could be made in the site plan without township review. He thought the documents should be dated. Bowens replied that the documents finally officially recorded would be binding, and they cannot be amended inconsistent with law. Hanson went on to address the four points brought up by Linda Salisbury at the Feb. 27 meeting. Bowens said the legal description had been revised and the correct one had been provided to the township attorney. Fire Department approval was in question, but Bowens said he regarded Janik's letter as an approval, it is not really this board's decision, and an appeal is possible through the IFC if it is determined not to have been approved.

Atty Bultje reviewed the resolution he had prepared and it was decided to amend the fourth line of Sec. 3F to substitute "cleared portion" for "width" and to substitute "provide easement for" for

“include” in Sec. 3R. Bultje said in answer to questions about the fire department approval, that he would like Janik to clarify by letter whether Secs. D106 and 107 of the IFC apply and whether they are satisfied by the provisions in the condo documents.

When Hanson opened the discussion to public comment, Atty Eric Guerin, standing in for Fred Schubkegel, who represents persons unknown, commented that a road maintenance agreement was in the original Bylaws but not in the current one, the legal description on the site plan does not represent the legal description of the development, and the IFC does not seem to be satisfied. He quoted from a memo from Atty Bultje of Nov. 3, 2005, and suggested the developer should go through an appeal procedure with the IFC. Bultje said he would like to see if the Fire Department determines this development satisfies D107, and if it doesn't there is an appeal procedure. In any event, no occupancy permit will be issued until this is satisfied. Atty Bowens said the applicant and the township came to the conclusion that the IFC meant developments of 30 dwellings, and this development has only 18. Linda Salisbury said there are 47 homes on the dead-end road. She agreed that the road maintenance provisions had been removed from the documents, and she insisted that the legal description was still incorrect because the property on record shows Webster still owning parcels he sold to the DNR. She added that a third party estimated the amount of bond needed to bring Silver Lake Drive back to today's condition at \$25,000. Salisbury presented a letter enumerating all her continued concerns.

Bill Schmidt of the DNR testified that the DNR bought land in 1995 and 1996 from Webster and when he found out about this development he checked the legal description and determined it needed to be corrected. He said he now can verify that the legal description in the Master Deed is correct.

Dayle Harrison asked that the natural features be protected by prohibiting cutting down trees within 50 feet from the water, but he admitted this development is not within the Natural River Overlay. Bultje said there is no prohibition per se for cutting trees in the documents, and Sisson said it would be difficult to require something that is not in the ordinance. Muusse said it was not his intention to clear cut because the trees are valuable to the property.

There being no further public comment, Rausch made a motion to approve the resolution for Indian Point Site Condominium Single Family Residential Development as modified in Sec. 3F and 3R as previously mentioned. Darpel seconded and a roll call vote resulted in a unanimous approval.

Next on the agenda was a public hearing on a SAU request and site plan review by Dr. Christopher Wiley to build a professional office building in C-3 next to Burger King. Secretary Rausch read the notice published in the local newspaper. Cal Becksvoort displayed the site plan and explained the building would have approx. 2700 s.f. and 1-1/2 stories. He said the parcel is 1.4 acres, non-conforming, but grandfathered in as lot of record. The plan meets setback requirements. The white pines and a wooded area at the rear of the parcel will remain undisturbed, and native species will be used in the landscaping plan. Storm water will move to a retention pond on the Blue Star side of the property. The plan has not as yet been submitted to the Drain Commission. Hours of operation will be 8:00 to 5:00, and lighting will be low-impact near the entrance to the building or on the building. The applicant has Fire Department approval. Future expansion is pictured on the site plan.

Sisson reviewed his memo of March 23 emphasizing that the use is not listed in C-3 either by right or SAU and the distance between driveways would not be within the provisions of the Ordinance. The applicant would have to arrive at an agreement with adjacent property owners to use a shared drive or get a variance from the ZBA. However, it was pointed out that Burger King would not be amenable to that, and the lot on the other side is only 50 feet wide, non-buildable. Beyond that is Kingfisher Cove.

Marczuk brought up the sidewalk in front of Burger King and asked if it would be continued along this parcel. Hanson said Fire Marshall Janik pointed out that the fire hydrant is on the south side of Blue Star, which would require laying hoses across Blue Star. Hanson said he could foresee traffic problems and he asked about the large amount of fill proposed. Becksvoort replied that the site is very low compared to Burger King; the fill will direct storm water away from the rear where there may be wetlands, and Dr. Wiley wants a basement for storage.

When Hanson opened the hearing to public comment, Anne Wiley asked what the second alternative to the driveway problem was, and Sisson said a ZBA variance. She also wondered if a bike path was necessary. Pete Palazzolo said he approved of the office building. Deb Colvin, Kingfisher Cove, said she appreciated the low-impact lighting proposed. Rausch made a motion to close the public portion, and Marczuk seconded. The motion carried.

The applicant was advised that the next step is to attempt to get the neighboring property owners to sign an agreement to share a driveway by means of a certified letter, which can be presented to the ZBA in the event the neighbors are not willing to enter into an agreement. Also the applicant should agree to sign a petition for a special assessment district for a bike path easement along Blue Star.

Rausch made a motion to approve the SAU for Wiley's office building as being in compliance with Secs. 40-468 (13) and 40-693 (b) of the Zoning Ordinance. Marczuk seconded and the motion carried. In the discussion in answer to a question about the fire hydrant, Hanson said the Fire Department and the Kalamazoo Lake Sewer and Water Authority would have to decide whether a hydrant was needed on the north side of Blue Star.

Rausch made a motion to approve the site plan for Wiley's office building with the following conditions: (1) That the Drain Commission give its approval; (2) That the Road Commission give its approval; (3) That a variance be approved for the driveway; (4) That the site plan be in compliance with all other regulations; and (5) That an easement for a future bike path be provided and that there be agreement to sign a petition for a special assessment district therefor. Darpel seconded. Rausch amended her motion to add (6) That the optional lighting shown on the site plan not be required. Darpel seconded, and the amended motion carried.

Hanson invited the engineer from Nederveld for Pete Palazzolo to present the revised plan. He stated that the addition has been reduced to 9900 s.f. and parking to 14 spaces, there will be no drive on the north side, the landscaping plan buffers the neighbor to the south, and there will be a landscaped berm and detention area along the right-of-way. Topographical and boundary details are included in the plan, but the landscape plan seemed to be missing. The Fire Department's access will be on the south side, and the trash receptacle can be moved to the south side of the building.

There will be one phase to the building process, and Palazzolo said the building is almost 100 feet farther back from the road.

Hanson referred to the Health Department letter of March 13 in which approval is given conditioned upon the present number of employees, and the statement is made that if the present system fails a pump and haul system would be the only alternative. Hanson wondered why 14 parking spaces appear on the plan, adding that the parking should not be in the front. Palazzolo replied that the number of parking spaces was a compromise from what the architect said state code required for the size of the building. He said he might employ only one additional part time person. He added that he had a maintenance agreement to keep watch on the septic system.

Jerry Menear, the south side neighbor, said he approved the SAU and expansion and did not feel he needed the buffer. Letters in support came from Menear as well as from Gary DeMond, Krista Cadwallader, Patty Birkholz, Ricki Levine, David Barkman, Ron and Bonnie Wilkins, Jim and Bonnie Unwin, Stacy Aldrich, Marilyn Starring and Catherine Simon.

John Huyge, the north side neighbor, said he was concerned about the natural drainage toward his property, and he presented his letter in opposition and a petition signed by 73 residents within a mile of the gelato plant. Palazzolo said the petition seekers were giving incorrect information and he had to hire a lawyer, Atty Jim Brown, who questions the validity of the signatures on the petition. Dana Magida, 2638 Blue Star, denied that wrong information was given and added that those living close to M-89 were “ecstatic” to sign because of their fear of more commercial near where the truck stop will be built. She questioned whether the additional building space could be just for storage.

Hanson stated that this SAU can only be continued when the property is sold if it remains a milk processing facility. Darpel stated that he thought it was not good business sense to so greatly expand this non-conforming industry on a 1.7-acre lot with a “maxed out” drainage system, when the product may be extremely successful and there may be a need to add employees.

Marczuk made a motion to again table the Palazzolo gelato plant SAU and expansion, and Rausch seconded. The motion carried with Darpel voting “No.” The PC gave Palazzolo the following advice: (1) Keep employee numbers consistent with Health Department letter of March 13; (2) Provide a landscape plan in compliance with the Industrial Zone, including a berm to the north to protect the neighbor; (3) Possibly reconfigure building to get rid of the long front wall; and (4) Remove garbage container from the front yard.

The meeting adjourned at 11:25 P.M. The next regular meeting is April 24 at 7:00 P.M.

Betty A. White, Recording Secretary

Sandy Rausch, Secretary

MOTIONS

1. Motion by Marczuk/Darpel to approve minutes of February 27 as corrected.
2. Motion by Rausch/Darpel to approve resolution for Indian Point Site Condominium as modified.
3. Motion by Rausch/Marczuk to close public portion of hearing on Dr. Christopher Wiley's professional office building SAU and site plan.
4. Motion by Rausch/Marczuk to approve SAU for Wiley's office building.
5. Motion by Rausch/Darpel to approve site plan for Wiley's office building with conditions.
6. Motion by Marczuk/Rausch to table Palazzolo's SAU for gelato plant.