



**ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Monday, October 25, 2004**

Meeting called to Order at 7:00 p.m.

Members present: H. Smith (Chair), B. Carstens, D. Hoxsie, D. Krause, P. Salathiel, O. Sherberneau, M. Vermetten (7:08 p.m.)

Members excused: None

Staff present: S. Corpe, Office & Planning Coordinator/Recording Secretary

1. Consent Calendar

Motion by Sherberneau, support by Salathiel to approve the Consent Calendar as presented, including:

Receive and File:

- a) **Approved minutes of the October 5, 2004 Board of Trustees meeting**
(Attachment A included and incorporated by reference)

Action:

- b) **Approve minutes of September 27 and October 11, 2004 meetings** (Attachments B and C included and incorporated by reference)
- c) **Review and approve agenda, inquiry as to conflicts of interest:** approved with none noted.

Motion carried unanimously.

2. Public Hearings:

- a) **Public Hearing regarding Application #2004-14P by Kenneth L. & Janet C. Farm Winery on property located at 8114 Sayler Road and currently zoned A-1, Agricultural** (Continued from the September 27 meeting – Attachment D):

Public Hearing opened and closed at 7:05 p.m., there being no public comment.

Smith noted that the staff report provide to the Commission indicates that a further continuation of the public hearing is in order. The Winery Ordinance Subcommittee has met twice and had to cancel a third meeting last week. Some potential ordinance revisions have been discussed, and the subcommittee continues to work through some outstanding areas of disagreement.

Motion by Carstens, support by Sherberneau continue the public hearing to the November meeting. The Chair cast an unanimous ballot, there being no objection.

- b) **Public Hearing regarding Application #2004-17P by Creekside Village, LLC for Special Use Permit/Site Plan Approval for development of 33 single family site condominium units on property located on Mt. Hope Road in the Acme Village Mixed Use Development** (Attachment E included and incorporated by reference)

Public Hearing opened at 7:08 p.m.

Mr. Chris DeGood, Gourdie Fraser Associates was present on behalf of the applicant. He provided the Commission with updated site plans for the proposed condominium project. Several issues raised by Metro Fire when they reviewed the site plan have been addressed on the modified plan. These include creation of a “hammerhead” turning area for emergency vehicles, provision of sufficient turning radius on all roads and provision of water for fire suppression. As to fire suppression, there are existing common wells serving Acme Village but they may not be able to provide sufficient water flow for firefighting. The Drain Commission has provided approval for the drainage plan. The DPW and Road Commission have provided verbal approvals, but no letters have been received yet.

Mr. DeGood reported that the reason for the delay centers on the condominium nature of the project and how it can be appropriately addressed in terms of the Acme Township Zoning Ordinance. The proposed ownership for this project is true condominium ownership, where each individual owns the interior of their single-family detached home but the exteriors of the buildings and 100% of the grounds will be owned in common and maintained by the condominium association as a whole. At this time, the applicant proposes that the dimensional requirements of the application be reviewed in terms of Section 8.9.2 of the Zoning Ordinance that deals with Group Homes. This section permits consideration of a true condominium style ownership where there is a required setback between structures but there are not lot lines or setbacks of structures from lot lines.

Krause asked if all of the buildings will be identical on the exterior; there will be two or three standard building footprints to choose from. Other similar developments created by the applicant include Creekside, located off Silver Lake Road behind the Horizon Outlet Mall, and Emerald Hills, which is the housing development adjacent to the Grand Traverse Crossings (Mr. Walton assumed ownership of this development after the original developer experienced bankruptcy.)

Smith asked if there may be a need for an additional well. Mr. DeGood replied that it may be necessary for the new development to augment the system of linked wells that currently serves as a common water system for Acme Village. This system is operated by the County DPW.

Alan Sievert, 5656 Apple Valley Road (Lot 7, Cresthaven Hills) asked if the buildings will be one or two story and what the square footage will be. He also stated that there are three lovely maple trees amid the scrub trees that he hopes will be preserved. Mr. DeGood responded that the issue of identifying significant existing vegetation was discussed at the preliminary hearing, but he will look into these specific maples. Mr. Walton stated that he is “a tree-hugger and a tree-planter.” He would relocate proposed housing units to preserve larger trees and will plant many more. Mr. Walton has not planned the number of stories for the units. In Creekside the buildings were one-story with a walkout, but the newer developments are 1 ½ stories with internal lofts open to the living rooms below. Approximate square footage will be 1,600, exclusive of the basement.

Mr. Clare David, Juniper Hills, is glad to see some development occurring in this area. He is concerned about “escaping” setback requirements because the housing would be for the elderly. Mr. DeGood explained that all buildings will remain set

back from adjoining property lines. They buildings may be closer to one another, but will be no closer to Juniper Hills or Cresthaven. Mr. David further asked about the need for a new water well that Mr. DeGood mentioned. He wondered if such a new well would be at public cost. Corpe explained that water needs in Acme Village are served by a series of wells that are linked together into a common water system. Up until a court ruling earlier this year, State Clean Water laws required that any public water or sewage system (public meaning any system serving more than one landowner or structure) constructed privately had to be dedicated over to the municipality where it existed. The theory was that this would ensure that the system continued to be operated in a safe manner over time. The water systems in Acme Village and Lochenheath were privately built and dedicated to the township later. The township is part of the County Board of Public Works, and the Department of Public Works maintains and administers the system. User fees are collected by the DPW on the township's behalf.

Mr. Sievert asked if there will be fire hydrants serving the development. Mr. DeGood stated that this is unclear at this time. There is a question as to whether or not the aquifer can support this at the current time; ongoing study will be performed.

Public Hearing closed at 7:29 p.m.

Salathiel asked how this application will be processed and evaluated to completion. This question was addressed in Corpe's staff report, wherein she indicated that there is still ongoing discussion between the applicant, herself and Christopherson as to which sections of the ordinance the application must be evaluated against. The chief difficulty is that if the Site Condominium Ordinance is applicable the application is not sufficient because a true condominium approach to property ownership is planned. Residents would own the interiors of their single-family homes but the exteriors and surrounding property would be owned in common. The site condominium ordinance assumes a more subdivision-like approach, where each home sits on a discrete lot that is viewed as a limited common element. Christopherson's most recent opinion was that any provisions in the site condominium ordinance requiring single-family configurations would not apply to situations where a special use permit is required; however, there are no situations in which the condominium ordinance is used where a special use permit is not required. Therefore, it seems to Corpe as though this would mean that we could never impose lot dimensions on any application, which also seems to her to throw much of that section of the ordinance into question. Conversations in this regard have not yet led to a conclusion. So, Corpe is recommending that the public hearing be continued one month to allow time for this question to be settled.

Motion by Sherberneau, support by Vermetten to continue the public hearing regarding Application #2004-17P to the November Meeting. The Chair cast an unanimous ballot, there being no objection.

- c) **Public Hearing regarding Application #2004-18P by Ed Graft for Site Plan approval and amendment to Special Use Permit #2001-5P to allow for the reconfiguration of lots on property located on a private road extension on the north end of Deepwater Point Road, west of the Deepwater Pointe Condominiums** (Attachment F included and incorporated by reference): Corpe summarized her report, which recited the history of permits issued on the property as well as recent negotiations between Mr. Graft and the adjacent property owners, the Fromholzes. Corpe's basic conclusion is that the use Mr. Graft intends to pursue on

this property is allowable by right in the zoning district in which the land is located, and that the special use permit originally put in place when the Grand Traverse Resort intended to develop around 90 condominiums on the property and which has been amended twice is no longer necessary.

Public Hearing opened at 7:53 p.m.

Mr. David wanted to ensure that if the special use permit for this property is terminated as Corpe suggests, it will not be possible for the land to be used for other than a use by right. Corpe stated that if the land were to be used for any purpose other than up to 4 single-family residences as allowed by right at this time, the landowner would have to seek approval of a new special use permit first.

Lewis Griffith, 5181 Lautner Road, asked about easements on the property. Is there an easement to all of the affected properties that is only on Mr. Graft's land? Mr. Graft replied that the existing road easement crosses only his property and that the Smith and Ziegler properties have been given express easements to cross the land.

Dick Smith, 7331 Deepwater Point Road, stated that the first island of trees on the private portion of the road seems short to him. He feels it should be widened to make turning around it easier to do in one movement without having to back up. Mr. Smith also asked about Robert Smith's opposition to Mr. Graft's plans. Corpe read the letter Mr. Robert Smith had provided at the end of September, stating that part of the reason he decided to build a home on the property he purchased from Mr. Graft immediately to the north of Mr. Graft's remaining land is that he didn't think any more than three additional homes would be created and that there would be more space between him and any adjacent house. He felt that the prior SUP approval was an eternal guarantee of conditions in that area.

Public Hearing closed at 8:00 p.m.

Vermetten stated that he has no quarrel with the way that Mr. Graft wishes to use his land. He also feels that Mr. Graft has worked hard to work well with his neighbors. After last month's meeting, he took away the feeling that Mr. Graft was willing to work with the Fromholzes and is impressed that he is willing to provide a fence and other improvements to assist the Fromholzes. He isn't sure that the Planning Commission should set aside the existing SUP or the current SUP request. Perhaps it would be a cleaner process to have Mr. Graft withdraw his SUP request instead.

Mark Frick, 7385 Deepwater Point Road, stated that a school bus can't come within 300' of a corner. There is a corner at Woodland and Deepwater Point. If there are children who eventually live on the Graft property, and if the bus can't reasonably access the private road, the children who live there might have to walk or otherwise get to a specified bus stop farther south down the road.

Mr. Smith stated that Mr. Graft seems to have done quite a lot for the Fromholzes. He is still concerned with the ability to turn around at the public road end.

The Planning Commission expressed consensus that they agreed with the point of view in Corpe's report that Mr. Graft does not need an SUP or an amendment to his existing SUP in order to create four single-family home lots on his property. There was additional concern over the best procedure to follow to terminate the application and the unnecessary SUP.

Motion by Krause, support by Vermetten to continue the public hearing regarding Application #2004-18P to the November meeting. The Chair cast an unanimous ballot, there being no objection.

3. Preliminary Hearings:

4. New Business:

- a) **Discuss possible amendment to ordinance governing variances to permit use variances** (Attachment G included and incorporated by reference): Corpe summarized her memo.

Motion by Vermetten, support by Krause to set a Preliminary Hearing regarding the proposed amendment to the ordinance regarding Variances for the November meeting. The Chair cast an unanimous ballot, there being no objection.

- b) **Discuss possible amendment to ordinance governing political signs** (Attachment H included and incorporated by reference): Smith believes there's merit to discussing the size of political signs but not the number of them to be permitted. Also, would it be best to work sign ordinance amendments into the overall amendment? Hoxsie believes as many do that the proliferation of political signs is unsightly but is necessary. Vermetten agrees that they serve an important function but aren't very nice to look at. Township Trustee Chuck Walter stated that it really does "make him ill" to look at the signs, but he tolerates it. Regulating the size of the sign doesn't seem irrational to him. He had to use a very small sign on some real estate for sale even though it was a big piece on a high-speed road. Why shouldn't the size of political signs be regulated as well?

Are there other areas that regulate the size of political signs? Hoxsie and Corpe noted that Elk Rapids Township regulates the size of political signs. The result is that the large farmland preservation signs that have been erected in the five townships requesting millages were sawed in half, and both halves were put up side by side. The same amount of signage was there, just in several different pieces.

Mr. Griffith stated that he checked out the rules about political signs carefully as part of his campaign for office.

Smith feels that because the current crop of political signs will be removed within a few days when the November 2 elections are over and because the Zoning Ordinance is due for a general overhaul, it would be imprudent to pursue a separate small ordinance amendment regarding the size of political signs at this time.

Motion by Hoxsie, support by Carstens to receive and file the staff memo regarding potential ordinance amendments regarding the allowable size of political signs. The Chair cast an unanimous ballot, there being no objection.

- c) **Discuss possible amendment to swimming pool regulations** (Attachment I included and incorporated by reference): Smith noted that a homeowner requested a variance recently to eliminate the requirement for a 4' tall fence around swimming pools, as he has a view of East Bay from his proposed pool location and was going to use a high-tech locking pool cover. The ZBA did not grant the variance, as required

conditions for granting one were not demonstrated as being met.

Carstens feels that fences should still be required around pools regardless of whether or not a locking cover is used. He does recognize that the current ordinance does not currently contemplate use of a house wall as one side of the barrier. He does not feel the ordinance should be weakened. Vermetten agreed, noting that this is regarded as an “attractive nuisance” ordinance. Anyone over the age of a toddler can get around the 4’ high wall, but it does provide somewhat of a measure of security.

Salathiel agrees that a fence should be maintained as a requirement. A mechanical cover can break, and there are clear fences. Hoxsie noted that many of the pictures in the materials provided show a pool with a locking cover that is still surrounded by a fence.

There was general consensus not to proceed further with a swimming pool ordinance amendment at this time.

5. Old Business:

- a) **Discuss Proposed Ordinance Amendment #127, M-72 Corridor Overlay District - returned from Board of Trustees for further discussion, proposed public forum meeting on November 18:** (Attachment J included and incorporated by reference): Smith stated that the Board of Trustees held a hearing regarding the proposed M-72 Corridor Overlay District at their October 5 meeting. They had a number of questions and concerns and sent the proposed ordinance back to the Planning Commission for further review. The M-72 Corridor subcommittee would like to hold a public forum meeting as a next step. Smith believes that the public forum process can be a valuable tool when considering many far-reaching initiatives. It seemed to work well for the Waterfront Recreation Task Force, which found that the public attending their forum wanted them to head in a direction different than the one they anticipated. Educating the public regarding the issues and answering their questions and feedback as much as possible before a public hearing occurs seems more effective. Corpe is arranging a meeting of the subcommittee to prepare for the public forum to be held on Thursday, November 18 at 7:00 p.m.
- b) **Update regarding proposed Winery Ordinance Amendment** (Attachment K included and incorporated by reference): Smith reported that the Winery Ordinance Subcommittee has met twice and discussed some potential changes. There is more discussion to be held, as there is disagreement between the committee members. Ken Engle, the current Winery applicant and a member of the subcommittee, stated that as a result of his SUP request there was one particular question raised. This question has led to more questions. He is concerned that the subcommittee process not focus narrowly on his application, and that it remain centered on the ordinance as it relates to all agricultural property and the best interest of the township. Mr. Engle is hearing discussion about the use of public forums, and wonders if there is a way to hold a public forum about the ordinance while his particular application is pending. Smith noted that one of the key issues of contention was the amount of area that should be dedicated to special uses.
- c) **Report from the Dark Sky Ordinance Subcommittee** (Attachment L included and incorporated by reference): Salathiel is chairing the Dark Sky Subcommittee. She noted that Jerry Dobek from NMC was invited to speak to the committee and has proven more valuable than she had even expected. The committee felt that additional individuals from the public should be included in the process and has invited Darryl

Nelson, owner of the Holiday Shopper and Saylor Road resident, and Art Hughes, owner of various commercial properties and resident of Scenic Hills, to be part of the process. Both have accepted the invitation, although Mr. Hughes will be in Florida on and off all winter. Diana Morgan, Wellington Farms resident, is also a member of the group. The committee has set a second meeting and is also planning a field trip to the Rogers Observatory to look at the sky and at regional lighting.

Carstens asked for an explanation of a portion of the draft minutes. Corpe clarified that Dobek does not recommend the inclusion of overly-detailed requirements for pole heights, light wattages, foot candles of light in certain areas, etc. This places the burden of verification on the township. Instead, he recommends that applicants be held to the standards published by the international society of lighting engineers, and that they provide sealed lighting plans. That way, the engineer who sealed the plans is responsible for their accuracy and can lose his or her license if they are inaccurate.

6. **Any other business that may come before the Commission:** Krause observed that as hard as Acme is working on the M-72 Corridor Ordinance, he wonders if anyone has noticed the new billboards that have been erected along M-72 in Whitewater Township. Hoxsie stated that the signs have been there for a while; Mr. Griffith concurred that just the pictures have changed.

Meeting adjourned at 9:12 p.m.