



**ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Monday, December 20, 2004**

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

Members present: M. Vermetten (Vice Chair), B. Carstens, C. David, R. Hardin, D. Krause, D. Morgan, J. Pulcifer, E. Takayama
Members excused: O. Sherberneau (Chair)
Staff present: S. Corpe, Office & Planning Coordinator/Recording Secretary

1. Consent Calendar:

Motion by Hardin, support by Krause to accept the Consent Calendar as amended to add the two receive and file items and remove consideration of the minutes to New Business, including:

Receive and File:

- a) **December 24, 2004 Letter from Denny Rohn, President – Concerned Citizens of Acme Township to David Krause** (included and incorporated by reference): read into the record
- b) **Undated letter from Brent Walton, copied to all Planning Commission and Board members** (included and incorporated by reference): read into the record

Action:

- c) ~~**Approve minutes of December 13, 2004 meeting**~~ (Attachment A included and incorporated by reference)
- d) **Review and approve agenda, inquiry as to conflicts of interest:** approved with none noted

Motion carried unanimously.

2. Public Hearings: None

3. Preliminary Hearings:

- a) **Preliminary Hearing regarding Application #2004-21P, by Michael and Deborah Lattas, 6972 Peninsula Drive, Traverse City for Special Use Permit/Site Plan Approval to construct Bay Winds, a 5-unit residential condominium development on a 0.34 acre property located on the west side of US 31 North and immediately to the north of the East Bay Marina, currently zoned B-1S, Shoreline District** (Attachment B included and incorporated by reference): Mr. and Mrs. Lattas were present in support of their application to construct five townhouse condominium units on a currently vacant property. Mr. Lattas stated that the bulk of the property itself sits above the ordinary high water mark (OHWM) of the bay. He provided copies of the site plan and the proposed elevations. Each unit will have a two-car garage, with two surface-parking spaces provided for overflow. The structure has been proposed to sit as far towards the south end of the property as possible to maintain some open space between the structure and the existing home/rental property to the north. Architectural finish elements include stonework, siding and cedar siding. A sidewalk has been provided as required by the ordinance. The Lattases will be meeting with the Drain Commission to discuss stormwater detention needs and the requested variance of the township's 50' required

setback from the OHWM.

David asked what the overall height of the structure would be from the ground to the peak; Mr. Lattas replied that it would be 42'. Krause asked if this would require a height restriction; Mr. Lattas and Corpe explained the way the township's height requirements work and assured the Commission that no height variance is required.

Takayama asked if the paved maneuvering area will be large enough for cars to turn around on the property; Mr. Lattas stated that he has worked with an engineer who assures him it will be tight but workable. Takayama also expressed concern about the proximity of the proposed sidewalk to the traveled roadway. The property is in the area of a tight curve, and pedestrians might need to evade traffic. With the proposed picket fence along the sidewalk, pedestrians might have nowhere to go.

Krause mentioned the landscaping requirement calling for at least 6 trees along the road frontage. He asked Mr. Lattas if he is working with an architect; he is not at this time. Krause feels that the elevations are a little stark; Mr. Lattas agreed that the structure could use some "dressing up." Some of the embellishments previously planned, such as porches, were removed to meet maximum impervious surface requirements.

Krause asked about the height and composition of the seawall on the property; it is a steel wall approximately 3' high above the level of the general beach.

Hardin asked if the portions of the ordinance concerning "keyholing" are applicable. Corpe replied they are not. David asked if other agencies would be reviewing the requested variance of the township's 50' setback requirements; Corpe responded that the township ZBA will be hearing the request on January 13. Hull is managing this hearing. He has checked with state and federal agencies that have expressed no concern or need for review. The County Drain Commissioner may or may not have concerns which should be addressed during the applicants' upcoming meeting with that agency.

Carstens expressed concern about what the stormwater management issues might be, which again will be addressed by the Drain Commission. Mr. Lattas stated that he has discussed his plans with MDOT and they have stated comfort with his proposed 24' wide driveway. Metro Fire must still be consulted regarding emergency access to the property.

Krause stated that he does not intend to be negative about the proposed project, but this is the type of property he referenced at an earlier meeting as being the type the township should be seeking to acquire and preserve. It will no longer be possible to acquire this parcel, but the township should move to protect other similar ones.

Motion by Krause, support by David to set a public hearing regarding Application #2004-21P be held at the January 31 meeting. Motion carried by unanimous roll call vote.

- b) **Preliminary Hearing regarding Application #2004-22P by Michael and Sherry Hedden, 12110 Scotch Hollow Drive, Bath, MI for Special use Permit/Site Plan Approval of a 15-unit single-family residential Open Space Development on 17.63 acres of land located on the east side of Kay Ray Road and the west side of US 31 North and currently zoned A-1, Agricultural and R-2, One Family Urban Residential (Attachment C included and incorporated by reference): Mr. and Mrs. Hedden were present in support of their application, as was their consultant, Doug**

Mansfield of Wells Mansfield who presented the project. The project site includes somewhat over 17.6 acres in the triangular area created by the US 31 North/M-72 intersection. The land is partially zoned R-2, Urban Residential and partially A-1, Agricultural. A significant ridgeline (35' tall) runs diagonally through the property, and there are several pockets of lowlands along US 31 that capture road runoff and a spring and wetlands area on the northern end of the land area closer to Kay Ray Road. There is mixed forest vegetation on the site. Since MDOT is a highway, only one curb cut to the property would be permitted from that roadway. Kay Ray Road is a residential-use road; the Road Commission has indicated that due to traffic volumes the use of shared driveways would be appreciated.

Several different consultants have been utilized regarding the project, and several different layout concepts have been proposed. Once Mr. Mansfield was working on the project earlier in the spring of 2004, he approached the Commission to define the primary and secondary preservation characteristics of the property. One of the key desires expressed by the Commission at this time was to preserve the rural character of the area as seen from US 31. The discussion at that meeting was transformed into a proposed ~~side~~ **site** plan that include a roadway connecting US 31 and Kay Ray Road on the northern end of the property, and another internal roadway that would limit the number of curb cuts on Kay Ray Road. One problem encountered with this concept had to do with the amount of open space that would be taken up by the required 24' wide private roadways. Once the wetlands were delineated, there was a need to change the proposed lot configuration as well.

The new project design includes a private road opposite Angell Road on US 31 serving five homes on a cul-de-sac. The homes would be out of the viewshed of cars traveling on US 31 due to a 20' grade change between the curb cut and homesite locations. All of the proposed open space as it surrounds the various proposed homesites is contiguous, and the US 31 frontage would need few additional water retention basins and would be largely kept in its natural state.

A second private road would be created on the northern side of the property through a curb cut on Kay Ray Road. This road would serve 3 homesites. This road curves around the major delineated wetlands area. The delineation has been performed by an individual on staff with Wells Mansfield who has a Geology degree and MDEQ and Army Corps of Engineers (ACE) certification. There were questions about whether or not the wetlands would be regulated by DEQ only or also ACE because of their ultimate link to East Grand Traverse Bay; by the time this answer from the ACE was received it was too late in the year to have DEQ visit the property to verify the delineation. Mr. Mansfield stated that his firm has always performed conservative delineations and none have been challenged by the DEQ to date.

A third private road spur would serve 3 more homesites on the south side of the major wetlands area. The remaining four homes would be served by shared driveways on the south side of the property accessed from Kay Ray Road.

Required 20' vegetative buffers are provided along the public roadways. Well and septic system placement will be coordinated with the Health Department and after appropriate study of the natural water systems in that meeting.

Mr. Mansfield stated that the Commission may have been expecting more information for this hearing; however, he did not want to spend extensive dollars preparing the detailed documents if the overall site plan were not to be acceptable. He feels that the ultimate creativity has been used in the current design, and if it is not acceptable, the land use would likely revert to a use by right scenario.

Takayama asked how septic system placement for the eastern lots served by the road from US 31 would be handled. Right around those homesites the soils are basically clay-based. The septic systems therefore have to be placed a little farther away from the homes and somewhat in the preserved open spaces areas as permitted by the township's OSD ordinance.

Krause asked if all of the proposed drainage areas are absolutely necessary. The look seems to be one of a drainage ditch from which vegetation has been removed. Mr. Mansfield noted that the local Drain/Soil Erosion Ordinance is among the strictest. Use of natural low areas will be made to the extent possible.

Carstens stated that he observed water exiting the hillside that cuts through the property. He was uncertain if it represented a natural seep or roadway runoff. Mr. Mansfield suspects it could be a natural seep due to the clay soils in the area. Carstens asked if septic systems located near the seep could negatively impact the seep. Mr. Mansfield replied that water from the seeps will flow on the ground surface to sandy areas to the west of the septic systems. Carstens expressed a concern that the water originating with the seeps on the property may flow across properties on the west side of Kay Ray Road and ultimately through to the Bay. Mr. Mansfield stated that the ACE found no evidence of such a linkage.

Takayama asked about the possibility of eliminating some of the curb cuts for the houses on the south end of the property on Kay Ray Road. There was some brief discussion of the concerns that can arise when shared driveways must be maintained.

Hardin asked about the location of several septic fields near the eastern edge of the wetlands and whether or not septic pumpers would be able to reach them. Mr. Mansfield noted that the tanks, which is the portion of the system that is pumped, will be close to the houses.

Krause and Vermetten expressed appreciation for the creative approach that Mr. Mansfield have tried to take with the property. He commended him and the applicant for sticking to the more strict requirements of the OSD ordinance as they continue to pursue development of the property. Carstens stated that he is impressed by the attempt to preserve the cedar growth on the property, and by hearing that additional work will be done to ensure that the proposed septic systems will not have a negative impact on the localized environment. Carstens recalled that last time the project was discussed there was mention of three potential wetlands areas; Mr. Mansfield replied that two turned out to be water runoff retention areas for the highway.

Takayama felt that a wonderful job has been done compared to where the project started. His only suggestion would be that if the five houses accessed from US 31 could share a common septic system and the proposed drainfields could be removed from the open space area near the wetlands that might be positive.

David read a note in the staff report regarding concerns from existing Kay Ray Road residents about the impact of new septic systems on water quality in the area. He noted that those individuals use septic systems themselves. Mr. Mansfield stated that there have been claims that the water tasted bad and is discolored, but no water samples have been provided. Vermetten noted that the Health Department will exercise its standards in this matter. David accepts this fact, but also wants to recognize any existing or potential problems. He just doesn't understand why people with existing septic systems would have concerns about new septic systems in their area if their water quality is essentially acceptable.

Krause asked if additional information could be prepared by the January 31 meeting. Mr. Mansfield stated that by then the project should be reviewed by the County Land Division Review Committee and additional drainage plans should be available. Carstens asked again whether there will be additional word from the ACE regarding whether the seeps on the property are ultimately connected through underground flows to the bay; Mr. Mansfield stated that the ACE has already indicated that they feel this is a DEQ-regulated situation only. Carstens noted that Mr. John Zaloudek has expressed a strong feeling that there is a connected underground flow; Mr. Mansfield stated he would be willing to work with the township to identify this situation as desired. Vermetten noted that the ACE is only generally concerned with navigable bodies of water connected to federal waters, and he accepts their word that only DEQ input is required.

Motion by Carstens to continue the preliminary hearing to the January 31 meeting, with the suggestion that any remaining questions about the impact of the project on the wetlands be resolved; that a proposed grading plan and stormwater control method plan be provided; that more complete landscaping plans be provided (particularly for the US 31 frontage); conservation easement/restrictive covenant information is required by the public hearing; Health Department, MDOT, Road Commission and Metro Fire approval is required; review and feedback from the County Land Development Review Board is required (meeting scheduled for January). Motion seconded by Takayama, with the addition of a request that the septic systems proposed to be in the common elements below the ridgeline be relocated to an area above the ridgeline if at all possible. Motion carried by unanimous roll call vote.

- c) **Preliminary Hearing regarding Application #2004-23P by POW Investments, LLC, PO Box 681, Traverse City for Special Use Permit/Site Plan approval to construct Acme Acres, a 44-unit single-family residential Open Space Development on 14.70 acres of land located at 6685 US 31 North and currently zoned R-3, Urban Residential (Attachment D included and incorporated by reference):** Brad Kaye, Gourdie Fraser Associates, presented the plan on behalf of the applicant. He noted that the property is within the sewer district and will be served by the regional sanitary sewer system. There would be primary and secondary shared wells on the north side of the property. The applicant is discussing potential extension of water service from the Grand Traverse Band of Ottawa and Chippewa Indians, who own the Grand Traverse Resort property on the west side of US 31 from the subject parcel, as well as property to the north of the subject.

The project is proposed as an OSD, with the proposed homesites set predominantly on the west and south sides of the property. There is a mixed woodlot that would be retained in forestland as much as possible on the north side of the property. The proposed homesites sit about 50' lower than the land along the road corridor, which would be landscaped and bermed to disguise the sides and backs of the homesites. There are seasonal views from northeast to southwest that the project layout seeks to protect. Looking to the northwest there are countryside views that can be protected to some extent as well. A sample of four different 1 ½ story housing styles was provided that seek to provide a "cottage" feel. There are no wetlands on the site, and no identified wildlife corridor.

Kaye noted that Corpe raised three issues in her report. One has to do with the property size being inconsistent between the township assessing records and the application which is explained by the fact that part of the deeded property lies within the right-of-way. The second issue is that removal of one unit of density may be

required by the OSD density calculations; although there should be discussion as to whether the area of the property within the right-of-way should count towards the allowable density. Finally, there is the question of conservation value of the property.

Carstens stated that many of his initial concerns are settled by the fact that the property will be served by public sewers. He is uncertain about the conservation value of the property; there are no wetlands or wildlife corridor. Vermetten agreed that the viewsheds would be the key property. David believes that preserving viewsheds and the character of retaining larger open areas is worthwhile, as does Pulcifer.

Takayama asked if there is a need to remain consistent with the open space calculations presented for The Village at Grand Traverse, LLC. Corpe noted that the question here is somewhat different; its not about the amount of open space but about the amount of land on which density calculations are based. Carstens recommended that township counsel be asked how to proceed. Takayama believes that US 31 will be widened someday, and would favor removal of lot 27 if necessary.

Takayama asked if there had been thought given to limiting the number of US 31 access points to one; Mr. Kaye responded that generally Metro Fire preserves to have two access points in similar situations. MDOT would have the final say over the number and spacing of access points. Krause asked how the project will be sold; individual purchasers will choose a building style and a lot and the builder will install the building. Morgan asked about average square footage per unit; Mr. Kaye stated that he would research this.

Vermetten asked if the applicant would be ready with additional information at the January 31 meeting. Mr. Kaye said he would.

Motion by Krause, support by Hardin to set a public hearing regarding Application #2004-23P for the January 31 meeting. Motion carried by unanimous roll call vote.

4. New Business:

- a) **Approve minutes of December 13, 2004 meeting** (Attachment A included and incorporated by reference): Carstens found several typographical errors. On page 10, paragraph 2, the word “is” in Krause’s statement should be “it.” Also, the last sentence in paragraph 3 should contain the word “is” instead of “in” after the word “packet.” Takayama noted that on page 7 in the 4th paragraph he believes the word “incomplete” should be “complete.”

Motion by Carstens, support by Takayama to approve the minutes of the December 13, 2004 meeting as amended. Motion carried unanimously.

- b) Krause sought to reinforce the concept that the Commission has a fiduciary duty to move issues to public hearing from the preliminary hearing state it if appears that all requirements and conditions have been met. David offered that it is also the Commission’s responsibility to ensure the conditions have been met. Morgan asked if the reference was specifically to last week’s meeting. Krause stated that it would be applicable to last week and to other situations. Morgan said that she was unclear about drainage issues related to The Village at Grand Traverse, LLC., which was one reason she was not ready to set a public hearing. Takayama mentioned Bzdok’s report raising the concern about the precedent being set as to how all applications for site plan review would be assessed regarding The Village at Grand Traverse in terms of the guidelines to be used. If the Commission were to use a set of guidelines that

might be ruled invalid by the Circuit Court, he could foresee larger problems. He had no particular problem with setting the public hearing other than this. He would prefer to have all legal issues settled before discussion about site plan review proceeds. Vermetten agreed with Krause's comments regarding fiduciary responsibility. He also believes it's bad practice for Commissioners to allow their actions to be dictated by concerns over whether a lawsuit will be brought forth. If an application is brought forth that meets Ordinance guidelines, he feels the Commission is "duty bound" to move it forward. He expressed respect for Mr. Bzdok in general but a difference of opinion with him regarding some of the points of view he has expressed regarding The Village.

5. Old Business:

- a) **Update regarding the proposed M-72 Corridor Overlay District:** Corpe noted that a public forum regarding the proposed M-72 Corridor overlay district was held on November 18. Due to subsequent changes in personnel, the subcommittee dealing with this ordinance has not met yet to evaluate the comments received that evening. In the meantime, she was invited to a meeting at the Chamber of Commerce chaired by Charles Blankenship and attended by numerous local township officials and the NW MI Council of Governments. New Designs for Growth is seeking to create a model corridor protection overlay district zoning ordinance, and wanted to know the state of such initiative was in the region. As it happens, Acme has made the most progress in this regard; only Whitewater Township currently has a corridor overlay district along M-72 and theirs strictly addresses access management whereas the proposed Acme Ordinance includes land use provisions. Acme's proposed ordinance is being used as a starting point for discussions about what should be included in the model ordinance. Corpe realizes that some on the Commission are eager to continue work on the ordinance, but noted that the next meeting of the New Designs group will be in February and expressed hope that Acme will wait a little to see what becomes of the regional initiative.

6. Public Comment/Any other business that may come before the Commission:

Michael Srdjak, 4308 Baywood Drive commented regarding Application #2004-21P. He sought some similar variance approvals for a property with many similar features in the same zoning district. He feels that any variances granted to the Lattas parcel when his received none that it requested would be discriminatory.

Meeting adjourned at 8:41 p.m.