

WEST TRAVERSE TOWNSHIP
REGULAR PLANNING COMMISSION
Wednesday July 10, 2024

Chairman Moore called the meeting to order at 6:00 p.m.

Roll Call: Green, Murphy, Hollerith, Moore, Osetek, Forster, Dohan

Absent: none

Visitors: Molly Russell (TOMWC), Pat Lennon, Eric Blesi, Margaret Winslow, David Berryman, Michael Fisher, Kristi Hollingsworth, Larry Buhl, Karly Moore, Ellinor O.C McElroy, Garon Gopigian

The Pledge of Allegiance was recited by all.

Approve Agenda as presented or with additions: Chair Moore asked to add a very brief educational slide presentation to the agenda under new business as “A” and move Public Hearing to “B”. Moore stated it is important to view the presentation due to the fact that the PC is about to make a permanent change affecting a very important part of our lake shore. Chair Moore stated it is inappropriate to make a decision of this magnitude without this information. It was noted that training was made available months ago and that this is to help make an informed decision. Harbor Point attorney, Pat Lennon, objected to the presentation and asked that his comments be made public record. *“I feel that it is very unprofessional and am concerned that the presentation could potentially influence decisions that have already been made. I also question if it, the presentation, is advocacy or education.”* Discussion followed and it was agreed to continue on with current agenda. **Forster made the motion to approve the agenda as presented. Osetek seconded. All ayes.**

Approval of 6-12-24 Regular Meeting Minutes: Chairman Moore asked if anyone had comments or questions regarding the minutes. Osetek had a question regarding the memo that Chairman Moore submitted to the PC members and asked for discussion on it. Osetek referred to Moore’s comment about “statement of facts”. Osetek wondered, if in big cases such as this if it were possible to have a separate document attached and keep the minutes pertaining to facts not discussions. As requested, a copy of that memo has been attached to these minutes. **Hollerith made the motion to approve the June 12, 2024 minutes as presented. Dohan seconded. Roll Call vote: Green – yes, Murphy – yes, Hollerith – yes, Osetek – yes, Forster – yes, Dohan – yes, Moore – no. 6 yes, 1 no.**

Unfinished Business – none

Proposed:7-10-2024

Approved: August 14, 2024

New Business - Chairman Moore opened the Public Hearing for Case #1-2024 Planned Unit Development at 6:14 p.m. for reviewing the final PUD plan in relation to a request by the Harbor Point Association to establish a PUD for the Harbor Point Resort. Chairman Moore asked Lane to give his presentation. Lane noted, that per Chairman Moore's request, a notice was run in the Petoskey News Review and Harbor Light newspapers regarding this public hearing in accordance with the Zoning Ordinances and state law. Lane stated that a letter was sent out to all Harbor Point residents in reference to this meeting as well. A few comments were received; an email and a letter both advocating against the PUD.

Lane stated that in his opinion: The PUD as presented complies with the zoning ordinances. When/if the PC recommends approval of the PUD the next step is to send it on to the township attorney for review and comment. After that, it will go to the board of trustees for approval or denial. Lane felt that in his opinion the proposed PUD complies with the township ordinance and it will not in any way negatively impact natural resources or the lake. He stated that he disagreed with every point in the Tip of the Mitt Watershed Council's letter. He also stated that if the PUD is approved by the township board, it would only apply to portions of Harbor Point that are located within West Traverse Township and that it is an overlay zoning classification, not a rezoning. Letters received from the Health Dept, Fire Dept, Building Dept and Road Commission all stating that they have signed off on the project.

Public Comment: Statement by Mr. Lennon regarding revised PUD agreement meeting the 5 points addressed previously by PC committee:

- Lots 102 and 104
- Height restrictions
- Changes to commercial buildings
- Paragraph 5a of PUD agreement
- Density requirements with current proposal.

Garon Gopigian questioned whether PUD affects tear down of buildings, and lot ownership. Discussion was had between Chairman Moore and HP Attorney Lennon regarding the PUD and sections of the zoning ordinance regarding non-conformities. Chairman Moore closed the public hearing at 6:44 p.m.

The 5 points addressed in the revised documents were discussed:

1. Density:
 - Golf course inclusion
 - Rezoning to R2
 - HP text amendment proposal
2. Height restrictions to include chimneys as per code
3. Amendment of section 5A to include reference to sections 727.18 and 507
4. Changes to commercial buildings in HP
5. Cottages 102, and 104 will be part of the PUD

Committee discussion: Density issue discussed resulting in withdrawal of Harbor Points text amendment proposal. Points 1, 2, 3, 4, and 5, were addressed and acceptable to the committee. Green gave history of HP PUD process. Chairman Moore recommended that the agreement be reviewed point by point specifically to address non conformity issues as they relate to HP. (chimney height requirement, modification of paragraph 5 referencing the PUD process, whether or not lots 102 and 104 would be included and the clarification of commercial buildings needing to go before the planning commission.) Chairman Moore asked for someone to go on record to put forth a rationale for why the setbacks proposed by Harbor Point are appropriate, why they think that the non-conformity section of our code should apply to everyone in the township other than Harbor Point and also why the waterfront overlay district protections should not be applied to Harbor Point even though sections in the Master Plan state that we should specifically support the waterfront setback section of the zoning ordinance. The Summer Resort Act was cited for discussion purposes. Lane stated that the Planning Commission can approve the dimensional regulations and Osetek stated that the dimensional regulations proposed by Harbor Point will not be detrimental to the public health, safety and welfare of future occupants of the PUD, the surrounding neighborhood or the township as well. A consensus of the PC agreed. Discussion on sea walls, shoreline protection and environmental concerns followed. Home structures were discussed: moving, rebuilding of homes, etc. Chairman Moore's suggestion that rebuilt structures must comply with waterfront overlay requirements versus the PUD was not supported by other members of the PC. Section 727.3 General Provisions, 727.5 D was discussed. It was noted that a full legal review will be required before the Township Board can receive it.

Hollerith made the motion after a public hearing and based upon findings that the applicable standards of the Zoning Ordinance have been satisfied as deliberated by the Planning Commission and as provided in the July 1, 2024 memo from the township planner, I move to recommend approval to the Township Board of Trustees Case #01-2024, Harbor Point Association, a final PUD plan to facilitate the establishment of a PUD overlay for the Harbor Point Resort, as described in Liber 2, Page 28 of Plats, Emmet County Register of Deeds, because the applicable standards of the West Traverse Township Zoning Ordinance have been met, with uses consisting of single-family dwellings (year round and seasonal), private clubs, and conditioned upon approval by the Township Board of an amendment to the Township Zoning Ordinance to provide compliance with the PUD density requirements of Section 727.3 B, also noted the petitioner will determine at a date future whether they wish the property to be zoned R-2 or include the golf course and auxiliary properties included in the PUD. Dohan seconded. Roll call vote: Green - yes, Murphy -yes, Hollerith - yes, Osetek - yes, Forster – yes, Dohan – yes, Moore – no. 6 yes, 1 no.

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(Public Comments: Garon Gopigian questioned ZA Lane about PUD's.)

Other

- a. Zoning Administrator Report – Lane noted report in packet. Discussion on Hughston Rd, Polo Field. They will be bringing forth a SUP application for a recreational area.
- b. Township Board Representative Report – Green told the commissioners that the zoning ordinance amendments were approved unanimously by the board with no changes. Member Green noted that he was asked to pass on to the PC the Board of Trustees' appreciation and gratitude for all their hard work. Member Green also noted that the Treasurer was re-bonded.
- c. Correspondence – Chairman Moore noted that he and Hollerith met with other planning commissioners and the city discussing top issues that each township or municipality was facing. A suggestion was made to call for public ideas regarding options for work force housing. A memo was presented from the meeting highlighting the needs. Planning Commission suggested that Chairman Moore share the memo with the township board. A letter from the Tip of the Mitt Watershed was received in opposition to case #1-2024 along with an email received from a Cindy Benedek, also in opposition to case #1-2024.

Planning Commissioner Comments (open discussion) – Hollerith brought up the education component, noted the importance and asked that it be should be presented ahead of time.

Next Meeting: Planning Commission Regular Meeting August 14, 2024 6:00 p.m.

Adjournment: **Forster made the motion to adjourn at 7:50 p.m. Osetek seconded. All ayes.**

Respectfully Submitted by:
Jim Osetek, Secretary

Transcribed by:
Amy Peters

PC Minutes Memo

To: West Traverse Planning

Commission From: Dawson

Proposed:7-10-2024

Approved: August 14, 2024

Moore (PC chair)

Date: July 10, 2024

I have raised concerns about the level of detail in our planning commission minutes at several of our regular meetings recently. While a "brief synopsis of the meeting" described in the WTT PC Bylaws is sufficient for many items of PC business, a more detailed "findings of fact" is required by the WTT Zoning Ordinance for Site Plan Approvals (Sec. 505:8 Approvals Based on Findings of Fact) and Special Land Use Approvals (Sec. 603:4 8. Findings of Fact).

Sec. 505:8 states, "...the Planning Commission shall approve, conditionally approve or reject the proposed development with reasons stipulated. The decision of the Planning Commission shall be incorporated into a written Statement of Findings and conclusions relative to the site plan which specifies the basis for the decision and any conditions imposed."

I do not feel that our minutes covering Site Plan Approvals and Special Land Use Approvals have adequately reflected the "reasons" and "specific basis for decisions" that our Zoning Ordinance requires. The PC often relies on our Zoning Administrator's case report to function as our Statement of Findings. While these reports often form an excellent foundational synopsis of whether the facts of the case meet the requirements of our code, many details are specifically called out as points of discussion for the PC members to deliberate. These deliberations are what form the "reasons" and "specific basis for decisions". Simply listing the topics of discussion in the minutes does not allow the public, future township employees, or courts to understand the reasoning behind the PC's decisions.

A summary of the PC deliberations is necessary to display full transparency in decision making. As I have recommended before, the Michigan Township Association Planning and Zoning Handbook provides further guidance on recording minutes and findings of fact for important zoning decisions.

To highlight that my concerns are not merely hypothetical, I will cite the case law that coincidentally was included in our Planning Report this month, Lakeview Vineyards LLC vs. Oronoko Charter Township. The takeaway quote is, "Based on this arbitrary action by the planning commission, without any analysis as to its reasoning, the circuit court's removal of the conditions was appropriate." -Court of Appeals

Given the above, unless meaningful changes are made during our discussion of the draft minutes, I cannot support approval of the June 12, 2024 draft minutes.

It is not my intention to interfere with, delay, or protract the business of the WTT PC. Therefore, I ask that this memo be included in the minutes of this meeting, July 10, 2024. If this same issue comes up on future Site Plan Approvals or Special Land Use Approvals, I will simply make quick reference to my memo from July 10, 2024 as to my reason for not supporting approval of PC minutes.

Proposed:7-10-2024

Approved: August 14, 2024