

GOLDEN TOWNSHIP PLANNING COMMISSION
MINUTES
FEBRUARY 18, 2003

7:35 PM Meeting called to order.

Pledge of Allegiance by all.

Present: Carl Fuehring, Bill Kolenda, Helen Lefler, Steve Marciniak, Terry Wiegand, Avery Wilson, Brad Whitney

Absent: Anita Foster, Leo Terryn

Minutes of January 28, 2003 were amended to include the ZO sections under which SunCatchers's site plan was approved, i.e. Section 12.2.1, 12.10 and 12.11. With this addition, Marciniak moved and Wilson seconded the approval of minutes. All aye.

Helen introduced the discussion on Breakaway Bay project by asking Steve Bruce how many campsites existed, and what type they were. Bruce responded that there were 176 existing campsites, licensed by the Health Dept. 126 of those are so-called seasonal sites where the users have paid for the right to use a particular site at any time during the year. About 50 sites are available for use by others who belong to coast-to-coast campground groups and/or by others who have no memberships and who either bring their own RV'S or tents. Of the 176 sites, all have electrical hook-ups and all but 15 or so have water. Three campsites have RVs which can be rented to the "traveling public", one previously used by Wheelers, one previously used by caretakers, and a third one. Bruce indicated that it was in poor shape and had been used only for storage since the 1960s, and would probably be removed.

Drawings of the campground and proposed changes and additions were available for review by the PC and those present. Referring to them, Bruce confirmed that Breakaway wanted to replace the maintenance building, add a second dump station and a swimming pool, in addition to the 54 additional campsites and several new cabins.

Carl questioned the previous proposal to renovate the maintenance buildings. Steve said that the current buildings are just sheds and he would like to demolish them and replace them. Steve discussed the Land Division areas on the resort portion of the project with rental cabins. The 176 number sites on the plan are not contiguous. Helen commented that there are more than 176 sites on the plan. Steve said that there are 230 with the blanks. There will only be 230 sites including the cabins. These 230 sites have already been approved by the other State and local agencies. He is just looking for the Townships approval. The clubhouse exists and the swimming pool is proposed.

Helen remarked that as it stands today, Breakaway Bay is an illegal non-conforming use in several respects. Neither the campground nor a resort are allowable uses in the R/R

zone without a PUD. The commercial operation of a campstore and the commercial operation of the campground itself is non-conforming and the keyhole access to Lake Michigan is forbidden by the ZO. Previously case laws on non-conforming uses were passed out. They were illegal and tracking the cases, it appears that the operation could be closed down. That would be unfair to the people who have bought time share interests in Timberlake, but it is not in the best interest of the people of Golden Township to allow the continuance of an illegal non-conforming use. Helen know of no way to make it a legal and a conforming use. Approving a PUD would legitimize the current operation without enlarging it. Steve has asked to have it enlarged. The ZO allows a resort under a PUD, but not a campground. We would have to characterize this as a resort. Hideaway has 213 sites and three rentals. Currently there are 176 campsites, 126 of which are dedicated to individuals and 50 of which are available for casual rental. There are three locations that would accommodate the traveling public who are not club members. The new construction that Bruce is considering in addition to the new campsites or rental cabins include the new maintenance barn, the second dump station, and a swimming pool, and then the gate house and the store. Steve commented that his store will be further away from the road than the store at Hideaway. Helen commented that presumably the addition of the swimming pool might reduce the use of the keyhole access to Lake Michigan. Steve remarked that the campground store would not turn away the general public, just like it is done at Hideaway. Carl asked if their sign could be restricted in what it advertizes i.e., Breakaway Bay & campstore. Jake is not sure, you can regulate the size. Conditions can be put on the PUD. Avery commented that the store shouldn't need advertizing if it is for the campers. Terry asked about parking? Steve replied that there is proposed parking to meet the ZO. Terry also commented regarding the sign, advertizing for a store on the sign would enhance the commercial-ization of the store. Steve reminded everyone that all this is inside the fenced area. Carl asked if the building for the store could be within the gate, to show the difference between the public and the private sections. Steve said it is set up for safety at this point and that physically it won't work. Helen asked what the 18 parking spaces are for. Steve is not sure, it's what the ZO required. Helen said according to the building size, he only needs 9 spaces. Carl asked about lights around the building area. Steve reminded him that all requirements will be met. Carl asked about an on site visit, to actually see what they are planning. Helen responded that anyone can make whatever plans they want. She reviewed again the definition of resort. No where does it refer to retail facilities for people who are not in the resort. Dave Roseman for the record objects to this entire conference. The ZO 11.28 allows for a single pre-application conference, and he felt that was what we had the last meeting. He agrees the present operation is an illegal non-conforming use and that the law requires that it should be shut down. Case law shows that a PUD doesn't make an illegal non-conforming use legal, you can not expand an illegal non-conforming use. He doesn't see how an expansion of the store can be allowed either. Keyholing is absolutely not allowed anywhere in the Township. The language in the MP and the ZO makes this illegal and they plan on pursuing this. He had distributed letters which were passed onto PC members. Steve Bruce remarked that the PC should be fair and open minded to both sides of this issue, researching both sides equally. Dave Roseman commented that the PC has an obligation to uphold the MP and the ZO. Helen commented that the PC role is representing the

entire community of Golden Township and not to be a mediator between opposing factions. We are to interpret and apply the ZO and the MP. The ZO being the letter of the law and the MP being the spirit of the law. We have considered cases on both sides of the issue. We want to be fair to all who have paid their money to enjoy the facility, We have received 2 letters from those people. One is protesting advancement within their campground and the other is signed by many members indicating that Timberlake is not open to the public. A resort would change this. Helen does not feel that we have been biased or partisan on this. Steve agreed. The PC needs to come up with a position that they would be comfortable with and present it to the Township council to see if there are holes in it from either point of view. That would include a prohibition against additional campsites and minimizing the increase in size of non-conforming activities. Keyhole access is illegal, would like to have legal council on that issue. It isn't grandfathered because it was illegal. Carl asked about putting a PUD restriction on it to say 30, but who would police it? Steve reminded the PC that it is not over used. It would be well policed. He doesn't have a problem with a reasonable number. This is for the campground only, it has always been with the campground. If Steve isn't allowed to expand the number of campsites, then he will not be able to build the swimming pool, therefore not able to ease the beach traffic. Dave Roseman reminded everyone that the MP and the ZO absolutely does not allow keyholing. Non-conforming uses are to be eliminated, not perpetuated. Helen stated that according to the last sentence in the ZO provisions on keyhole development indicates that the provisions of this section shall not apply to keyhole developments in existence before the effective date of this Ordinance. If this were a lawful non-conforming use, that would apply to this situation. Where this is an illegal non-conforming use, that protection does not apply to this situation. We will see what the Township lawyers say. Steve said the by rezoning into a PUD that would alleviate these problems. Helen commented that in the beginning of the PUD chapter in the ZO, it lists objects of a PUD (page 30), none of them are to override other rules in the ZO. It is stated that the PUD is to provide for the development of land in a manner consistent with the Golden Township Master Plan. Helen has talked to Norm Dodds regarding Hideaway. It was explained to her that at the time, they were unaware that it was a non-conforming use when they characterized it a resort. As far as the keyholing issues, he was adamant that it is not allowed. Joe Namath is concerned with parties being held on the beach, etc. Now the PC needs to decide what they want to present to the Townships' attorney. To close it down would be the worst case scenario, to give Steve all he wants is the other end of the spectrum. Somewhere in between is where we are hoping to end up. Dave Roseman commented that they do not have anything against what is already there, it is the expansion they are concerned with. Helen doesn't feel an expansion is possible. There are several different points upon which a decision has to be made. Keyholing is one of them. Expansion is one. A store that is open to the public and not just the campground is one, That would make it a commercial venture in an area that forbids commercial operations. The 200 feet on the west side of Ridge Rd., down to the beach which includes that keyhole access that has been talked about. And what Breakaway Bay has proposed to be two non-conforming 80' lots. Steve corrected her that what they are proposing that there will be two 100' lots, with a 33' easement for beach access. Members of the campground have a lifetime membership. Carl would

like to compromise the store issue if possible, other issues are not able to compromise. Dave Roseman referred to Chapter 11 of the ZO and the definition of the R/R district. Helen also commented that under uses requiring approval in PUD's in Ag zones mixed uses are allowed, they are not allowed in the R/R district. Dave stated that campgrounds are not permitted in the R/R either. Discussion was held to meet and have an on site inspection of the location of the store. Helen reminded Steve that the commissions duty to the Township is to get rid of an illegal non-conforming use in a way that is fair to all involved and it cannot continue. We have to go by the MP and the ZO. We should take a position that is fair to the Township and take it to legal counsel.

Meeting adjourned.