

GOLDEN TOWNSHIP PLANNING COMMISSION
MINUTES
MAY 27, 2003

7:30 PM Meeting called to order.

Present: Carl Fuehring, Terry Wiegand, Helen Lefler, Anita Foster, Avery
Wilson, Steve Marciniak, Brad Whitney, Leo Terryn, Bill
Kolenda.

Motion to approve the minutes of the April 29, 2003 meeting was so moved by Steve and supported by Carl. All aye motion passed.

Breakaway Bay-

Steve Bruce d/b/a Breakaway Bay has submitted an application for Rezoning 100+ or-acres on the east side of Ridge Road, north of Lake Road from Resort/Residential to PUD

Jake explained that the application is to rezone the property that is currently zoned R/R to PUD to expand the existing development to add more campsites and buildings and to do that he has to have a PUD. Resorts are allowed in the R/R zone.

There is no correspondence in favor of the project.

Correspondence against the project:

Objections to the proposed PUD submitted by Roseman's, Namath's, Collins', Tibbits', Halablain's, Henk's, VanKempen's, Briegal's, Vernon's, Nelsen's, Da Prato's, Wierenga's, Hosner's, Phelps', Lockwood's, Marsman's, Kramer's, Skinner's, Charmelly's, Kett's, Thoreson's, Balice's, Seyferth's, Ashley's, Robinson's, and Parrott's.

Dr. James and Mrs. Jeri Kett

Ronald and Teresa Mack

Caorle Burgwald

Tom and Gerry Jones

Public comment in favor- none

Public comment against-

Dave Roseman: " I live at 4629 N. Ridge Rd. First of all, I would like to introduce Keith Walker and John Grant. John owns Property just south of ours and Keith is a lawyer with extensive real estate law experience and here to help us with the legal issues. The residential neighborhood adjacent to the Timberlake Campground has developed very nicely over that last 10-15 years, and is now composed of many homes owned by people with long term commitment to Golden Township and Oceana County. These homes add value and quality to the Township. An increasing number of us make this our full time home. Timberlake is an illegal non-conforming use in our neighborhood. They have requested a PUD to expand that illegal use. We object strongly, there are about 50 of us that have submitted this document and hope that the board has had time to read it. I'm

going to expand on four major points. The first point is that our neighborhood is zoned R/R. This is what the ZO says about R/R zoning, 'This zoning district has been established in recognition of a need to provide for seasonal and year-round residential development that will not be encroached by incompatible business and commercial land uses.' There is very clear wording throughout the ZO and MP. It is clear that businesses do not belong in R/R zoning. Both the campground and the store are commercial businesses. Last month the developer submitted a four page memorandum to supplement the site plan and in that as justification for the store, the site paragraph 11.5 of the ZO. They have only sited part of it and here is the remainder of it. 'The establishment of incompatible business or industrial uses in zoning districts in which such uses are not permitted shall not be permitted under any circumstances.' This is pretty clear. The store and campground cannot be allowed in the R/R campground. Issue two- Timberlake is an illegal non-conforming use, it is non-conforming because it is in a zone that does not allow campgrounds and because of its keyhole access to Lake Michigan. It is illegal because it expanded without proper permits. The key word here is illegal. It breaks the law. So the question is how much did it expand? How many campsites did they have in 1990, the year the ZO went into effect? And in 1997 when the ZO was revised? Surprisingly the answer we think is zero. They had no permits, from the file at the Health Dept. it appears that Timberlake did not have State permits from 1990, 1991, 1992, 1995, 1996, and 1997. That means that in 1997 when the present Zo took effect they had permission for zero campsites. That would mean that every campsite represents an illegal expansion. We have summarized the status of the campsites in Appendix 3 of our document. Appendix 1 is a copy of a paper on non-conforming uses that was distributed by the PC last year. Which among other things make the point that illegal non-conforming uses should be discontinued. There is State law that supports this and is available if anyone is interested. Issue # 3- keyhole access. The developer argues that keyholing should continue, because it has been done in the past. AS we have pointed out, if they had no permits, then they are grandfathered for zero uses. While asking to expand the number of keyhole users, they are asking to decrease the size of the keyhole from a full 200' width on Lake Michigan to a 33' easement. Another interesting keyhole issue is that by requesting a PUD, the developers are requesting a new zone. Keyholing is prohibited in every zone in Golden Township. so it is impossible to see how you could have keyholing in the new zone. Issue #4 is PUD's. According to the ZO, a 'PUD is established to require a review and approval process for certain land uses that would have undesirable impacts on the public health, safety and welfare if such a process was not required.' There are a lot of negatives in this, the grammar may be a little questionable in a couple of areas, but in other words any PUD must improve public health, safety and welfare. That certainly is not the case for this PUD. This PUD is being sought for business reasons, being sought for legalizing and expanding an illegal business in an area where such business is not allowed. This would be an extreme example of spot zoning in our opinion. There are several other serious issues that we have detailed in our document which we won't go through right this moment."

Joe Namath- feels that this will burden the roads, water and sewage. The ZO and MP are in existence. We should follow the intent of the MP and to do what is legally and

morally right.

Duane Vernon- 4581 N. Ridge RD.- Why hasn't this been stopped and enforced if it is illegal? If this is illegal, why hasn't the proper jurisdiction already close it down? Scenic tours go through there and there is getting to be some junk areas , why hasn't this been cleaned up? Is this what we want? Why is this is allowed to go on if it is illegal, I've talked to some folks and we will open a bikini bar across from Timberlakes and who is going to stop us? No one has already stopped what has happened if it is illegal. This is a crossing point where we have to take a stand. This area has already started to deteriorate.

Keith P. Walker-an attorney from Gr. Rapids hired by the opposing group and is here to offer an help he can. The keyholing aspect, the ZA correctly characterized the thrust of the application where the goal of the developer is to enlarge the campground. Regardless of how that is dressed up that is something that they can't do, because the keyholing is non-conforming. In my view, that can't do anything to change the existing use that will increase the burden on the keyhole and they can't do anything that will make the keyhole smaller, that will increase the burden on the keyhole. It is a privilege they have and they get to keep the non-conforming keyhole, but that is if they don't change anything. If they want to change anything they can't do that unless it is reducing the burden on the keyhole.

Glen Sperry- Representing Breakaway Bay as noted this is an application for site plan and PUD approval. This has been in front of the PC for over a year in various forms and everyone has probably heard all the agruements that are going to be raised. I would like to put this in perspective. It appears that there is a general feeling that something substantial is being requested and it may be from a legal point, but there are 187 existing campsites, there will be 187 existing campsites when we are through, they are not adding a single campsite nor are they adding any roads to any campsites. We understood that the previous owner had a permit to expand to 230 sites. We had a State permit and are currently licensed with the State for 176 sites. So there are actually 11 sites that exists on the property that are not licensed, therefore not being used. With the 187 existing campsites, sooner or later four deluxe cabins replacing the four trailers that are already there and up to 12 new cabins, there will be 203 units. So basically as far as increasing the use of the property we are talking about building 12 cabins on the interior of a 100 acre parcel. We do not intend to add any campsites, or any roads leading to campsites. The mobile homes will be gradually replaced with permanent deluxe cabins of 720 sq. ft. for staff housing and rental purposes. They will be on the same sites and use the same existing water and septic. So those 4 mobile homes will be up graded by being replaced with attractive facilities. We also intend to construct 12 cabins not to exceed 400 sq. ft., on the interior of the property away from Ridge Rd and the property lines which shouldn't have any impact on the neighbors. We intend to build a small maintenance building, a bath house and a swimming pool, all of which are on the interior of the property, which should have no impact on the neighbors. The construction of the swimming pool will sugnificantly reduce the use of the Lake Michigan frontage. We propose to establish rules and a swimming pool that will reduce it's usage. As long as

we are talking about keyhole, it is not always understood, The concept of keyholing is tied not to the area of the beach, the purpose of keyholing is tied to the capacity of the body of water that will handle the users. Which is not an issue on Lake Michigan. We don't need to get into all this detail, but we should recognize that is the origin of the keyhole theory. It's not on the amount of beach use you have. We plan to replace the present office and store that we presently have with a new facility, which is shown in detail. This meets all parking requirements and is well screened from Ridge Rd. and is a more attractive facility and as we have noted earlier is permitted in a PUD as an accessory use. We would like to build two single family houses on the Lake Michigan frontage.

There is already one foundation for one unit there. This does not reduce the Lake Michigan frontage. The 200 ft. of frontage still exists, These houses are set back. You still have exactly the same access to Lake Michigan and exactly the same number of lineal feet of frontage on Lake Michigan as we have always had. So this is our proposal, basically we are not doing a heck of a lot than what is already there. You have ought to keep in mind that we have asked the ZA, "Have you had any complaints about this operation in the past? He says he has had no complaints in the past." So this has not been an objectionable activity in the past. It is going to be changed in a desirable way. Ridge road will be improved with visibility and safety even though traffic should not increase. The fire chief has approved the plan for emergency access and we have approved the use of our pond for a water supply for fighting fires. Our engineer has stated that all surface water will be retained on the site. No wetland areas will be disturbed. Resource management group has made an assessment of the property and it's conclusion based on review of the proposed PUD plan of Timberlake Resort site dated 4-13-03 appears that no activities that are proposed are within regulated wet lands or streams. Consequently Jay has the opinion of the permit from MDEQ under part 301 or part 303 will not be required for these activities on this site. A buffer strip will be maintained and improved along Ridge Rd, all lighting will be directed down and inward on the site with no effect on neighboring property. All signage will comply with the Township regulations. All water and sewage facilities are on site and will comply with local and DEQ regulations. In fact, the Health dept. has inspected the operation and has approved it for this year. Total coverage of cabins and campsites on the property is only a total of about 11% of the property. So the vast majority remains Open Space. The addition of the swimming pool on site will tend to keep the guests on site and within the interior of the property. The overall use of the site will not change significantly from it's present use. I'm not sure that the parties that are objecting to this really understand what the long term dynamics are.

It is clear that this 100 acre track is going to be devoted to recreational and residential uses. It's not going to lie vacant. Because of it topography and location, it is not going to be farmed. Land prices are too high for it to remain undeveloped. The PUD that we are presenting is a known result, one that the neighborhood has lived with. 90% of the resort has been in place for years with no complaints. The traffic and activity that is generated is basically for three months of the year. For nine months it will be mostly inactive. As far as the neighbors are concerned, this is one of the better options. If this usage should be terminated, it won't be vacant. It will be a more intensive, probably, year round use.

I would think that the parties should really consider this. It is probably there best alternatives. We would appreciate your approval of the Application of the Site Plan.

Helen asked Mr. Sperry if we could have copies of the DEQ reports that he referred to.

He said he just recieved them and would be happy to furnish them. They are not from the DEQ, they are from a private consultant.

No comments from Jake.

Public Hearing closed.

Carl comment on how we have listened to this for 1 1/2 years now, he does commend Dr. Roseman on the amount of work and information he has supplied. Way back when Steve summed it up as if don't like what is going on you should of bought it. That would of solved your problem. Once it's out of the gate you have to put up with it. Steve has a right to do something with his property. How it's going to gel is complicated that we have rights on both sides, that we as a PC have to address. Helen would you and the Board go along with having three members of the Board and one Township Board member put everything down for a meeting between Ed McNealy and Mr. Sperry and trying to come to a reasonable conclusion. Don Walsworth would be a good member to have included.

Helen feels that this would expedite this. Sub-committee will consist of Carl Fuehring, Terry Wiegand and Helen Lefler. All PC members will submit there positions to the sub-committee, within 10 days the sub-committee will meet. Motion in favor of the sub-committee made by Carl, all aye.

Mr. Walker would like to be included in this meeting.

Helen commented that she does not see our role as an arbitrator.

New Business:

Hideaway Campground- proposal to add sign and outdoor light fixtures under Chapter 11.7, paragraphs 3 and 4 and Chapter 14, and review of regulated site plan under Chapter 12 of the ZO.

Jake explained that the Pud allows for minor modifications which would include signs. They have changed their mind about the lighting and are not doing anything at this time. Their monument sign meets the requirements for size and setbacks. He feels this should be reccommended to the Township Board for approval at this time per Chapter 11.7, paragraph 3 and 4.

Leo motioned to make the reccommendation to the Township Board for approval, supported by Avery all aye, motion passed.

Golden Hart Farm-

Jeff Gebhart d/b/a/ Golden Hart Farm, proposal to engage in commercial activities, namely retail sales of sports equipment under Chapter 10.2 on the 8 acre parcel on the south side of Polk Road recently rezoned from Agricultural to Commercial/Industrial, and review of the related site plan under Chapter 12 of the ZO.

Jake explained that the existing structure is proposed use is retail per Chapter 10.2

Jeff explained this only includes the use of the building and parking lot. The driveway has to be narrowed. There are currently two driveways and one will have to be closed per the OCRC and the other driveway will be left for use. They will have a gravel surface. There will be no additional lighting.

Steve motioned to approve the retail sales per Chapter 10.1 with the OCRC standards for the driveway and with the existing approved signage, Avery supported the motion, all aye, motion passed

Seminar- Jake explained that there is a proposal in the works with Pentwater to have a seminar at the Golden Township Hall regarding OSD and PUD's. More information will be given out as it evolves.

Amendment to the ZO-

Proposed amendment to the ZO to allow for multi-family dwellings as a use requiring approval as a PUD in the A/R Zoning District in Chapter 9 of the ZO.

Jake explained that in the A/R district under PUD we have detached single family site condominium subdivisions and detached single family platted subdivisions. Dan is working on a site condominium subdivision on his PUD on the corner of Polk Rd. and 56th Ave. and he would like to have multi-family dwellings looked into being added. The way for us to amend the ZO to allow that would be to add under the PUD usage to allow multi-family dwellings. At this time, the R/R district is the only place where multi-family dwellings are allowed.

Helen commented that we might need to distinguish between Site Condominium Subdivision and Condominium Subdivision in the definition?

Jake said that we probably do, and there is a lot of condominium language that needs to be added to the ZO. All a condominium is, is a definition of ownership of property. In a condominium you own air space and in a Site Condominium you own land and air and a common open area.

Dan Suman commented that he has been advised to just take the condominium act and go with that. Forget the word site-condo.

Steve Bruce commented that a platted sub-division has more rules to abide by than a site

condominium.

Dave Roseman commented that he didn't feel there was a great demand for multi-family dwellings in the Township and he feels there should be a way to accommodate Golden Pond's needs without affecting the entire Township.

Helen said that if the multi-dwelling condo is a part of a PUD approval, then the Township can attach conditions and review each situation and is not just a blanket change to the ZO.

Jake added that the other thing is that a development of that magnitude being done would have to have a community sewer system. You can also address the matter of density.

Dave Roseman asked if they were saying that a PUD can't include anything that is not allowed in that zone?

Helen responded that on pg. 27, Chapter IX,9.2, there are permitted uses and then there are uses requiring approval as a PUD. This would be added under the second section and wouldn't be added as an allowed use in the underlying zone. Then there are Special Uses, which are different. It will not be allowed as a permitted use or a Special Use, only if there is a PUD review. Under the uses requiring approval as PUD units are detached single family site condominium sub-divisions, detached single family platted sub-divisions. There can also be a single family condominium subdivision. We should be talking about multi-family site condominiums and not condominium sub-divisions.

Steve Bruce said that all you need to do is decide if you want multi-family units allowed in the PUD.

Helen said that we should strike the word "sub-divisions" and just say single family condominium's.

Carl said that the key is ownership.

Terry commented that the PUD controls where they are built.

Helen asked when we go to low density AG and have AG where do we go?

Jake said at that time we might want to look at the lot size.

Dan Suman said that larger size homes are too much for his clientele. That's why he is in favor of it. The PUD helps the PC keep control of what's going on.

Craig Cihak asked where is the PUD in the underlying zone. He doesn't understand what the hesitation is when this seems to be the way to go.

Helen explained that in each district there are Uses Permitted, Uses Permitted only with

a PUD, and Special Uses. In this cases we are thinking of adding multiple family buildings to be added as a PUD.

Motion to reccommend to the Township Board to amend the GTZO Chapter 9, A/R Zone, Section 9.2 uses requiring approval as a PUD by adding multi-family condominium project made by Leo and supported by Carl, all aye, motion passed.

Motion made by Anita to adjourn at 10:05 PM and supported by Avery.