

GOLDEN TOWNSHIP PLANNING COMMISSION  
MINUTES  
JUNE 25,2002

7:45 PM Meeting called to order

Present: Leo Terry, Steve Marciniak, Avery Wilson, Anita Foster, Helen Lefler, Pete Wood, Carl Fuehring.

Motion to approve the minutes of the April 30, 2002; May 15, 2002; and May 28, 2002 meetings as written by Steve and supported by Leo, all aye. Motion passed.

**New Business-**

**Gary Wendt- Pit Stop Gas Station and Convenience Store Site Plan Review**

Jake explained that at this time there is not a Site Plan available. Matter tabled until July 2002 meeting.

**Aileen Carlson-** 6114 W. Fox Rd., Mears, Mi request for a SU Permit for a home occupation, a beauty shop.

Jake- The zone allows home occupations in that zone. She complies with all of Sect 4.25 of the ZO, a site plan is not required.

No written comments. No public comments.

Carl motioned to approve the SU, Steve supported the motion, all aye, motion passed.

**Old Business-**

**A. Breakaway Bay Review and Preapplication Conference**

**Helen-** " I have talked with your attorney, Glen Spearry, called me and said that would be the nature of the conversation tonight. Before I do that, we are just never going to get away without reading stuff. We have a letter, that was addressed to the Golden Township Supervisor, Don Walsworth, which was signed by several dozen people. I'll read it to you, dated June 10, 2002 and asked to be read into the minutes. (letter read, signed by several members of Timberlake). O.K. Steve."

**Steve Bruce-** "At the last meeting, I think I gave them the opportunity to receive the plans. The PC more or less suggested that we phrase this into two different parts. I know that you haven't had too much of an opportunity, because I just brought these in, the Roseman's and this group over here haven't had an opportunity to see it. This is basically the last revised version of the campground portion of the property. Again, after listening to the concerns of everybody involved here, I've taken several things into consideration. We eliminated any ownership to the beach, made that all easement so that the two Lake Michigan parcels would be conforming sites. I show two arbitrary 2000 square foot homes there which would be in similar character to the neighborhood, some of the neighborhood houses are smaller than that and some of houses are bigger. I just tried to pick a number there that would meet all side set-offs and make two logical building sites.

Again with the same use that we have always had with the beach, bathhouse and so on. Coming back to the other side of the road, we had 18 sites in the sub-division. In particular, the Roseman's had , they indicated concerns for some of the smaller building sites, although they all did conform, they were all 14000 square foot or larger. They are all larger than the Township requirements, but what we have done is eliminate those 18 sites from the proposed sub-division. Partly in response to their concerns, and partly in response to when the DEQ was up here. There is some question as to whether we would have an easy time excavating the roads across the end of that. It just seemed more logical and better way of doing this than having any of the sub-division have to travel through the campground to access their lots. We also show in that area now, 12 rental cabins that would be built on the ridge through there. I don't think we will have any problem with individual wells and septic systems in that site, again from a layman's perspective. We are not trying to do the Health Department's job. That's what we propose, is additional cabins that would go along with the resort. Other than that it's similar with the campground portion of the plan, the resort portion of the plan from before. Now tonight, I'm just looking mostly from the perspective of the PC, I thought before I started this I knew how to read, but apparently I'm not quite so sure that I read as well as I once did, but the definition of resort is a mix of lodging, which I thought the campground was lodging; I still think that you sleep in the campground in the sites and I think that is lodging. But apparently there is some thought that needs to contain more hard roof lodging than what we already have and we do have trailers out there that have always been used in

that manner. But I think that these would be a lot nicer, more resort orientated type of thing to have 720 square foot cabins in there. I think that would then, in my opinion, very well fit the definition of resort as our ZO reads. I'm looking for some feedback, even though I know that it is an informal, nonbinding perspective, if you feel that this also fits the definition of resort as our ZO reads."

**Helen**-"I have a question. As I understood it, the width of the property going to the lake due north and south was 200 feet."

**Steve Bruce**-"Due north and south, yes. Not along the lake, along the lake it's 238 feet"

**Helen**-"You've got two 100 foot parcels and on one of the 100 foot parcels apparently 33 feet is an easement."

**Steve Bruce**-" Would be the easement for the right-of-way for the people to get down to the beach as they have always done, yes. It's no different than any other parcel that has an easement across it throughout Golden Township. I'm sure if you ask Jake there is at least one or two parcels with an easement across it in Golden Township."

**Helen**-"By reducing the size of the keyhole, from 200 feet to 33 feet, "

**Steve Bruce**-"No, no. Keep in mind that the beach is exactly the same as it was. The entire beach is an easement as well."

**Helen**-"The entire beach is an easement, the path that you take for that has been reduced from 200 feet to 33 feet is that correct?"

**Steve Bruce**-"That would be true. From a practical stand point that is how it has always been used, nobody has walked over the hill and down the bank. They have always walked down the path, it has always existed there. So we are not looking for any change in the use, other than the two single family dwellings that would be very similar to the character of the neighborhood."

**Helen**-"And now instead of having 18, you are going to have 11 rental cabins?"

**Steve Bruce**-"Before that was part of the sub-division. We are proposing 11 because what I've tried to do is eliminate any question as to whether we are in a perkable area. I've put them all up on the ridge where it is a big tall sand hill, which I don't think there will be any problem at all from that prospective, but I've tried to minimize any concerns along those lines. The answer is yes, 11 cabins."

**Helen**-"At a previous meeting you said that those would be rented initially and then be sold and now you intend to keep them as rentals?"

**Steve Bruce**-"Yes, now I'm taking them out of what will become the development in the back and just making them a part of the resort. Again, trying to be more completely and absolutely meeting the definition of resort as it is read in the ZO."

**Helen**-"It is my understanding, Steve that a resort is a conforming use after PUD re-zoning, but prior to PUD re-zoning, it is not conforming."

**Steve Bruce**-"I believe that is absolutely correct. I'm here for PUD re-zoning so we can absolutely conform with no question."

**Steve Marciniak**-"Did you have DEQ out there Steve? DNR and Health Department and who else?"

**Steve Bruce**-"We had the Road Commissioner, the DEQ, soils, Health Department, Drain Commissioner."

**Steve Marciniak**-"Did you get a report from any of them?"

**Steve Bruce**-"As far as I know, I have not received a report from any of them. On an informal basis, the day that they were out there, what they said to was on a casual basis, a first look basis, we don't see anything that would cause us grave thoughts for concern here. I'm paraphrasing, because there were several of them out there. But we need to see PUD approval before we come back. You guys are putting your cart in front of your horse."

**Steve Marciniak**-"We need to see the permits, don't we?"

**Helen**-"We need to know that what is proposed is feasible, before we re-zone for it. And I had understood from some of those people out there that reports are in the making and I haven't received anything on it."

**Steve Bruce**-"I haven't received anything yet either. I would love to see them. The gentleman from the DEQ did tell me that he would send you and I a copy of, and again I'm paraphrasing what he said, the engineer said you won't see me again because you are not doing a sewer system here."

**Helen**-"You mentioned that you had relocated these rental cabins in order to not have a road over a questionable area?"

**Steve Bruce**-"No, not have sites in a questionable area, because they were the ones that were out there, I'm not trying to pick on anyone, but because they were there, I expressed concern that was an area that may or may not be buildable. So I just eliminated that .

It was practical to eliminate it from a stand point that I think that building a road was a marginal call anyway. That's why we have that alternative cul-de-sac. So it wasn't that the road was going to be, although it may have been in an area that some people felt was going to be marginal, I didn't feel that it would have been. Now we will just put an

extension of a campground road in there to make the resort accessible."

**Helen-**"There must be some numbers in here missing. These go up to 289."

**Steve Bruce-**"Again, those are not, it is most confusing things there is out there. Those numbers are not contiguous. They go up to like 60 and then they start again at like 100

and then they start again at like 200, but basically what we would do, including the cabins, not create more than the 230 sites that we are asking for. We are not asking for more than 230 sites including the resort cabins."

**Steve Marciniak-**"So you have eliminated the sub-division idea completely, right? You would rather just put in trailers or what ever."

**Steve Bruce-**"Keep in mind that the PC at the last meeting suggested to me that we come with two different plans. This is the first plan, this is the for the resort only."

**Steve Marciniak-**"Are you changing it from campground to resort, is that what you are doing right now?"

**Steve Bruce-**"It was always a resort in my mind. When I read the definition last year when I decided to purchase this, this thing was absolutely and the way I read, always has been, always will be a resort and I guess that's what I'm looking for in your opinion tonight, does this plan, if you approve it as a PUD, meet the definition of resort? Is this a mixed accommodation in campsite use, does it meet the definition of resort? And if it doesn't I would just like to know what would."

**Helen-**"I think that might be a little bit of putting the cart before the horse. To the extent, and I'm not interested in pursuing this right now, that one or two of these locations have been rented out to the general public. It wasn't reflected on earlier submissions of yours. It's not reflected on your printed literature of Timberlake over the years. But to the extent that it was, it was a non-conforming use and to the extent that it happened after 1990, it was an illegal non-conforming use. The fact that you intend to create a resort by having rental accommodations that are building housed, which is what our ZO says, that's available to the traveling public, and I think those are the words that are used in our ZO,

I understand that your thrust is to say give me a PUD for a resort and I'm going to provide 11 places that the traveling public can come and rent rooms and it will be available to the traveling public, advertised and so forth."

**Steve-**"Yes."

**Helen-**"And to go back, I don't see that it helps anybody's case to go back and say it was or was not a resort in the past, because if it was, it was not legal."

**Steve-**"It was only my opinion as I read it. It doesn't make any difference. I agree that if we don't get PUD approval we don't eliminate that question. That's absolutely why I'm here from the beginning, trying to get on the right keel with everybody and make sure that we do it in the right fashion."

**Helen-**"We did create a paper on non-conforming uses that you have a copy of and that some of the people in the audience has a copy of, which explains the difference between a legal, or lawful, non-conforming use and an illegal, or unlawful, non-conforming use and how the courts have applied the law to distinguish from the two. We recognized at an earlier meeting that Steve Bruce and his partners purchased the property as it was and that part of it was an illegal non-conforming use. Since that date, the DEQ has provided me with a history of the campground construction permits that were granted to Mr. Wheeler operating Timberlake Resort. In 1989 a campground construction permit was issued for 70 camp sites. Mr. Wheeler purchased it in 1988 and there were no campsites there at the time. In 1992, those 70 campsites had not been completed and Mr. Wheeler requested and received an extension of the permit to build those 70 campsites. Our ZO went into effect in 1990, at the time it went into effect, there were between 0 and 70 campsites. There now exists 176 campsites. In May of 1999, Mr. Wheeler applied to the DEQ for a construction permit to increase the number from 109 to 230. Pardon me, from

121 to 230, asking for 109 new campsites. The DEQ filed charges with respect to the 51 campsites over the 70 that had been approved, that had been installed as of May of 1999.

There were two illegal, there were two notifications to the State Attorney General's Office of illegal construction on that site. One in 1994 and one in 1997. They were never brought to trial. I don't have the rest of the file, under the open information act we can request that we get it, but I don't have it right now. In any case, even though construction permits were issued by the DEQ for some of the campsites that now exist there, none of them were approved, as Mr. Whelply indicated at previous meetings, by the Township. And so all of them as far as the Township is concerned, that were created after the date that our ZO went into effect are illegal non-conforming uses, not just legal non-conforming uses. Only those that existed at the time the ZO went into effect in 1990 are legal non-conforming uses. Your attorney will look at this and I expect that we

will have several conversations about it. This I tried to make pretty simple. I have several pages of case law and other conclusions that just didn't seem to be necessary to dwell upon at this time. This takes us to where we are and the conclusion that I came to in looking at the law, was that for Golden Township to re-zone an illegal non-

conforming use to a PUD would be a very questionable thing for us to do. As I said in the memo, it could be considered illegal spot zoning or it could be considered a sideways way to grant variances in circumstances where the standards for variances wasn't met. Frankly, it is my thought, and I have not discussed this with my fellow members on the commission, you can poll them if you like. Your attorney asked me what they thought and I don't know what they think, so if you want to ask them you can. We have to be very careful in considering all of our options and the consequences of whatever action we may take."

**Steve Bruce-**" Well, one thing I want to tell you is that until tonight, I didn't know any of this history that you have given me. You've done a great job of finding this out, but I didn't know it. What I thought was going on here was that I had 176 already existing sites that I had bought and we are trying to get 230 of them. Just so that the board members understand, I didn't know any of this stuff. I'm just coming into the best part of it. It sounds very lawyerish to me. I don't have an attorney with me, but I am trying to do one thing. I'm trying to do a business like move here, in a business like fashion. I'm trying to create a business that isn't obtrusive to the area, that's always been there whether it or not, it was zoned correctly or not, it's been there. The people have not been as the letter indicated in the beginning, these are pretty darned good people. I'm just trying to do things that are rational, logical and fair. I'm not trying to take advantage of the Township or make it in bronze or any of those type of things. I am looking for a little consideration in the fact that we have put forth a plan that I think if zoned PUD fits to the requirements of the resort definition. I'd like to be able to do a good job out there."

**Helen-**"Any comments or questions from anybody else of Steve?"

**Leo-**"The only thing that I have to say about it is that with me, we had a big deal at Silver Lake. To me, this is a serious problem. We have all this acreage on this little tiny beach and now you want to take part of that and put houses on that besides? I don't think we should do it that is my opinion."

**Helen-**"Any other thoughts, any questions of Steve?"

**Carl-**"How can you, if this is private, how can you if this is a private campground with membership, how can you open up 11 cottages for public rent?"

**Steve Bruce-**"Well, it is a membership campground at this point. That does not preclude us from taking in traffic off the road and we actually do. If a member has a guest for instance, that isn't a member, we will rent them a site for the night, but we don't go out looking for the Silver Lake type traffic. As I said, we weren't even full on Memorial weekend. If I wanted to be full on Memorial Day weekend, believe me, I can be full. I can have them blowing out the sides. That's no good. The private membership parks throughout the country have cabins, it's one of the biggest things they do. They just rent them to the members as they come in. They don't have to have a camper to be a member. Many, many of the membership resorts throughout the country have what they call park models and that type of thing and they rent them on an over night basis. So, it would be similar to that. We could definitely take them in and we probably would if we made that type of investment, because we would probably want to be full. You can't have that type of investment without having it full."

**Carl-**"Helen, I think that we are at the point that he can't make a move or a statement until his representative looks at it and looks at what we have found here and I think that we have got to have some council on finding out what legally where we are at and what we can do. If the information that we have, I guess we have to back water right now to find out if we can go ahead legally. Because at the juncture in the road where we are at now we have too much information with conflicting results. If we go one way, we are going to catch hell from one side and if we don't, I don't know, we've got two or three issues that you've brought up about the number of campgrounds, you read it, somewhere. I think it was that paper there or that one over there that you read. I've got to find out exactly what we can do, if we can proceed with accepting those as fact. Is there anything there like being there so long it goes past the point that you can go back and do it after a certain date. I don't know. Jake, is there o?"

**Jake-**"Not to my knowledge. There's no statute of limitations."

**Steve Bruce-**"I'm not even going to pretend that I know when everything was done out there. All I know is that there was a license on the wall for 176 approved sites. There was a DEQ thing that said it was CC'D to the Township. When I had bought it, I thought that I had done enough investigation to find out that everything was in pretty good shape. I'm finding out after the fact that it wasn't. No question about it, we want to get it done the correct way. I want zoning to be done correctly. I don't want to sit there and have a illegal or whatever it is zoned property."

**Carl-**" The question that I have is, if the State has approved the number of campsites that they have and we come back and say they are illegal, how the hell did they approve them?"

**Steve-**"I don't think the State has any problem with the fact that they are legal. It's only from the ZO perspective. I bet if we ask Jake if he's ever seen a past discretion fixed with a new letter of SU permit it probably has happened, I don't know."

**Helen-**"You are right, that is one of the considerations. It's a matter of setting a precedent."

**Carl**- "Do we forgive the sins of our fathers by starting anew at a certain point? I guess that's where I would like somebody with a couple more brain cells than I have to let me know do we set a precedence. We are not going to change what happened 10 years ago. They are there now."

**Steve**- "And by the way, just for one of the issues that comes up, I wasn't there on Sunday, but Dan Hallack did go down to the beach, it was 90 degrees out. Where I was, I started in Leland and drove my boat off the third sand bar to Pentwater and I saw many, many obviously public accesses and private beaches being used very heavily last weekend. We had maybe about a halve a dozen people out at the beach, if you ask Dan. So from a very practical % basis, based on what the whole shoreline does, there was a lot of people on the beach last Sunday. The use on this particular beach was not particularly heavy. The campground was about three quarters full. So it was a pretty good % of what would normally be there."

**Carl**- "Helen, Pete asked me, the drawing that we have in front of us. Steve and I was out there and Dan gave me an overview of what was going on. Does this store and the traffic pattern, I don't have the original map,"

**Steve**- "That's the revised one, with that shrank down and very frankly, with the leaves out right now it would be very hard to see it from either North or South without a whole bunch of extra signs and stuff I haven't a."

**Carl**- "I was asking Dan if this was about the area that he had some posts up."

**Dan Hallack**- "It hasn't moved from the second revised plan."

**Helen**- "Here, the legend says that one inch equals 150 feet. It appears that the closest trailer or RV to Ridge Rd is about one inch. Is that the least?"

**Steve**- "You can see those trailers that you are pointing at, right now even with the leaves on, you can see them, if you look for them."

**Helen**- "But they are 150 feet back."

**Steve**- "Yes, they are back in, they are definitely not right on the edge of the road or anything like that. The ones across from Roseman's. I'm not going to measure them. I'm going to say that you can see them from across the road."

**Mrs. Roseman**- "They are not very many feet from the road."

**Mr. Roseman**- "They are not very far from the easement, if I should guess, I would say maybe 30-40 feet from Ridge Rd."

**Steve**- "Have they been there for awhile? Have they been there as long as your house has?"

**Mrs. Roseman**- "There was one that was there. It had Christmas tree lights."

**Helen**- "Is the campground open all year? People stay there or visit during the winter time?"

**Steve**- "Yes, the point is that no one knows it."

**Carl**- "You don't have facilities open during the winter time do you?"

**Steve**- "Yes, the bath house is heated, the lodge is heated."

**Helen**- "Steve when they were out there, did the Health Department or anybody have a problems with the toilet facilities on the beach?"

**Steve**- "No body has indicated anything to me. The day I was with them, we went to the top of the hill, but they were definitely aware that it was there."

**Helen**- "Are there any more questions of Steve or Steve do you have any other questions of us?"

**Steve**- "Just one, if the PUD was approved and I understand that is a hypothetical if, would this plan, in your opinion meet the meaning of resort in the ZO, if the PUD is approved?"

**Helen**- "You've probably learned enough about me to know that my opinion would be formed after I've read something about it."

**Steve**- "Well, we can read the definition of a resort as it is in the ZO right now, I assume you have an Ordinance there."

**Helen**- "Yes, and it definitely concentrates on building housed public accommodations and the addition of campsites to that is secondary. It says, 'A resort is a business establishment that provides temporary lodging accommodations, with or without meals and other services, for the traveling public. For the purpose of this Ordinance a resort can provide lodging accommodations in a single building having several separate lodging accommodations, in separate buildings each providing an individual lodging accommodation, or by a combination of lodging accommodations and campsites, and which may also provide on-premise recreational facilities such as swimming pools, tennis courts, and similar facilities.' Campsites is in this definition, in my mind the tail on the donkey."

**Steve**- "Lodging accommodations and campsites, in the boards opinion does this meet the definition of resort, that's what I'm looking for."

**Helen**- "Personally, I would have to see what weighting the bulk of them have. Reading this language which really focuses on the resort which really focuses on the traveling public, which has some campsites thrown in. In our case here, it would be the reverse of that."

**Steve-**"In my opinion, the way I read it, if it had one, it was an combination and it was an absolute. You don't get to say one doesn't count, two does, 12 or 11 does. If you read the way I read English, the way I thought I read English, if you have accommodations you meet the definition. Now whether we like that definition or not that's a matter of opinion. Now we definitely have different opinions of that in here, as far as what we like. As far as reading it verbatim, I think it's pretty clear that if you've got one, in my opinion, but my opinion doesn't matter either, neither does theirs, your opinions count pretty heavily. So, I'm looking for, with the cabins proposed and with the combinations that we already have, do we meet the definition of a resort?"

**Helen-**"Well, O.K., so then the 11 cabins are not the only accommodations open to the traveling public? Will you show me which of these campsites are rented out to "

**Steve-**"Now, that's another question. First of all we have the trailers that we do rent and so on. my point is that everyone of those campers that are out there, whether or not they are owned by me, those are people from the public that are renting my sites and they make that definition fit perfectly well."

**Helen-**"Well the letter that your people write, made a point of saying they are not the public, they are a private club."

**Steve-**"That's true, but it open to the public. Anybody could buy a membership and they are not absolutely correct in the fact that I have absolute right to rent it to anybody from the public that I want. It's our resort."

**Helen-**"Which of these do you now rent out overnight to people that don't bring their own RV'S?"

**Steve-**"Currently, this one "

**Helen-**"Is that where Wheeler's used to live."

**Steve-**"Yeah, where Wheelers used to live is available. And that one. Those are the two that are currently available."

**Helen-**"Do people furnish their own linens? Do you have a housekeeper?"

**Steve-**"No and yes, we have a housekeeper. They happen to live in the third one that could be rented, but they live in that one."

**Anita-**"Those weren't available until you opened it this year?"

**Steve-**"One was, but Wheelers were living in that one. Again that's not what I'm looking for. I'm looking for meeting the criteria of a resort. I'm not looking for the past, let's do it right from now on."

**Carl-**"Helen, the pecking order that we are going to have to follow is that first of all we are going to have to answer legally what can we do. If we can cut to the chase and say effective whatever, July 4,2002, it's going to be this way or that way. We've got to make a decision what we can legally do. If we can legally do that, then we can start with what's there now and make a decision. Then we have to see if we can apply what Steve wants to do and if we can apply the definition that we have. If the definition is good or do we have to change it to meet the needs of what a resort is. Remember, we don't know what a campground is, we haven't got that addressed. Is a resort definition include campgrounds? That's what you are asking. We have to back up and see what we've got. Otherwise, it's going to be just like when we fix my truck. We stick that in and if that don't work, we try this. Somebody's going to be spending a lot of dollars on a lawyer. He has a right to know what 'is' is."

**Steve-**"That's really what I'm looking for, but I understand. Maybe we should just go from here. I should be quiet for the rest of the night."

**Helen-**"Have Glen Spearry look into the law cases and non-conforming uses, I have a lot more that is not on that particular memo."

**Steve-**"Right, and I think one of the important things from that memo is the 1651. We do have a non-conforming use that we should be able to work towards getting it conforming, but I'll let Glen address it."

**Carl-**"Who do we have that can find out the case law or I'm sure there has been somebody that has been sued somewhere. Do we know where we stand, this has happened in other Townships. Where do we know where we are at, this is gone on, things have changed and now we are faced with a non-conforming. Who makes the decision? I guess that's what I would like to know."

**Helen-**"Well, let me get you some more material, I have some more at home, this is just the top two pages."

**Carl-**"You can give me all the material you want, but we are still going to have to get somebody with a degree behind their name that knows what the heck they are doing. They can tell us what case history says yes or no. If it was up to me, in twenty minutes I would have solved the whole thing, but I'm not getting the big bucks these guys are."

**Helen-**"I'll be talking to Glen. Have him call me when he gets back from fly fishing. We'll put our heads together and come up with some definitive answers for the PC and for you. So that you'll know how to plan."

**Dave Roseman-**"I don't have any legal degree attached to my name. But what I was able to read on non-conformance, I didn't see anything that would support anything on expanding a non-conforming use. It was very clearly not allowed. It says that you can't expand. To add additional campsites would be very difficult to do and justify it. I'm having trouble understanding whether what we are talking about now is calling the existing non-

conforming use a resort, because I don't think the existing use would satisfy the definition of a resort and if you are asking for a new use as a resort, then I don't see how you could possibly justify key holing. The key holing throughout the Master Plan and the ZO is clearly discouraged. There is no place in the Township that key holing is allowed. It's not an issue of zoning. So, it's not clear to me whether we are asking for a non-conforming use to continue or a new use, either way, it seems like the key holing is very difficult to support."

**Helen**-"Is part of your point the fact that if we redo this and call it a legal use, a conforming use, that would remove the grandfathering of the key holing? Is that your point?"

**Dave**-"I think so."

**Helen**-"I understand what you are saying and that is something to definitely consider."

**Duane Vernon**-"Is there any background records ever challenged with Mr. Wheeler of his expansion without proper clearance? That should change the picture. He sold that to Mr. Bruce and put him out on a limb. Are there any records in the county or Township?"

**Helen**-"There's no records in the Township, there is a record in Lansing. Jake was unaware of the development and the extent of the development. I think he had said that he had never been on the property. There is a theory that most real estate people are familiar with called caveat emptor, which presumes that you know what you are doing and if you don't you should."

**Joe Nemeth**-"Just a thought, the signs particularly, when you are led to the property, it is declared a resort and it has been there for a long time. So I guess the confusion about what is or is not a resort is not a new issue."

**Helen**-"The way the word resort is used on that sign is different."

**Anita**-"They named it that for a more elaborate name. I can't verify that, it's just my assumption.""

**Joe**-"If it quacks like a duck, it's a duck. So then it is not a resort, That's where I get confused. The second part of this, and I agree with Mr. Bruce, if you have a campground, call it what you want, but if I want to make it a resort and I put 11 buildings there or even one building, does that a resort make? Put the two things together and you get something else. I don't know if such a few buildings or campsites can change that dog so it isn't the dog wagging the tail, but the tail wagging the dog. Am I being illogical?"

**Helen**-"No, not at all."

**Steve**-"That's pretty much, even though we may be on different sides of the issue, we are pretty much agreeing to the same theory. It's either or not. Either one makes it work or it doesn't. You've got to be subjective, there has to be some rule in there that whatever X amount of percentage, there's no rule in there."

**Helen**-"There's a number of rules in some of the cases. This is too much, doubling it, can't exceed more than 10% or 100%, different cases hold different things. That will be a matter to be researched."

**Jane Tibbetts**-"4691 Lakeshore Drive, and I would just like to speak to Mr. Bruce about the Beach use. My neighbor's son had a boys weekend this weekend. It was a hot weekend, there were 25 of his friends on the beach. It's different having it once a summer or twice a summer than having it every day, all day, all summer, like he would have. I think there is a law on how many people can be on the beach. What's the key holing?"

**Helen**-"Key holing is access to the beach by non-beach front properties."

**Jane**-"Dave do you know what I'm talking about? How many people are allowed on the beach for a certain number of feet?"

**Dave**-"As Helen said it's not the number of people on the beach, it's the running number of feet on the beach verses the number of people on the property."

**Helen**-"Thank you, Mrs. Tibbetts."

**Craig Cihak**-"What is Silver City, the campground there, what is that zoned there? Do you know, Jake?"

**Jake**-"That's zoned AG."

**???**-"That's illegal non-conforming also."

**Craig**-"Originally, wasn't everything zoned R/R, before you actually came up with the commercial district?"

**Jake**-"At Silver Lake it was. The whole Silver Lake area was R/R all the way up the west side of 34th Ave. In 1997, we change and had the R/C zone, starting at Taylor Rd. and heading back into Silver Lake."

**Craig**-"We were all zoned R/R, all of the personal properties and everything, I found that confusing back then."

**Ted Hosner**-"I'm in the process of building at 4470 Ridge Rd., just to clarify some things in my mind. As I understand from the information I have gathered here tonight, There are some campsites right now used illegally at Timberlake. Is it also true that if the Township chooses they could seek and injunction to stop the use of those campsites or in fact stop the use of the entire Timberlake?"

**Helen**-"It appears that is true according to case laws that we have read."

**Mrs. Roseman**-"I just have a question, at one of the last meetings you read all those letters. One of those letters, somebody had called to ask if they could rent a spot and they were told that nothing was rented. You read that, I just know that I heard that. So they have been renting."

**Helen-**"I really think that is irrelevant. The reason is, if they were renting it was illegal and what they want to do is that Steve wants to qualify as a resort. He wants to present to us a plan which would qualify him as a resort. He would also like us to forgive the improper expansion of a non-conforming use and as you have pointed out any expansion of a non-conforming use is not allowed in the ZO. We have other stuff to do."

### **Old Business-**

#### **Discussion of pending ZO changes:**

**Helen-**" At the last meeting, or the one before that we are required by law to amend our ZO to provide open space development provisions by Dec.2,2002. We are required by law to review and possibly amend our Master Plan by Jan. 2, 2003. We had been working on these things the earlier part of this year and then got distracted by re-zoning requests, including the one we have been talking about tonight, so we want to get back to our homework and Jake would you review for us, first of all the timetable. The Master Plan, the Planning Act has been changed in Lansing and it requires a certain timetable of notices and communications with neighboring communities."

**Jake-**"The new Planning Act requires that first of all, the Township Board has to agree that the Master Plan needs to be updated. They also have the option of being the final approval body of the Master Plan. Before the Master Plan was just the Township PC , you did them, you instituted them, you approved them and you accepted them. The legislature decided that the Township Board should have the option if they want to be that final authority. I presented that to the Township Board three months ago and they moved to become the final approval body for that, so the final step will be that they will have to accept what you forward to them, where before we didn't have to do that. So, that's the first thing. We have to now notify the neighboring townships that we are going to work on our Master Plan and review it and up date it and request that they participate in the process, offer their comments. I have yet to do that because we have not gotten to the point where we are going to work on it. We are going to have to work up a letter that we are going to send to Benona, Hart and Pentwater Townships telling them that we are going to up date, we also have to notify the County PC. Now once we get to the process of up dating the Master Plan, after we come up with a document that the Township Board says this looks O.K., go ahead and send it out, we send them to the neighboring townships, they have 65 days to comment. In that 65 day period, when they finally review our plan, if they want to comment on it, they send those comments to us and the County PC. When the 65 days elapses, then the County PC takes up the recommendations or comments from the neighboring townships and they review our Master Plan. They look at the comments of the townships and comments that they want to bring and they send those back to us. That process takes from 75 to 95 days. When that period is complete, now we are looking at 165 days maximum. When that is complete, if there are any changes you want to make based on those comments made, we have to go through that whole process again. The review days are shortened down to 40 days for the townships and 55 to 75 days for the county. So you are looking at another 120 days or so. So this could take six months or nine months to get completed. You really need to get started. It's supposed to be done by Jan. 3, 2003."

**Helen-**"With that in mind, a month ago, I contacted our Township Attorney, Mr. McNealy, and I'm going to give you a copy of his letter. Carl is also on the Township Board. There's a copy for our records. Mr. McNealy rendered the opinion that it would be lawful for us to put a moratorium, actually we could put a moratorium on all developments, we asked him to researched whether or not we could put a moratorium on re-zoning only. I gave him a Supreme Court case that just came down a couple of months ago where a township was allowed a 32 month moratorium on all developments. We are considering a six to nine month moratorium on only re-zoning, in order so that we can get this thing done and not be beyond the legal date that we have to get it done by. The time frames that Jake has just mentioned to us, it looks like we have to start two months ago. So, I'm going to ask the PC to consider a motion for a moratorium on re-zoning, so that we can get these things done."

**Steve Marciniak-**"I'll motion for a moratorium to get re-zoning all straightened out, so that we don't have problems like we are having."

**Carl-**"Helen, if a moratorium was put on exactly what does that enable us to do?"

**Helen-**"It enables us to shelf, to table anything with regard to re-zoning for the period of time of the moratorium. We could do all development. We could put a moratorium on all SU permits, on building permits and everything, but I don't think it is necessary, they are not that time consuming and we don't need to bring the whole community to a halt, but I do think that on major issues like re-zoning and PUD'S we would certainly like to get the open space developments done and in our act, have our Master Plan reviewed and it makes sense to me to review and change the Master Plan before you get into the changes in the ZO, which are a result of the more fundamental Master Plan . So what I would suggest is that we only put a moratorium those things that are more time consuming, like re-zoning."



**Carl**- "What I'm wondering is, I agree with the whole concept, but on some of these issues that we've got litigation where we are going to have to go through a lawyer anyway, it's going to take six to nine months to get a result before we can even address it. Now, does that exempt us from having to deal with any of those or can we go ahead and address some of those? Lets say I second his motion, and we put a moratorium on this, we've got questions of him that you brought up in a letter and several issues tonight, now, those can still be worked on or resolved, your not going to just table them."

**Helen**- "They are on their way to"

**Carl**- "I don't want to have to pick this thing up six months from now and chew on that dead horse again. We've got to start on that issue before we get six months down the line."

**Helen**- "We've got a lot of questions to answer and in fairness to the people who might want to have the petition for re-zoning, should be able to do something. The point of the moratorium is to save our time for the review of the Master Plan and the review of the ZO and the changes that will be made for both."

**Carl**- "Well some of you guys cough up a hair ball and lets chew on it."

**Avery**- "What about what is in progress right now? That's what I want to know and that's what Dan wants to know."

**Pat Reagan**- "I'm from McKeough Land CO. I'm currently an applicant. I'm just wondering if you couldn't consider those applicants that currently have standing in front of the commission to continue those. The situation is currently known. The developer has to make a commitment to purchase the property. They make certain up front investments and to get the rug pulled out from under you puts a great strain and is hard to weather financially. I'm asking that you at least consider that."

**Leo**- "Part of this idea is all the recent development that is in process is we are going to end up six months with attorneys going back and forth. Or we are going to spend six months doing nothing. That's basically where we are heading."

**Helen**- "I would hope that we would be able to get some information out and answer some questions, but really, we were not ahead of the schedule last March when we were, in February and March when we looked at these things we were planning on continuing every month and for the last two or three months we haven't done a thing."

**Leo**- "So basically, we are falling in the hole and we have to start climbing back out."

**Helen**- "I leave it to you guys how you want to do it. I have spent untold hours and I'm stretched. We talked about adding another person to the PC, which is still being considered by the Township Board, because we are so over loaded with work."

**Steve Marciniak**- "Has the Township Board answered you on that yet?"

**Carl**- "Haven't addressed it yet. There were a couple of legal issues that we wanted to talk about before we can proceed with it. We had to get an answer of how we are going to proceed with getting another member on there or two before we can ask the Township Board. I'm sure they'll approve what we do, but we have to make a decision first."

**Jake**- "To answer Mr. Reagan's question, if we don't up date it by Jan.3,2003, it becomes and illegal document because it doesn't comply to the State law. If we don't have a viable Master Plan which will apply to our ZO, which we use to make decisions, then we re subject to litigation in court because we haven't followed the proper process to support the approval because part of that process is how that applies to the Master Plan as well as the ZO. So we really don't have a whole lot of choice. We've got to that Master Plan up dated so that is current and meets the States requirements. The open space and stuff has to be in there and it has to be brought up to what we are doing in the Township right now. The State legislature has mandated that and they have only given us a year to do it."

**Steve Bruce**- "That doesn't answer his question."

**Pat**- "I understand that part of the law, but I think with our plan which is quite simple, we should be able to meet zoning long before the Jan. 2003 expiration of the Master Plan. We are willing to work as hard as you wish us to get you the information to see that we are complying."

**Leo**- "In the time frame that Jake showed you would be maxed. That's the amount of time you have to work with it."

**Jake**- "If everything goes smooth, 160 days, but it could be 280 days. We've only got 180 days left. The year is almost over."

**Anita**- "I'll support the motion to have a moratorium on the re-zonings for six months. But, with what we are already dealing with, does that continue on? That was never answered."

**Helen**- "That should be discussed and decided."

**Carl**- "Helen, now, we wouldn't take any new business that invovled zoning or re-zoning until Jan.1, 2003?"

**Helen**- "Jan.3, 2003, yes."

**Anita**- "Then we continue on with what we are already involved in, right? Because, like Carl, I don't want to pick this stuff up six months from now and try to figure out where we were at. And I'm sure the investors, they don't want to go back to it in Jan., they can't do much in Jan., in all fairness to them."

**Mrs. Nemeth**- "You really can't render an approval or disapproval as a final decision until you have completed the updating of the Master Plan. But you could continue to work on the issues."

**Jake**- "You are going to have to have some other meetings to work on stuff as well as the regular meetings. If you are going to try to do it at regular meetings and have time taken up with the other development, then you are going to be here until mid-night every time. You are probably going to have to look at having some special meetings particularly to work on the Master Plan and Zoning. I recommend to the Township Board the moratorium and they have the final say."

**Helen**- "McNealy says that the PC can adopt a moratorium without exposing the Township to a successful temporary taking of planning, etc. So he talked in terms of the PC making a decision, but I would love to get the Townships' fingerprints on it."

**Carl**- "They would, I would suspect."

**Ross Walhout**- "I'm also with McKeough Land Co. To be real honest we were hoping that we might even get a preliminary approval tonight subject to a public hearing which for a couple of changes we might of had tonight. Subject to a public hearing, approvals by what ever other agencies need be, Road Commissions and things of that nature. We don't have PUD re-zoning as well, we didn't think it was a significant or large change."

**Steve**- "For what it's worth I think it's kind of unfair that they get caught up in the middle of what's happening with our deal here. They shouldn't be penalized if in fact that's what's happening."

**Carl**- "Well, I'll tell ya' boys, that's a hair ball in itself down there. I hope you don't think that it is going to get walked through, because I've got a hell of a problem with something that's going on right down there. I'll tell you right now, you can take your chances if we approve it, but you have road issues coming out of your ying-yang you haven't even begun to look at. So if you want to tackle it, go right ahead. Unless you have some deep pockets, I'll tell you right now, I have been besieged with people talking about what's going to go on down there. I guess if you want to open up that can of worms, you are going to have a long run."

**Pat**- "We are in it for a business and we looked at the Ordinance very carefully, it's a fair Ordinance. I don't know if we can please the neighbors, but I didn't see that as a standard in the Ordinance, but I think that we can meet all of the standards of the ZO. We will do what we can to mitigate certain concerns, certainly, but "

**Carl**- "Helen, if you don't mind, I would like about a ten minute recess."

**Helen**- "That's great, Ten minute recess."

**Helen**- "At the time we called for a recess, Steve had made a motion for a six month moratorium on re-zoning by the Golden Township Planning Commission. And I take that Steve as a recommendation to the Township Board for a moratorium."

**Steve**- "Yes."

**Helen**- "Anita, you seconded it?"

**Anita**- "Yes."

**Helen**- "The question was made as to the status of those projects which that are now in progress, including Golden View. It seems to me that we can get together our thinking on the Master Plan and so forth and on the ZO and get something out to the neighboring communities and to the County PC and while those 65 and 75 and 95 day periods are running, we can then resume work on whatever we have before us. So that we don't have to put everything off for six months, but we do have to table things now so that we can get something out so those time periods can run. That's just not going to automatically happen there is a heck of a lot of work to be done. So, Steve would you like to add anything to your motion? To take that into consideration?"

**Steve**- "Can I add that we have at least one or two workshops a week?"

**Anita**- "One or two a week? Do you have a life?"

**Steve**- "At least one, so that we can get on this."

**Helen**- "We will have whatever workshops are necessary. The point I'm making is will you amend your motion to allow for a complete moratorium until we can get things out to the neighboring communities and to the County PC. While those waiting for feedback from them, we can then readdress some issues that are presently before us?"

**Steve**- "Yes."

**Helen**- "Do we have a second for that amended motion?"

**Carl**- "Yes."

**Helen**- "Is there any further discussion? All in favor?" *All Aye-except Avery abstained due to conflict of interest-motion passed.*

**Helen**- "Jake, you have brought to us the Open Space."

**Jake**- "This is a model Open Space Ordinance that Helen and I picked up at a seminar that we were at. It's not as complicated as some we have read, but it is very comprehensive. After reading through it a couple of times, there are

some things that don't apply to us, but most of the stuff does. I think that we can adjust this to fit what we want to do in Golden Township and save ourselves a lot of consultant fees and legal fees and get this thing going. So I gave you each a copy of it and read through it a couple of times and study it. At our next meeting, I'll try to have some revisions and things that I have found and we can come up with some ideas you have and get an Open Space Ordinance that will work. This will become an amendment to the ZO. It will become part of the ZO. It will be the steering mechanism for future developments for the Residential and Agricultural and a lot of development. It works to cover a lot of hidden immunities that we are going to be running into. At one point I gave you, I think in February or March I gave you some proposed zone changes, I've worked on this a couple of times since then, I've come up with some other things. I will consolidate those and get those to Anita. I think she has all the addresses,. I'll try to get them to her in the mail, she can get them to you and we can look at those also. Connie Cargill gave me a whole bunch of stuff on Site Condominiums and I went through that and applied some of that to our Ordinance. There's some things that we need to add to our Ordinance that pertain to Site Condominiums that we don't have now. It's hard to regulate approval, because we don't have the proper language to apply. Those will be some other things that we need to do to amend the ZO. I've already started working on some of that, before next month, I'll try to get copies out in the mail, so that everyone can look at it ahead of time."

**Helen-**"We had also reviewed some of the changes to the Master Plan. Do you all have copies of that material that was handed out, I believe in February. Do you have that in your file or do you need it sent again?"

**Leo-**"Send it again."

**Helen-**"Dr. Roseman, I want to thank you for your work on our ZO> Jake, as I understand it right now, you have a CD that will allow us to have."

**Jake-**"My plan is Friday morning to come over here, cleaned up and print and if it does then we will have it on memory here and we will have it on CD and have a good hard copy."

**Dave Roseman-**"I have on a simple web site, posting these things on a web site, at least for those who are connected, it's available."

**Dan Suman-**"I should have approvals in a couple of weeks, who do I give those to?"

**Helen-**"Those go to Jake."

**Ross Walhought-**"Could I get a copy of the proposed open space area?"

**Helen-**"Meeting adjourned" 9:30 PM