

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP <u>PLANNING COMMISSION</u> Regular Meeting Thursday, October 17, 2013 Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 MINUTES </p>	<p> FINAL MINUTES Page 1 of 8 APPROVED: Nov. 7, 2013 As presented </p>
<p> Meeting called to order at 7:00 PM by Chairman Frank Fiala. <u>PLEDGE OF ALLEGIANCE</u> Roll Call: Present: Cunningham, Purcell, Strickland, Beukema, Wells, Campbell, and Fiala. Staff Present: Zoning Administrator Larry Knowles, Sandy Marcukaitis, Alice Jansma, Mark Englerth. Also Present: John Lohrstorfer, YS Twp. Legal Counsel Visitors: 11 (not including staff present) </p>	<p> CALL TO ORDER PLEDGE ROLL CALL </p>
<p> ADDITIONS OR CORRECTIONS TO AGENDA: Additions Under New Business: Drive thru(s) under C1 – C2 and CIP (Capital Improvement Plan). </p>	<p> ADDITIONS TO AGENDA </p>
<p> PUBLIC COMMENT: NONE </p>	<p> PUBLIC COMMENT: NONE </p>
<p> APPROVAL OF MEETING MINUTES: Motion by Wells with support from Beukema to accept PC minutes of October 3, 2013 meeting as presented. All ayes. MOTION CARRIED. </p>	<p> APPROVAL OF MEETING MINUTES Motion to accept PC minutes of October 3, 2013 meeting as presented. MOTION CARRIED. </p>
<p> <u>NEW BUSINESS:</u> The updated <u>CIP (Capital Improvement Plan)</u> will be presented at the next meeting. The CIP subcommittee is made of : Cathy Strickland, Alice Jansma, Greg Purcell, and Frank Fiala. Curley Cone - Drive Thru issue: C-3 allows drive-up windows for restaurants. Where Curley Cone is moving to is C-1. Discussion took place. John Lohrstorfer commented that a conditional zoning could be made in C-3. Fiala, Chairman, felt the consensus of the PC was to apply for conditional zoning. OLD BUSINESS: Harold Brewer, of Barlow Lake Rd., requested the PC approve a change in building materials for his outbuilding. After doing a cost analysis, Brewer asked to change his vinyl siding and shingled roof, to steel siding and roofing. </p>	<p> <u>NEW BUSINESS</u> C.I.P. Curley Cone – Drive Thru OLD BUSINESS </p>

OLD BUSINESS: cont'd

It was decided that a public hearing should be held. Previously neighbors have come forth and commented at other public hearings regarding this project.

Motion by R. Beukema with support from Wells to have a public hearing for H. Brewer's request of change in building materials. Public Hearing to be noticed in newspaper(s) and a letter to go to neighbors within 300' range of project. Public Hearing to occur November 21, 2013. All ayes. MOTION CARRIED.

Whispering Pines Discussion:

The following items (conditions) were discussed in regards to the preliminary planned unit development special use permit to be granted :

- 1. **Road Paving-** That a financing mechanism to ensure construction of road paving is established and that the Township Board establishes a special assessment district for paving if it is not completed within a three year time period.

It was noted by J. Lohrstorfer that the district will be set up at time of approval. There would be no assessment until necessary. The paperwork will be in place. Discussion took place regarding an overall figure for the paving project, and if an estimate has been determined. M. Englerth, Supervisor, commented that different mechanisms can be used for financing, and that those will be the good days when "we" (WP & YS Twp.) get to that point.

- 2. **Utilities-** That all underground utilities (pursuant to variances granted by the ZBA) are placed underground within four years and that a mechanism to ensure that this is accomplished be filed with the Township. It is recognized that the association may request a modification of the variance to the ZBA after one year.

It was mentioned that possibly WP will want to come to the ZBA in a year's time regarding reconsideration with the utility issue. It was also commented that it would be good for WP to have some \$ figures if they go back to the ZBA.

- 3. **Boat slips-** That all 21 boat slips contain signage identifying the owner. Docks and boat slips shall meet the Michigan DEQ requirement for dock and boat lengths. Boat slips may only be used by condominium owners or renters of condominium units. No boat slip authorization can ever be assigned or sold by any unit owner to any other party by any means.

G. Purcell read a letter/document that Purcell wrote, dated 10/7/13, regarding WP Owner Usage of Dock Slips:

(Content of document follows on next page).

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As presented

Motion to have a public hearing for H. Brewer's request of change in building materials. MOTION CARRIED.

Whispering Pines Discussion

Conditions for Preliminary PUD

The proposed draft PUD conditions allow for usage of dock slips by condominium owners and renters. I believe a strong case can be made that the Zoning Ordinance does not permit renters to use boat slips. Please review the following points when considering this matter:

- 1.) The underlying zoning of WP remains the "Resort and Recreational Zoning District." Allowing this to become a Condominium changes the manner of ownership but NOT the underlying zoning.
- 2.) Sec. 3.9 Resort and Recreation Zoning District E. 1. b. states as follows – "Only one (1) dock for the personal use of the owner/on-site manager of a resort, campground, or B & B inn shall be permitted. Guests of the resort, campground, or B & B inn may launch watercraft at the public launch sites only.
- 3.) The ZBA Variance allows for two docks and 21 boat slips, but says nothing about who may use them. Therefore, there is NO VARIANCE from the citation above.
- 4.) A "guest" of a resort equates directly to a "renter" of a condominium unit. Both are paying for the use of a unit on the site short term basis, and have the rights of a "guest" not an owner.
- 5.) My interpretation of the Zoning Ordinance is that to comply with the requirements of the district renters/guests may only launch watercraft at the public launch site for use on the lake, and do NOT have a right to a slip on the dock. Furthermore, I don't think the Planning Commission has the authority to change or waive this requirement since it is very clearly stated in the Zoning Ordinance. If the WP Association wants to be able to have guests/renters have boats on the dock- they must apply for a specific variance for this purpose from the ZBA.

I am aware that some may disagree with this interpretation or this position. There are specific remedies to address this, but I do not believe that allowing renters boat slip usage through the PUD conditions is one of them. Options are as follows:

- 1.) Amend the Zoning Ordinance to eliminate or modify Sec. 3.9 E.1.b.
- 2.) Request a Variance from the ZBA to allow renters (in addition to owners) to use boat slips.
- 3.) Request an "interpretation" from the ZBA of Sec. 3.9 E.1.b to ask the ZBA to determine whether this language authorizes condominium renters to use boat slips.
- 4.) Rezone the property at WP.

Absent taking any of the above options, I do not believe that the Planning Commission has the authority to deviate from the language in the Zoning Ordinance that limits guests (including renters of condominiums) from using boat slips. (Written by Greg Purcell, Planning Commissioner).

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**PUBLIC COMMENT:
(Opened at 7:30 p.m.)**

Discussion took place regarding renters at WP, and the question was posed, "Where does a renter leave his boat, if he has to eat lunch in his rented WP unit?" Discussion occurred regarding this, as well as, public launching, public docks, the definition of mooring, and daily boat trailering. (Reference was made to Section 3.10.2 in this discussion).

Motion by Purcell with support from Wells to strike "or renters of condominium units." from condition #3 Boat Slips. **ROLL CALL:** Campbell- yes, Cunningham- yes, Beukema- no, Purcell- yes, Wells- yes, Strickland- no, Fiala- no. Yes: 4, No: 3. MOTION PASSES.

- 4. Beaching of Watercraft-** That no additional overnight docking or beaching of watercraft shall be permitted.

Motion by Cunningham with support from Purcell to amend #4 by striking the word "additional" and adding "mooring". Condition #4 should read: No overnight docking, mooring, or beaching of watercraft shall be allowed by non-owners. **Roll Call:** Strickland: no, Wells: yes, Fiala: yes, Beukema: yes, Cunningham: yes, Purcell: yes, Campbell: yes. Yes: 6, No: 1. MOTION CARRIED.

- 5. Boat Lifts-** That no boat lifts are allowed on any docks at any time.

Motion by Cunningham with support from Campbell to amend condition #5 to: No boatlifts allowed. All ayes. MOTION CARRIED.

- 6. Tents and Campers-** That no tents, campers, recreational vehicles or temporary mobile sleeping facilities are allowed or permitted.

Motion by Purcell with support from Strickland to add "except small tents for related children" to condition #6. **Roll Call:** Campbell: no, Wells: yes, Strickland: yes, Beukema: yes, Fiala: yes, Cunningham: no, Purcell: yes. Yes: 5, No: 2. MOTION CARRIED.

- 7. Fencing-** That a split rail fence be constructed and maintained along the south and west boundary of the property. The Planning Commission reserves the right to revisit the screening contingent on whether there will be residential uses developed and the need for a six foot opaque fence.

No changes were recommended for the fencing condition.

- 8. Annual Report and Review-** that WP shall file an annual report to the PC on the progress of financing and constructing all improvements by July 1st of each year. At such time an annual review shall be conducted unless waived by the PC.

No changes were recommended for the Annual Report and Review condition.

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Motion to strike "or renters of condominium units." from condition #3 Boat Slips. MOTION PASSES.

Motion to amend #4 by striking the word "additional" and adding "mooring". Condition #4 should read: No overnight docking, mooring, or beaching of watercraft shall be allowed by non-owners. MOTION CARRIED

Motion to amend condition #5 to: No boatlifts allowed. MOTION CARRIED.

Motion to add "except small tents for related children" to condition #6. MOTION CARRIED.

9. **By-laws-** That the WP Bylaws shall be amended to reflect the conditions of the Planned Unit Development and Condominium Development project.

No changes were recommended for the Bylaws condition.

10. **Seasonal Use-** That except for the variances granted, the owners shall abide by the resort and recreational zoning classification and requirements which include having only seasonal use of the property.

Initially, no changes were recommended for the Seasonal Use condition. However, later in the meeting the following motion was made:

Motion by Purcell with support from Beukema to add the following wording to the beginning of #10 Seasonal Use: "Shall consist of no more than 180 days (of occupancy) and no more than 120 days consecutively. Ayes: 5, Nays: 2.

MOTION CARRIED.

11. **Road Paving-** That Russell Drive is paved to the end. Whispering Pines Drive that joins Patterson be paved, and the recommendation is that 31 property owners, including the 21 units, assist in paying the cost. That the fire safety internal drive be paved.

No changes were recommended for the Road Paving condition.

12. **Fire Pits-** That one fire pit is established on the beach area, and two other fire pits are centrally located on the remaining part of the property.

Bob Byington, Legal Counsel to WP, commented that there were 14 pits already on the property.

Motion by Beukema with support from Wells that the maximum of three fire pits shall be allowed. Ayes: 6, Nays: 1. MOTION CARRIED.

13. **Expansion Prohibited-** The PUD shall be restricted to the 21 existing condominium units, and the dockage and boat slips authorized in this Special Use Permit may not be expanded at any point in the future.

No changes were recommended for the Expansion Prohibited condition.

14. **Complaint Procedure-** The Association's Bylaws or Rules of Conduct shall require the names and phone numbers of the President and Vice President of the Association to be published and available for persons to contact concerning a problem with a unit or to register a complaint.

Motion by Beukema was seconded to remove the word "published" and replace it with the word "posted". All ayes. MOTION CARRIED.

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Motion to add the following wording to the beginning of #10 Seasonal Use: "Shall consist of no more than 180 days and no more than 120 days consecutively.

MOTION CARRIED.

Motion that the maximum of three fire pits shall be allowed. MOTION CARRIED.

Motion to remove the word "published" and replace it with the word "posted". All ayes. MOTION CARRIED.

Mike Cunningham wanted to caution that this condition, (#14), isn't going to come close to replacing a resort/onsite manager. Further discussion occurred regarding owners not allowing poor behavior to happen. Neighbors voiced disagreement with this. Fiala commented about the nuisance ordinance and contacting the Sheriff. Further discussion occurred on the nuisance ordinance as an effective or ineffective tool. WP neighbors mentioned disturbances on a weekly basis. It was mentioned that people respond to scrutiny as well.

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FINDINGS of FACT REVIEW: (*Attached to minutes).

FINDINGS of FACT REVIEW

The Finding of Fact sheet, with eight items, was reviewed by the PC.

#1) There were no objections to #1 Finding of Fact. "Cote" should be filled in the blank for the owner of the property up until March of 2006.

#2) No changes or objections.

#3) Motion by Strickland with support from Purcell to modify language on item "4" to: A variance from the resort and recreation requirements to allow two docks with a total of 21 boat slips utilizing two docks. All Ayes. MOTION CARRIED.

Motion by to modify language on item "4" to: A variance from the resort and recreation requirements to allow two docks with a total of 21 boat slips utilizing two docks. MOTION CARRIED.

#4) Discussion occurred on the term "community", not to be confused with "neighborhood". A majority of the PC approved of #4.

#5) Discussion occurred regarding disagreement upon the phrase "does not appear to place a significant burden upon surrounding properties".

Motion by Purcell with support from Beukema to insert a period (.) after "facilities" and strike the rest of the sentence. Ayes: 6, Nays: 1. MOTION PASSES.

Motion to insert a period (.) after "facilities" and strike the rest of the sentence. MOTION PASSES.

#6) No changes or objections.

#7) Motion by C. Strickland with support from Beukema to change #7 to read: That the PUD and Condominium Project is not anticipated to have significant adverse effects on nearby or adjacent properties and should not change the essential character of the surrounding area. Ayes: 5, Nays: 2. MOTION PASSES.

Motion to change #7 to read: That the PUD and Condominium Project is not anticipated to have significant adverse effects on nearby or adjacent properties and should not change the essential character of the surrounding area. MOTION PASSES.

#8) The majority of the PC (6 ayes, 1 nay) was okay with #8.

Motion by Beukema with support from Campbell to approve the **Finding of Fact (regarding WP)** as amended. Ayes: 6, Nays: 1. MOTION CARRIED.

Motion to approve the **Finding of Fact (regarding WP)** as amended. MOTION CARRIED.

Just prior to the previous motion of approving Finding of Fact, Fiala mentioned one oversight right along the lakefront of WP. The zoning on a little "sliver" of land along the waterfront was at one point changed from Resort/Recreation to Single Family Residential. Fiala recommends a re-zoning back to Resort/Recreation. Fiala would like the PC to request this re-zoning request that appears to be erroneous. This request will also include advertisement of a Public Hearing in the newspaper(s), mail notification to all property owners for 300 feet, a recommendation to the Township Board, and a Public Hearing. It will be the PC that proceeds with the re-zoning procedure, preferably at the November 21st PC Regular Meeting.

Motion by Fiala with support from Wells to proceed with the re-zoning request regarding a portion of waterfront property at Whispering Pines currently zoned as Single Family Residential. All ayes. MOTION CARRIED.

Mike Cunningham of the PC, distributed a letter that he had written in regards to tonight's meeting for the preliminary approval of Whispering Pines. Please see attached three-page letter to this meeting's minutes.

Greg Purcell made the statement that he appreciated everyone's voting to change the language on the boat slip issue. Without the change, Purcell would not have voted to approve the PUD (Special Use Permit). (Motion follows....)

Motion by G. Purcell with support from Beukema to approve the PUD (Planned Unit Development) Special Use Permit for WP as amended. Ayes: 6, Nays: 1. MOTION CARRIED.

Motion by G. Purcell with support from Strickland to approve the Condominium Preliminary Plan for Whispering Pines as amended. All ayes. MOTION CARRIED.

Before the following motion, Purcell requested that the PC Chairman be at the meeting to present the Planning Commission's Preliminary approval process to the Board of Trustees. It was also noted that Bruce Campbell, Board Rep. and PC member, is unable to be at the Board's next meeting scheduled for Oct. 23, 2013.

Motion by G. Purcell with support from Beukema to take the Preliminary Approval of Whispering Pines to the Township Board at the meeting of November 14, 2013 with the PC Board Chairman at the meeting as well as Bruce Campbell. Ayes: 6, Nays: 1. MOTION CARRIED.

M. Cunningham commented that his objections are to the way the property is being used and what Cunningham thinks the future is going to be and the impact on the neighborhood and the residents. Cunningham commented that it has nothing to do with the people at WP, and means no disrespect to anybody. Cunningham doesn't believe any condo association has the proper authority that can accomplish what is required to properly regulate this (WP). "It doesn't take away anything from anybody. It takes away from sort of the way the whole thing is organized, not individually," commented Cunningham.

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Motion by Fiala with support from Wells to proceed with the re-zoning request regarding a portion of waterfront property at Whispering Pines currently zoned as Single Family Residential. All ayes. MOTION CARRIED.

Letter of M. Cunningham attached to minutes.

Motion to approve the PUD (Planned Unit Development) Special Use Permit for WP as amended. MOTION CARRIED.

Motion to take the Preliminary Approval of WP to the Township Board at the meeting of November 14, 2013. MOTION CARRIED.

Discussion took place regarding the Site Plan of WP.

Motion by Strickland with support from Beukema to approve Whispering Pines' Site Plan as presented. Ayes: 6, Nays: 1. MOTION CARRIED.

Bob Bartman, of WP, asked about the application for the Final Approval. Fiala referred to Section 9.5, IX-9 of the ordinance regarding condo regulations which gave the information necessary.

Alisha King, of Russell Drive, commented that she appreciates all the time put in on this situation. She commented that they (neighbors to WP) have experienced this for a long time. A. King inquired how long a renter could be at WP.

Discussion occurred regarding "seasonal use", and the definition of seasonal use, not being able to be "homesteaded" year round (but rented). Purcell of the PC requested a report from the Zoning Administrator to the Township Board, by their November 14th meeting, regarding the rental arrangement mentioned at tonight's meeting.

Phil King, of Russell Drive, commented that if WP would get rid of their rentals, it would take a lot of their (the neighbors) concerns away. Bartman from Whispering Pines commented that they have an association meeting coming up and they would mention P. King's comment.

Condition #10 on page 5 was amended at this time to reflect "seasonal use" as no more than 180 days during the course of a calendar year and not more than 120 consecutive days of occupancy. Cunningham of the PC, commented that this ruling should be attached to the entire zone of Resort/Recreational, not just WP.

Bob Byington, Legal Counsel to WP, commented that earlier discussion took place on not having people on site to monitor activities, and now after defining "seasonal use", WP is unable to have someone onsite at all times. Continued discussion occurred regarding the variances granted so far and WP's feeling of the PC putting greater emphasis on what the neighbors of WP want rather than what WP would like.

Neighbors of WP asked whom they should go to with issues regarding WP. It was noted that an Annual Review would occur and that the Zoning Administrator could be contacted.

Before adjournment, it was noted that language would be needed regarding C1 & C2 Zoning to allow drive in/thru windows.

ADJOURNMENT: Motion by Strickland with support from Campbell to adjourn meeting at 10:15 p.m. Approved by all. MOTION CARRIED.

Approved by: _____
Cathy Strickland, Secretary Date

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As presented

Motion to approve Whispering Pines' Site Plan as presented.

MOTION CARRIED.

ADJOURNMENT

Deb Mousseau
Recording Secretary
October 21, 2013

YANKEE SPRINGS TOWNSHIP PLANNING COMMISSION
PUD PRELIMINARY SPECIAL USE PERMIT FOR WHISPERING PINES

October 16, 2013

A preliminary planned unit development special use permit is hereby granted conditioned on the following:

1. Road Paving. That a financing mechanism to ensure construction of road paving is established and that the Township Board establishes a special assessment district for paving if it is not completed within a three year time period.
2. Utilities. That all underground utilities (pursuant to variances granted by the ZBA) are placed underground within four years and that a mechanism to ensure that this is accomplished be filed with the Township. It is recognized that the association may request a modification of the variance to the ZBA after one year.
3. Boat Slips. That all 21 boat slips contain signage identifying the owner. Docks and boat slips shall meet the Michigan DEQ requirement for dock and boat lengths. Boat slips may only be used by condominium owners or renters of condominium units. No boat slip authorization can ever be assigned or sold by any unit owner to any other party by any means.
4. Beaching of Watercraft. That no additional overnight docking or beaching of watercraft shall be permitted.
5. Boat Lifts. That no boat lifts are allowed on any docks at any time.
6. Tents and Campers. That no tents, campers, recreational vehicles or temporary mobile sleeping facilities are allowed or permitted.
7. Fencing. That a split rail fence be constructed and maintained along the south and west boundary of the property. The Planning Commission reserves the right to revisit the screening contingent on whether there will be residential uses developed and the need for a six foot opaque fence.
8. Annual Report and Review. That Whispering Pines shall file an annual report to the Planning Commission on the progress of financing and constructing all improvements by July 1st of each year. At such time an annual review shall be conducted unless waived by the Planning Commission.
9. Bylaws. That the Whispering Pines Bylaws shall be amended to reflect the conditions of the Planned Unit Development and Condominium Development project.
10. Seasonal Use. That except for the variances granted, the owners shall abide by the resort and recreational zoning classification and requirements which include having only seasonal use of the property.
11. Road Paving. That Russell Drive is paved to the end. Whispering Pines Drive that joins Patterson be paved, and the recommendation is that 31 property owners, including the 21 units, assist in paying the cost. That the fire safety internal drive be paved.

12. Fire Pits. That one fire pit is established on the beach area, and two other fire pits are centrally located on the remaining part of the property.

13. Expansion Prohibited. The PUD shall be restricted to the 21 existing condominium units, and the dockage and boat slips authorized in this Special Use Permit may not be expanded at any point in the future.

14. Complaint Procedure. The Association's Bylaws or Rules of Conduct shall require the names and phone numbers of the President and Vice President of the Association to be published and available for persons to contact concerning a problem with a unit or to register a complaint.

COPY

Whispering Pines

The Planning Commission has been working on the Whispering Pines PUD for about 9 months. We have spent this much time on this issue because we were encouraged to find a resolution that would be a Win/Win for the Whispering Pines Association and for Yankee Springs Township. We were told that one reason for finding a way to approve the PUD was that the Township and the Whispering Pines developer may have made mistakes in the past regarding various required approvals, filings etc.

After working diligently on this for most of this year, hearing what Whispering Pines is requesting, what the surrounding residents are saying and reading the township ordinances, I do not believe we are even close to a Win/Win proposition. The current site plan request as submitted and incorporating the conditionally approved variances is a Win for the Whispering Pines Association and a significant Loss for the township and the surrounding residents.

My reasons for this opinion are as follows:

1. To begin with, there is still one outstanding variance requesting year round residency for the fourPlex that was tabled by the ZBA due to county health department concerns with the water system. Without knowing the outcome of this variance, I doubt that we should even be voting on this issue since we really don't know what we are voting on. The way I understood, the reason for tabling the request was due to the water system concerns and not due to the fact that year round residency is not allowed in this zoning district. A water system can be made to comply with health department regulations. If the ZBA accepts a compliant water system as all that is needed for year round residency they are missing the point and any unit or resort can expect approval of year round residency, if they make their water system compliant. The ZBA should have voted on the residency issue. They could have said yes, conditional on water system approval or they could have said no. Saying no based on the residency issue would not have involved the water system at all.
2. The work we have done this year focused mainly on the site plan which is a review of the physical site conditions. A lot of time has been spent on paved roads and underground utilities and sewer and water connections. These physical site issues do not have that much to do with whether or not the proposed project fits into the surrounding area. We did not adequately consider the actions of the Whispering Pines owners and renters until we started to hear from them first at the ZBA public hearing and then again at the Planning Commission public hearing. My opinion of the comments from the public was that they were uniformly negative and opposed to the approval of the variances and the PUD. There were a few comments about the property looking better lately and the road being maintained but as I recall, all of these people went on to complain about the behavior of the people from Whispering Pines. Most if not all of the comments seemed to be related to renters.

The surrounding residences bought their properties next to land zoned Resort and Recreation rather than next to Single Family zoned land so they cannot expect to not have a resort next to them. They can, however, expect to have a resort next to them rather than what is being requested.

A resort has an owner/manager who rents units daily, weekly, etc. Renters check in with the owner/manager who lets them know what usage rules exist. The owner/manager then monitors the activities on site during the rental period and can provide immediate control of these activities. The presence of an owner/manager provides other renters, local residents and officials an immediate point of contact regarding the activities taking place on the property. The owner/manager has the ability to immediately control or evict an unruly renter from the property and I suspect could easily gain assistance from local law enforcement if needed. All renters would have the knowledge that unruly behavior would result in eviction or worse if not stopped. This knowledge is what allows renting a large number of many units to many people in a small area (such as a motel, resort, campground etc) with minimal and reasonable impact on the surrounding area. The owner/manager has an inherent interest in maintaining reasonable behavior to protect the owner/manager's property, reputation and business and does not owe any renter more than what was advertised.

The proposed Whispering Pines PUD does not provide this critical piece (owner/manager) that could make it acceptable. The proposed PUD also does not prohibit the renting of units, which might also work.

Various statements have been made that the Association will control its members and guests. This statement may have been made in good faith but that does not change the fact in my opinion that it cannot work unless there is someone on site with the vested interest and authority that exists only with an owner/manager. The home owners associations and townhome associations I have been a part of were almost completely unable to deal with real problems because they were dealing with other owners who had equal rights. I have heard similar comments on other associations as well. Enforcing any rule was a long drawn out process that usually resulted in the poorly behaving member getting to do whatever they wanted unless the association had the willingness and finances to file a lawsuit. Following the association rules was in reality a voluntary action based on wanting to get along with the neighbors. Clearly this process will not work when trying to deal with a misbehaving short term renter who has rented from an absent owner/member who would be unlikely and unwilling to travel to the site to evict the renter.

It is my opinion that over time, the presence of renters will cause additional Whispering Pines units to become rental units as owners realize it is not compatible with the non-rental use they desired from their units. I believe that the existence of Whispering Pines as proposed will devalue the surrounding properties.

It may be that loosely controlled activities on a property might not adversely affect surrounding residents if the property was so large that the activities and associated noise, smoke etc. were so dispersed that they were not noticeable outside the property, but that it not the case here. This property does not come close to even meeting the size required by the township ordinance for

properties that have an owner/manager. The size of the property is about 4 acres which is about 174,240 SF. Using the 15,000 SF lot size required by ordinance for single family homes as a guide, you could theoretically fit at most, 12 units on this property. To provide for access to each property something less than 12 homes would fit. The current Whispering Pines proposal has 21 units. The 10 acres required for a PUD might support 21 units based on 15,000 SF/unit.

3. The township ordinance for the Resort and Recreational zoning district allows one dock for the use of the owner/manager. Renters may launch boats at public boat launches but are prohibited from beaching or docking their boats. I am convinced that this ordinance was created to discourage over usage of the lake and the waterfront. Renters have a right to launch a boat at a public launch but due to the ordinance, have no legal alternative to returning their boat to its trailer at the end of the day. The requested and conditionally approved variance gives each unit in Whispering Pines the same ability to dock boats as a single family lakefront resident has, even if the unit is not located on the waterfront. To me this is clearly funneling, even if the rules and terminology are twisted to make it seem like it is not.

4. The township ordinances allow for a Planned Unit Development (PUD) in the Resort and Recreational zoning district. After reading the PUD ordinance and participating in the Whispering Pines discussion this year, it is my opinion that a PUD was intended to be used to allow beneficial development to occur based on a proposal and plan by a developer and as amended by subsequent negotiations and discussions with the Planning Commission. I do not think that anything of the kind has occurred here. The Planning Commission is being asked to approve something that already exists, having been created through a lack of planning and proper approvals.

I believe that the type of PUD envisioned by this ordinance would have involved a developer with plans to develop a new or existing site according to modern standards and township ordinances and that the development would be an improvement that would benefit the community.

The proposed Whispering Pines site does not involve any planning or development. We are being asked to approve something that has evolved without township approval due to various circumstances and also grant them superior rights to other similar properties. The Planning Commission has not really been able to influence this issue in any way that is significant to the impact on the surrounding properties or the value to the overall township.

For the above reasons, I currently plan to vote no on this issue. I do remain open to ideas that properly address the needs of both the Whispering Pines Association and the surrounding residences.

Sincerely,

Mike Cunningham

**YANKEE SPRINGS TOWNSHIP
WHISPERING PINES**

FINDINGS OF FACT

October 17, 2013

1. The applicant is Whispering Pines Condominium Association, at 12759 Whispering Pines Drive, Parcel 30-370-001-00 through 370-021-00. Application has been made for a PUD special use permit, approval for a condominium project, and for site plan review. The property is composed of approximately 3.88 acres zoned in the Resort and Recreation district. Up and until approximately 2006, the property was owned and operated as a resort and recreation area owned by Don Cote. On March 15, 2006, a Master Deed and Bylaws were recorded at the Barry County Register of Deeds by WPR Development, LLC.
2. Although representatives of the LLC appeared before the Planning Commission in 2006, neither the Master Plan nor the Bylaws were submitted for review as required by the Township's condominium ordinance, no approvals of a preliminary planned unit development or condominium project or site plan were properly submitted or approved by Yankee Springs Planning Commission or Township Board. The condominium association went through various problems including foreclosures, and with the new owners of the condominium units, and a new board, the condominium association made application in late 2012.
3. In addition, six variances were requested. On September 10, 2010, five of those variances were granted by the ZBA which includes: 1) a variance from the ten acre minimum to recognize approximately 3.8 acres; 2) allowing a variance from the 66 foot wide road width requirement to 20 foot wide; 3) a variance from paving requirements but only until September 10, 2016; 4) a variance from the resort and recreation requirements of only one dock to utilize two docks and to allow 21 boat slips for one watercraft per boat slip; and 5) a variance which would permit some of the utilities to remain above ground unless they are replaced but in no event should they be left above ground after four years.
4. By granting a PUD special use permit and preliminary approval of a condominium project plan, the Planning Commission recognizes that there will be a substantial benefit to the ultimate users of the project and to the community in allowing the cottages to become condominium units on a seasonal use basis to allow people to enjoy their property on Gun Lake.
5. That the development of the PUD and condominium project does not appear to have an impact on increasing services of facilities.
6. The PUD and condominium project will be compatible with the Master Plan of the Township and be consistent with the intent and purpose of the article which is to promote a seasonal use.
7. That the PUD and condominium project is not anticipated to have significant adverse effects on the surrounding areas.
8. That the PUD and condominium project, as presented, will preserve the natural resources as much as the resort did before by limiting the number of watercraft to one per dwelling unit and restricting tents, campers, accessory buildings, etc., so as not to overburden the property anymore than it has in the past.