

<p style="text-align: center;"> YANKEE SPRINGS TOWNSHIP <u>PLANNING COMMISSION</u> <u>In Person</u>– Regular Meeting 7:00 p.m. <u>May 16, 2024</u> Yankee Springs Township Hall 284 North Briggs Road, Middleville, Michigan 49333 MINUTES </p>	<p> MINUTES Page 1 of 6 PC APPROVED: _____ Regular PC Mtg. May 16, 2024 </p>
<p> Meeting called to order at 7:00 PM by Planning Commission Chair, Shana Bush. <u>PLEDGE OF ALLEGIANCE</u> <u>Roll Call: Present:</u> Beukema, Bush, Craven, Fiala, Frigmanski, Knowles, Kooistra. (All Present) <u>Zoning Administrator:</u> Joe Shea, Present <u>Professional Planner:</u> Not Present <u>Staff Present:</u> Dennis Buist-Constable, Sandy Marcukaitis, Rob Heethuis <u>Visitors:</u> 19 (not including staff present). </p>	<p> CALL TO ORDER PLEDGE ROLL CALL </p>
<p> <u>APPROVAL OF AGENDA:</u> <i>Motion by Beukema with support from Knowles to approve the agenda as presented.</i> <i>All Ayes. MOTION CARRIED.</i> </p>	<p> <u>APPROVAL OF AGENDA</u> </p>
<p> <u>REPORTS from REPRESENTATIVES:</u> <u>Board of Trustees- Larry Knowles,</u> reported the Board of Trustees <i>(at the meeting of 5/9/24):</i> <ul style="list-style-type: none"> • Discussed Kitchen renovation project and the Board decided to have the trustees talk to the contractor. The trustees have met with the contractor and continue to work through the problem. • Approved the purchase of Dry suits (2) for the fire department. • Discussed future Special Assessment for Evans Lane. • Appointed two (2) residents to the recycling committee. • Denied two re-zoning requests as recommended by the PC. • Board supported the concept of a handicapped accessible trail from the township park to the state park. • Will hold an extra workshop for budgeting on May 30th budget workshop at 3 p.m. <u>ZBA, John Frigmanski,</u> reported regarding the meeting on 5/14/24 <i>(1st one held in 11 months):</i> <ul style="list-style-type: none"> • One case – resident wanted a variance on a Setback that was denied so he has to comply with the 25 ft. • Another case was heard for a STR that was denied. </p>	<p> <u>BOARD REPORTS from REPRESENTATIVES</u> </p>

- Ordinance interpretation was heard from the Zoning Administrator, Joe Shea concerning shipping containers in residential zones. The ZBA concluded they are not allowed in residential zones.
- A citizen questioned if channel lots have lake frontage. PC may want to look at if channels should be included.

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ZONING ADMINISTRATOR REPORT: Joe Shea, ZA commented regarding:

1. Junk car lot on M-179 - pursuant to consent judgment from Barry County District Court, every six (6) months owner has to sell at least 5 cars. He has done that. Brad Williams, Code Enforcement Officer, has gone down for an inspection and saw the receipts. The owner has complied. Another check-in will occur six (6) months from now.

2. Granicus Company (hired to monitor unlicensed STRs) is online now and is quite useful.

One citation issued so far for a STR – a formal hearing is scheduled for June 4th at the Barry County Circuit Court.

3. Regarding the ZBA issue that J. Shea asked for interpretation for the use of shipping containers for storage units in residential areas- The ZBA decided that the shipping containers are not within the definition of a structure or an outbuilding under our ordinance, so they should be denied in residential neighborhoods. The ZBA recommended that the PC consider amending ordinance to specifically address this issue.

4. J. Shea noted that Mr. VanTil – came in last month -had been processing gravel and rocks on his company and asked for a re-zoning of his property which was denied. A violation letter was written to Mr. VanTil about processing gravel because he did have a screener and conveyor equipment there. Mr. VanTil came into the office to work on an agreement. He agrees to remove both (screener and conveyor) and he has done that. We agreed that he could remove the stockpiles of rocks and materials that he had already separated. J. Shea thought that Mr. VanTil had started to do that. Mr. VanTil also agreed that he would not enlarge the pond at this time, but he really wants to enlarge the pond. There's an issue there because the DEQ says that you can dig a 5-acre pond without getting a DEQ permit. The Barry County Drain Commissioner agreed with that (no permit needed for 5 acres or less). Dull said there's no county restriction on it. Dull sees no environmental harm from this specific pond. The Township Attorney agrees there's nothing in the ordinance that prevents or addresses the issue of digging ponds on your property. Catherine Kaufman (Twp. Attorney) noted that some of her other municipalities (that she represents) do have a requirement that you do have a SEU permit to dig a pond. YS Twp. does not have that. She recommends that we might want to amend the ordinance that way. J. Shea noted that Mr. VanTil was present at tonight's meeting, and was invited to observe and answer any PC questions at this time, if appropriate. (No questions from PC members at this time).

**ZONING
 ADMINISTRATOR
 REPORT**

<p><u>PUBLIC COMMENT:</u> Amy Leep, of Mac Dr. commented regarding previous used shipping containers as storage sheds around the Gun Lake area. A. Leep brought pictures of what they look like as sheds. A. Leep noted how functional they can be and how good they look. “They really don’t look too much like shipping containers when they get finished,” commented Leep. A. Leep would like the PC to add to its agenda to talk further of how shipping containers could be useful for storage in residential zones.</p>	<p>MINUTES Page 3 of 6 PC APPROVED: _____ Regular PC Mtg. May 16, 2024</p>
<p><u>APPROVAL OF MINUTES :</u> Regular Meeting of April 18, 2024 <i>Motion by Craven with support from Beukema to approve minutes of Regular Meeting of April 18, 2024 as presented. All Ayes. MOTION CARRIED.</i></p>	<p><u>APPROVAL OF MINUTES</u></p>
<p><u>INQUIRY ON CONFLICT OF INTEREST:</u> <u>ROLL CALL:</u> Fiala asked the PC members present if there was any conflict of any PC member with the agenda of requests and as modified this evening. All PC members noted: NO conflicts. No: 7, Yes: 0, Absent: 0</p>	<p><u>INQUIRY ON CONFLICT OF INTEREST</u></p>
<p><u>NEW BUSINESS:</u> ZOC 24-02-03 Parcel ID 16-008-020-50, 200 Old Mill Road, Middleville, MI 49333 A request by Owen Sabin, to re-zone this property from RC (Resort and Recreation) to R-AG, pursuant to YS ZO Article XIX And ZOC 24-02-05 Parcel ID 16-008-020-51, 200 Old Mill Road, Middleville, MI 49333 A request by Owen Sabin to re-zone this property from RC (Resort and Recreation) to R-AG pursuant to the YS ZO Article XIX. Owen Sabin presented his request(s). (The first two items under New Business). He has the wedding venue. Public Comment: <i>Opened & Closed at 7:17 p.m. No comment from public.</i> No letters in opposition were received in the ZA office. Fiala commented on previous zoning being Rural Ag. J. Shea had no problems with going back to Rural Ag. Motion by Fiala with support from Knowles to recommend to township board to change zoning to Rural AG for ZOC 24-02-03 -Parcel ID#16-008-020-50 & ZOC 24-02-05- Parc. ID#16-008-020-51- as it was earlier in Zoning map and Master Plan located at 200 Old Mill Road, Middleville, MI. Roll Call Vote: Kooistra: Yes, Knowles: Yes, Frigmanski: Yes, Craven: Yes, Bush: Yes, Beukema: Yes, Fiala: Yes. Yes: 7, No: 0. MOTION CARRIED.</p>	<p><u>NEW BUSINESS</u> ZOC 24-02-03 Parcel ID 16-008-020-50, Old Mill Road, Middleville, MI 49333 A request by Owen Sabin & ZOC 24-02-05 Parcel ID 16-008-020-51 MOTION to APPROVE Re-zone to Rural AG.</p>

CSPR 24-03-03 Parcel ID 16-020-037-00

A request by Kyle & Kara Graham of 11368 M-179 Hwy, Middleville for a commercial zoning permit to build a “beer garden” behind their restaurant, the Sand Bar.

Kyle Graham presented his request.

There were no comments from the public regarding this request.

Motion by Fiala with support from Beukema to approve site plan for Parc. ID 16-020-037-00 at 11368 M-179 Hwy. as presented. ROLL CALL VOTE: Beukema: Yes, Bush: Yes, Craven: Yes, Fiala: Yes, Frigmanski: Yes, Knowles: Yes, Kooistra: Yes. Yes: 7, No: 0. MOTION CARRIED.

OLD BUSINESS ITEMS:

***PUBLIC HEARING – Bay Meadows Rezoning & PUD Amendment**

Motion by Fiala with support from Knowles to take Bay Meadows Rezoning & PUD Amendment off the table. All Ayes. MOTION CARRIED.

Joe Shea, ZA, noted letters were received from Dave Tripp on behalf of Peterson Plat and the Bay Meadows Condo Association’s lawyer, and they disagree about Edwin Drive. J. Shea also talked to the township attorney regarding this and the information is noted in his report. J. Shea commented that the zoning issue should be “first and foremost... It’s separate from any litigation that might happen later (*regarding Edwin Dr. and Bay Meadows*).”

Char VanderRoost of 12454 Bayview Drive presented a brief recap of the request on behalf of Bay Meadow Condo Association regarding an amendment to the PUD regarding Parcels A & B. (PC members have the information and descriptions). The request includes splitting the 2.8 acres that they are looking at into two (2) 1.4 acre lots for single family construction and to allow access to the two parcels from Edwin Drive. Last month the E.S. Peterson Park Plat residents brought concerns about additional traffic on Edwin Drive so time was allowed and moved to this month so that they could seek counsel.

Public Comment opened at 7:29 p.m.:

Bill Romph, 1717 Edwin Drive, commented and reviewed what was covered last month. Romph commented on bringing in paperwork and consulting with Dave Tripp (Attorney). Tripp reviewed the court document from 1999. Romph commented, “We gave up Bruce Drive in order for that whole condo association, Bayview Dr. and everything to be put in place. The agreement was that when we did was that we would have exclusive rights to Edwin Drive which the court decision from Judge Fisher states that the E. S. Peterson Plat residents have exclusive rights to Edwin Drive.Without that being changed I don’t see how the board can go against the court order as far as allowing access to Edwin Drive for

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MOTION to Approve

OLD BUSINESS
ITEMS

MOTION To TAKE
OFF TABLE (*for
tonight’s Public Hrg.*)

**PUBLIC
COMMENT**

these lots. Also we've been maintaining that property for the entire time of that court decision. We've consulted with the condo association in the past about assisting us with maintaining that. ... They declined. ...want access to help support that property. I don't think it's right now to go against a court order that we gave up property so that we could have exclusive rights to Edwin Drive. And now to allow them to access and utilize it essentially just to have, in my opinion, more valuable property because the property is going to be larger and they don't have to incur the cost of putting in a road which was the original plan which I submitted to Joe which I believe you all have as far as the drawings for the original plan to put a drive up from Bayview up north to access that property. I feel as though that's what it should remain. I don't believe it's right that they can now amend it and utilize a road that they legally from a court order, from a judge, do not have legal rights to do so per Item 21 of the 1999 decision."

Char VanderRoost commented that the decision has to be made on facts, not the fact that there is concern about the road. "I understand and we all hear the concern about the road. We agree that we need to abide by the amendment, the judgment that was filed in 1999. As we look at the amendment, I just want to draw your attention to page 5 Section 4a, 'That portion of the depicted and described property which lies to the north of the north line of out lot A shall be included at and part of Bayview Public. Section 4b states that portion of the depicted and described property which lies to the south of the north line of out lot A, shall be included in and part of Edwin Drive Private'. We are in agreement that we need to abide by the amended judgement that was filed. However, there's some discrepancy on what is private and what is not private. From Yankee Springs Township, 'The plat includes Edwin Drive south of Bayview Dr. The plat does not include the area north of Bayview Drive where Edwin continues north to M-179 Highway. Based on your survey and on this plat, it is my opinion that the association can have driveways on Edwin Drive.'

Another quote I want to give you is from Andrew C. Fredenburg, attorney with Foster, Swift, Collins & Smith, PC that we hired to review all the documentation. This is his quote and his recommendations to us as a condominium association. 'From what I see in the judgement Edwin Dr., north of Bayview Dr., was not incorporated into and not part of the plat for the judgment. Only that portion of Edwin Drive located within the plat. The use restrictions for Edwin Dr. may apply only to that part of Edwin Dr. within the plat and not the area north of Bayview Drive.' They own that portion.'"

Four (4) photos were shown by C. VanderRoost. At this point of describing the pictures by the car wash and noting a "gate", the three minute time limit was up.

Mark Englerth, 1769 Edwin Dr., commented "It certainly is a convoluted argument to say the least. We lived through the first lawsuit with VanderSlik's development. And Bayview or Edwin Drive was never a platted road past where Bayview is. It was a road by use; not a road by deed. So you've got two other parcels going to 179 regardless what you have, you have no deeded access on Edwin Drive past that unless you have deeded access by historical use. So you take the car wash and the lot behind that. You don't have any authority to think you've got a deadend parcel. So it would look like you haven't stepped into the ring with your attorney, right? And it looks like maybe you need to at this point before you make a decision, because we can give you opinions all day long."

Close Public Comment at 7:36 p.m.

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PUBLIC
COMMENT cont'd

It was confirmed by Joe Shea that C. Kaufman, Township Attorney, has been contacted. Joe Shea shared the comment of the attorney that “the only way you can amend a plat is through Circuit Court; a circuit court lawsuit. So that’s what this was about. It was about amending the E. S. Peterson Plat. The judgement, that amendment to the plat included among other things the creation of Bayview Dr., as a public road, vacation of Bruce Dr. And then everything in that judgement applies only to what’s in the E.S. Petersen Plat. So Edwin Dr., north of Bayview, is not in the plat. So I agree with our (twp.) attorney who says the judgement only applies to what is in the plat because it’s amending the plat. It’s not amending any property outside of the plat. Edwin Dr., north of Bayview according to the survey is actually on condominium’s property. So it’s odd that they would be excluded from access to it. That’s the opinion of our Attorney, myself and Bay Meadow’s attorney also.”

Discussion occurred among PC members.

Motion by Knowles with support from Beukema to approve ZOC 23-11-03 to amend the PUD of Bay Meadows as presented. Roll Call Vote: Kooistra: Yes, Knowles: Yes, Frigmanski: Yes, Fiala: Yes, Craven: Yes, Bush: Yes, Beukema: Yes. Yes: 7, No: 0. MOTION CARRIED.

***Discussion of Master Plan Special Meeting** - the next Master Plan meeting will be Tuesday, May 28th at 7 p.m.

Request made of **Map Committee getting together again** due to lots of changes and another look at it (map) should be made.

Also discussion of **shipping containers** and ZBA’s decision briefly occurred. **A possible text amendment to the ordinance by PC should be made on this.** (Possibly get a few people together to put together a proposed text amendment to review and Shana Bush will reach out to Rebecca Harvey to see what other communities are doing with this.)

Water front properties and/in channels - clearer definition should be made.

Ponds and SEUs and what kind of restrictions there are on these items were mentioned.

OTHER SUCH BUSINESS AS MAY PROPERLY COME BEFORE THE PLANNING COMMISSION

PUBLIC COMMENT:

Amy Leep, asked the PC to identify those individuals that have shipping containers currently on their property - if those containers (that are currently there) are going to be grandfathered in?

ADJOURNMENT:

Motion by Bush with support from Fiala to adjourn at 7:48 pm. All AYES. Motion Carried.

Approved by: Frank Fiala 6/20/24
Frank Fiala, Planning Commission Secretary Date

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MOTION TO APPROVE

OLD BUSINESS cont’d

OTHER SUCH BUSINESS AS
MAY PROPERLY COME
BEFORE THE PLANNING
COMMISSION

PUBLIC
COMMENT

ADJOURNMENT