

Bingham Township Planning Commission
Meeting Minutes
September 2, 2004
Bingham Schoolhouse,
7171 S. Center Hwy, Traverse City

Call to Order: 7:00 p.m.

Roll Call: Ron Collins, Mike Park, Will Bunek, Cathy Jasinski, Marsha Walton, Don Kiessel and Chairman Bob Gregory. Quorum present.

Staff Present: Dan Carlson and Dorothy Petroskey

Guests Present: Midge Werner, Tom & Carol Beeler, Gordon Hayward, Terry & Sandra Wilson, Brad Kaye, Sandra & Robert Laetz, , Philip Anderson, Bev Kozarek, Dwayne Adams, Harold Seymour, Beverly Kozarek, Norene Katsy, Tom Phillips, Missy Luyuk, Lois Bahle, Bob Otwell, Duane Bingel, David Monstrey, Stuart Whittaker, Lisa Danto, Bob Foster and Steve Patmore.

Agenda Approval: Dan stated that the Rich Bahle had asked that Orchard Events be removed from the agenda and placed on next month's agenda.

Zoning Administrator Carlson asked the commission to consider removing the TART applicant from the agenda as they have not paid the fees as required by Ordinance 99-01. He stated the Clerk had sent an invoice in July and it remains unpaid. He stated that pursuant to the Ordinance a special land use permit could not be issued if fees remain unpaid. The applicant stated they had paid the fees this evening and would like this process to continue. The commission agreed that it would be prudent to continue to move forward as the fees are now paid. Kiessel questioned why the Clerk had not sent the invoice prior to July if the fees were incurred for the last 5 meetings.

Move by Kiessel support by Bunek to approve the agenda as amended with the deletion of Orchard Events.
Ayes: All Motion Carried

Meeting Minutes of June 3, 2004:

Move by Collins support by Kiessel to approve the minutes as amended.
Ayes: All Motion Carried

Meeting minutes of July 1, 2004.

Minor grammatical changes. Move by Collins support by Bunek to approve the minutes as amended.

Ayes: All Motion Carried

Public Comment: None

Tom Phillips asked why the Township could not have billed the applicant TART sooner. He also asked why they are always last on Agenda.

Township Supervisor Werner noted that at the last meeting a public hearing was scheduled for 7:00 p.m. for the TART applicant and they removed themselves from the agenda causing the Planning commission to wait until 8:15 to hear the next item.

New Business:

Red Lion Motel-Site Plan Review

Zoning Administrator Carlson discussed his report on this application. He felt that this applicant met the criteria for a minor site plan and would recommend this to the commission. Brief discussion by commission members.

Motion by Bunek support by Park to accept the application from Red Lion as a Minor Site Plan Review.

Ayes: All Motion Carried

Preliminary Site Plan Consideration of Site Condominium Proposal Leelanau Estates

The zoning administrator asked the applicant for clarification on number of lots proposed. The applicant stated 78. Dan indicated that the letter to the road commission listed 77. The zoning administrator stated that all submissions were met however this presented a dilemma as the language in Article 9 is not specific, yet the intent of the ordinance would imply that the applicant should meet the criteria of the Special Land Use section. He added that our Agriculture District does not refer to site condos. The zoning administrator stated that it is his opinion/interpretation that it should be reviewed as a special use as to definition and intent of the Agricultural District and deserves to be looked at as such. He added that is interpretation is not consistent with counsel, yet he stands by his decision. Carlson stated that the applicant was free to seek an opinion from the ZBA for an administrative change if he so chooses.

The applicant asked that the minutes reflect that it was his understanding that the MTA attorneys, as well as Bingham's attorney indicated that Site Condos in the Ag District is not a special use and do not need a special land use permit. He stated that if the Planning Commission does not intend to hear this as submitted, then they will seek an opinion from the ZBA and if the ZBA does not agree with the Applicant he will seek an opinion from Circuit Court.

The commission discussed the intent of the ordinance as well as the language in the ordinance and suggested the Board of Appeals as the next process.

Bunek moved to refer this matter to the ZBA for their review. The commission discussed the Board of Appeals process.

Supervisor Werner suggested that the commission accept Dan's interpretation and then if the applicant wanted this matter to go to the ZBA, they could file an application.

Bunek withdrew his motion and offered the following: Move by Bunek support by Collins to continue the preliminary consideration of the Leelanau Estates as submitted and to review the submittal under the site condo section of the Ordinance , including Special Land Use as the Zoning Administrator has determined.

Ayes: All Motion Carried

The applicant asked that this matter be tabled so he may seek an opinion from the Zoning Board of Appeals. The Commission agreed by consensus.

Old Business:

Tart Trails Continuation:

The applicant handed out some requested changes to the September draft of the Special Land Use Permit that was presented. He noted Page 3 where reference was made to the Mebert property the following changes:

Findings of Fact: There are a few areas where drainage will need to be reviewed by the County Drain Commissioner and soil erosion. The culvert/drainage ditch under the trail ballast on the Mebert Property causes water to back up on the Mebert property, parallel and west of the trail near the Mebert property causes water to back up on the Mebert property.

Condition: The applicant will need to address these areas with the County Drain Commissioner and Soil Erosion Officer and meet all applicable standards. The applicant will also need to keep the culvert/drainage ditch clear under the trail bed; the drainage ditch next to the trail clear of the debris near the Mebert property.

It was noted that this change would have to be made to page 11 of the SLUP as well.

The second item was Page 7 where it referred to the Landscaping Plan. The consensus of the commission was to state "any alteration of existing landscape natural conditions and topography shall require a detailed plan as outlined in Section 12.6 and 12.6.3".

Item 3-referenced Steep Slopes and safety issues. The commission after much discussion stated that "safety issues will meet or exceed ASHTO standards.

Item 4-The applicant addressed page 16 of the SLUP and referenced a letter received from their insurance carrier. It was agreed, to remove "the names of the adjacent property owners as "also insured"

Item 5

Four (4) way stops:

Chairman Gregory offered his concern regarding areas of concern on the trail where site distance was a problem, specifically the Eckerle property.

Commissioner Jasinski asked the rules of the TART trail and by what authority did these rules apply as to right of way and asked about placement of signs. The applicant was instructed by counsel not to answer. Discussion ensued. Commissioner Bunek added that if Bingham was inconsistent with other trails this could be viewed as unreasonable. He agreed that safety should be the first concern. Tom Phillips offered that if Bingham chose to do it different, "and make a unique rule in Bingham you will be entering another Court of Litigation".

The commission stated that their main concern is safety. They added if site distance was an issue, it needed to be addressed. Jasinski stated that she walked the trail with commission member Park and her 7 year old son and they found issues of concern at: The Herman property elevations; Brush up to the trail bed hindered site distance; North of Shady Lane up to Richter Road their was brush and grass right up to the bed at the trail crossings; the Mikowski and Eckerle crossings their was a site distance issue due to height and elevations.

Gregory added that this commission needs to err on the side of safety. He added that this will have an overall impact on the ag community if the ag vehicles have to stop each time they cross the corridor.

The commission members agreed that in some areas a four way stop may be necessary. Gregory added that once pavement is put in , the speeds will increase as well as use and therefore, more mishaps will occur.

The commission discussed what constituted "limited site distance". The commission looked at ASHTO standards for this as well and a specified distance.

The commission by consensus agreed to state on pages 10 & 15 the following condition:

"In the interest of safety, four way stop signs shall be placed at agricultural and private crossings that do not have clear site distance from the trail at the trails edge of 120 feet in either direction or will meet ASHTO standards whichever is greater." The commission had proposed 150 feet however, the applicant suggested 120 feet.

The commission discussed staging as well as time frame for final site plan submittal and Township board approval for recreational overlay zoning. Whittaker re-routing was discussed and identified in the Special land use permit.

Move by Jasinski support by Kiessel to grant preliminary site plan approval, a preliminary special land use permit and site plan review approval under the recreational over lay zone based on the with conditions specified on the Special Land Use permit draft dated September 2004 including all the conditions in the document as amended this evening upon approval of legal counsel as well as county planning.

Ayes: All Motion Carried

Communications and Reports:

Chairman Report: No report

Township Board Report: Discussed placement of an ad for a part-time planner.

Zoning Administrator-Written Report Presented. Carlson discussed:
Leelanau Club Driving Range
County Private Road Ordinance Compliance

Committee Reports:

Master Plan Committee: The Master Plan met on August 26, 2004 and will meet again on September 16, 2004 at 6:30 p.m.

October Meeting Agenda:

Bay View Pines Final Site Plan

**Bingham Valley
Ordinance Language**

Move by Jasinski support by Bunek to amend the agenda to discuss moratorium on site condos.

Ayes: All Motion Carried

The commission members agreed a moratorium shall be instituted until a decision is made by the ZBA on language relating to site condos and subdivisions and/or an amendment is made to the zoning ordinance.

Move by Jasinski support by Bunek to place a moratorium on all reviews of site condos and subdivisions that are not clustered, subject to the Township Board's approval for the next six months from September 2, 2004 through March 3, 2005 unless denied or removed prior by the Township Board.

Ayes: All Motion Carried

Public Comments: Stuart Whittaker stated that trail users were parking along 633.

Don Kiessel put in his resignation from the planning commission. He stated that he and his wife were retiring this year and would be doing some traveling. The commission members expressed their deep thanks for all of Don's hard work over the last eight years and wished him well.

Move by Collins support by Bunek to adjourn.

All Ayes Motion Carried.

Adjournment 10:50 p.m..

Respectfully Submitted

Dorothy Petroskey