

REVISED DRAFT MINUTES

SUTTONS BAY TOWNSHIP PLANNING COMMISSION SPECIAL MEETING

201 N. St. Marys Street, Suttons Bay
Tuesday, May 17, 2022, 6:00 p.m.

The public may participate in person or by remote access through Zoom access by computer and smart phone.

CALL TO ORDER

Dennis Rathnaw, Chair, called the Suttons Bay Township Planning Commission Special Meeting to order at 6:00 pm.

ROLL CALL

Present: Dennis Rathnaw, Dee McClure, Don Gregory, Andy Brandt, Tom Koernke, Rhoda Johnson, Patti Miller

Absent: Doug Periard, (Planning Commission Vacancy-Tom Nixon is Township Supervisor and cannot be on the Planning Commission because it is a conflict.)

Staff Present: Marge Johnson, via Zoom., Steve Patmore,

Also Present: Tim Figura, Township Attorney

APPROVAL OF AGENDA

Andy Brandt/moved, Dee McClure/supported, to approve the Agenda as submitted, motion carried.

PUBLIC COMMENT

Scott Howard, Attorney with Olson, Bzdok & Howard, spoke about Leelanau Watersports.

Gary Hoenscheid, Peck Rd., spoke about Leelanau Watersports.

Wayne Livingston, 1285 S. Peck Rd., spoke about Leelanau Watersports.

Steven King, spoke about Leelanau Watersports.

CONFLICT OF INTEREST

None

ITEMS OF DISCUSSION/CONSIDERATION

**1. Site Plan Review - Leelanau Watersports, Parcel #011-022-030-00,
1274 Peck Road, Suttons Bay**

Chair Rathnaw said this is site plan review - Leelanau Watersports, 1274 Peck Road. Chair Rathnaw referred to the June 1, 2021 Planning Commission Meeting where the Planning Commission denied the Leelanau Watersports Site Plan of property located at 1273 S. Peck Rd., based on Sections 19.1, Intent, and Section 19.15 of the Zoning Ordinance. The Leelanau Watersports Site Plan was back before the Planning Commission as it was remanded from the Circuit Court, and the Planning Commission was directed to affirm, reverse or modify its decision regarding the site plan.

Attorney Tim Figura spoke about the Leelanau Watersports site plan.

- Don't think it would be sent back to PC if it wasn't important and necessary to go back to that decision that was made last year.
- When a matter is repealed to the Circuit Court, it has certain standards that it has to find if they want to support the position of the Planning Commission, requirements are a) that the decision complies with the Constitution and the laws of the State, b) it is based on proper procedure, c) is supported by competent material of substantial evidence on the record, d) represents the reasonable exercise of discretion as granted by law. The Circuit Court is going to give some deference to the Planning Commission, but needs to see the work that was done in getting there. You establish that thru the findings of fact required under Section 19.4 of the zoning ordinance when going thru site plan review, giving the reviewing body something to look to as the basis the decision that was made so they can determine whether it was reasonable or not.
- Base your decision on the facts, the zoning ordinance, and the site plan.
- This body previously determined that the use that was requested by the applicant was appropriate for the business district.
- Commercial Storage - defined as a space and place for the safe keeping of personal property for profit. The highlight here it is the keeping of personal property which is somewhere you would take your boat to have it kept safe over the winter, something along those lines. I don't think it describes what is happening at this business and doesn't fit the definition of commercial

storage.

- Using Section 19.1 of the zoning ordinance as a basis for turning down the application was sort of a catch all, and the real worry is that it appeared that you were turning it down because of the use of the property rather because of some other reasoning. It couldn't have been defended in court.
- Section 19.15 gives you instructions on how to develop conditions and the reasoning you use to develop those. Findings of Fact are needed to support a decision.
- Zoning Administrator, Steve Patmore, answered Mr. Koernke's question, what sections of the zoning ordinance would provide a basis for denying the request . Patmore said the Planning Commission relies upon the entire zoning ordinance to determine that it does meet or does not meet with conditions to make a determination.

Steve Patmore gave an overview.

- This is site plan review, not a public hearing, there was no notice. It is basically going thru the zoning ordinance. Article 19.4 was referred to, site plan review was triggered because it changed from residential to commercial use.
- The property is owned by Patrick Otto and is on Peck Road.
- The property is zoned commercial.
- On future land use map from 2012 shows area as being commercial.
- Is within the Village Growth Management area that is in the master plan.
- Parcel is 1.74 acres.
- Adjacent to this property to the north is zoned residential and is used as residential single family.
- To the east is commercial and residential, currently vacant.
- To the south is commercial and being used as commercial, and across the road to the west is zoned commercial but is vacant.
- Watercraft on the property owned by Leelanau Watersports according to the applicant.
- We didn't consider it a commercial storage facility and according to the applicant, there will be approximately 35 watercraft staged on the property during peak business periods.

- Agency approvals -
 - 1) Road Commission issued a permit allowing that site to be used in conjunction with the residence there, using Peck Road.
 - 2) MDOT was contacted about a potential driveway and sent an e-mail.
 - 3) Leelanau County Drain Commissioner - needs to be Drain Commissioner soil erosion review and Michigan EGLE would be involved if there is any impact on the wetlands.
 - 4) E-mail received from Health Department stating it is their policy that any change in use would require their review (needs to be addressed). Michigan EGLE would be involved if there is any impact on the wetlands.
 - 5) State Fire Marshal - said didn't need a permit, submitted a letter stating the fueling tank was in compliance with their standards.

Site Plan

- original site plan - no screening or fence shown, showed future driveway going out to M-22. (Future - not part of site plan review unless details and plans of that). If that were ever to come back and be part of the project, they would have to come back to PC to amend the site plan.
- Site plan looking at access from Peck Road.
- New site plan sent on May 19, 2021, at June 2, 2021 when the PC made its decision, staff didn't get a chance to make comments.
- New site plan has plan quite a bit of gravel, more than what was there before. Needs stormwater management plan and need to know what the wetland delineation line is on that parcel (is approximate area of high groundwater table), but think it is bigger than that, because where the driveway is going to go, EGLE said they need a permit so obviously goes across that area. Need soil erosion permit to do anything within 500' of a lake or stream, there was an application for that. Also need soil erosion permit for any commercial site plan that involves gravel. Don't need soil erosion permit to park on the grass, when adding gravel, definitely need soil erosion permit.
- Article 19 has standards for site plan, can establish conditions for approval.

Steven King, Attorney for Leelanau Watersports spoke about the site plan.

- This is a commercial business, personal service rental business and is a use by right.

- Zoning Ordinance says when there is a commercial piece of property and the use changes on it, it has to go thru site plan approval. Zoning has always been commercial, but there was a residence on it. (Section 19.4)
- Viewing the property, thru the length of the boundary there is a cedar bush fence which is 12-15 ft high, and the neighbors on the other side cannot see the business.
- The question is, are there any conditions that need to be put on the property pursuant to the zoning ordinance..
- Applicant giving up having a driveway on M-22. (Would remove the request for that driveway)
- They would remove their request to put in gravel, because Mr. Patmore said, if it stays grass, they are fine the way they are. (Withdrawing request to put gravel in).

Planning Commission - Questions and answers.

- Steve Patmore - Employee parking needs surface, the ordinance says parking areas, parking lots.
- Steve Patmore - need to see revised site plan and soil erosion permit but not as extensive as contemplated for.
- Steve Patmore - need to go thru the zoning ordinance.
- Steve Patmore - in February 2021 there were answers about the business.
 1. Customers don't go to the location, 2) Leelanau Watersports owns the watercraft, 3) the existing building is used for storage. 4) Currently on site, wipe the watercraft down inside, cleaning the glass, checking battery, checking air, anything major sent out to Lake Leelanau Service shop in Manton. 5) Only Leelanau Watersports vessels are at this facility, no servicing or repairs of outside watercraft. 6) If a boat should have an excessive amount of sand or food on it, the boat would be occasionally power washed then vacuumed. The exteriors are washed and waxed once per season at the service center in Manton. 7) On the average we rent out about 6 rentals per day during the 3 month season of June, July and August. The same boats are returned that day. 8) No hazardous materials stored on site other than a few quarts of motor oil. 9. Because no commercial washing there are no State permits required.
- Steve Patmore - On February 2021 the Planning Commission (6-1 or 7-1)

said that after looking at all the evidence that this use was a use by right and that's the way that I handled this.

Response by applicant -

- The 35 boats are not getting rented every day. Most of the boats have weekly rental. Majority of the rentals are 5 days to 2 weeks. Typically have 2-3 employees on site to handle single day rentals.

Steve Patmore - Section 8.7, Off-Street Parking & Delivery Access

- Determined there needed to be 4 employee parking places, that is shown on the site plan.
- Access shall be provided for the unloading of goods, supplies and merchandise from truck business without obstructing the public road right of way.
- (Site plan shows there is adequate room for loading and unloading without obstructing the public road right of way.)

Steve Patmore - Section 8.8 Yard Storage

- When ever a business establishment finds it necessary to store part of its goods, supplies, merchandise or returnable containers outside of the confines of the building structure, it shall provide an enclosure by solid fence of its equivalent not less than 6 ft. high around such storage area. Said fence is to be maintained in a manner that is consistent with the intent and purpose of this ordinance and does not adversely affect the adjacent property. In approving or disapproving such fence, the Zoning Administrator shall apply the following standards:

8.a - The fence shall be constructed of such material and such design as to reasonably prevent trespassers from entering the premises by scaling such fence. (The applicant has proposed a 6 ft high wood privacy fence with 6-8 ft cedar trees on the northeast and south property lines shown on the site plan). The word "obtrude" does not mean invisible, it means in an obtrusive manner.

Section 8.9 - Have this area in bulk requirements, have to meet the setbacks

- Article 3 talks about buffering and screening as well. There is a chart that says if you are between residential and commercial, you need to be buffered, do not need to be buffered between other commercial

properties.

- Section 3.6 - Minimum area and lot width, subject is a conforming lot, minimum setbacks in commercial district are 40 ft on the front, 10 ft. on the side and 30 ft. on the rear. (This particular lot has two fronts, the front on M-22, and on Peck Rd is a thru lot, so has 2 fronts and 2 sides). The setbacks really don't come into play. Same thing with minimum lot area covered by structures. There are no new structures. (Note: The front setback area in commercial district shall be appropriately landscaped and maintained in accordance with Section 3.12 Landscaping, Screening, Buffers & Greenbelts.) (There is a greenbelt necessary on Peck Rd. and on M-22). Greenbelt is a planting of trees along the roadway.
- Section 3.12(2), Landscaping, Screening, Buffers & Greenbelts. This section shall apply to any site plan review by the Planning Commission. The chart explains when a project shall require a buffer between adjacent land uses, and shows a buffer is required between a commercial and residential use. (The site plan shows a privacy fence and the planting of 6-8 ft. cedar trees as proposed in that area between the residential and commercial use.) The width of the area in which the landscaping or screening is to occur is determined by the required setbacks of the zoning district which in this case on the side is 10 ft. The area in which the landscaping or screening is to occur may include the required setbacks. A visual screen of natural plantings is preferred. The landscaping shall consist of a mass of evergreens and deciduous trees and shrubs so to continuously restrict the clear view of the uses on the property responsible for landscaping. The landscaping may only be required along the portions of the property that have immediate adjacent uses incompatible with surrounding parcels. (The swamp and wetland areas do not need landscaping). In required areas where natural landscaping is considered to be impractical or inappropriate, an opaque fence of a wall 6 ft in height may be substituted in all or part.
(Section 8.8 requires a fence which would take precedence over this).
(Parking lot - this is no customer parking on the site, employee parking is shown on the site plan within the area that is landscaped). Landscaping of greenbelts - greenbelts parallel to the road shall be cleaned up as a required setback, such setback shall be landscaped with a minimum of one tree per each 30 ft. (The site plan shows arborvitaes a lot more than that).

Plantings that occur in groupings throughout the greenbelt, the number of plantings being one per 30 ft, the remainder of the greenbelt shall be landscaped and grassed with shrubs and natural plant material. The approval of the overall plan is subject to site plan review. The Planning shall look for the plan to achieve at least the same visual and sound barrier between the area being landscaped and the adjacent property as to the goals of this section. Access ways from public rights of way to required greenbelts shall be permitted, but such access ways shall not be subtracted from the linear dimension used to determine the minimum number of trees required (1 per 30 ft). Nothing in this section shall be construed as permitting any obstructive view which could be constituted a traffic hazard or a violation of clear site distance. (On the Peck Rd that is 150 ft of frontage, 6 trees required, a lot more than 6 being shown). (The M-22 frontage that is currently wooded and what you have done in the past, to make that a requirement that the wooded area be maintained or a new greenbelt to planted if the existing woods were to be removed).

Height and traffic visibility - structures and signs at the site entrance and exits may be up to 12 ft in height as long as not permitted to allow obstruction of the view which could constitute a traffic hazard. Fencing and structural screening materials of a height bigger than 3 ft shall not be located within a required front setback adjacent to a road or street. No fence, wall sign or screen or planting shall be erected or maintained in such way as to obstruct vision or interfere with traffic visibility on a curve. No fence, wall sign or planting shall be erected or maintained in such as way as to obstruct view vision between the height of the tree at 10 ft at entrances and exits. (There is no signage shown on the site plan). Uses require screening of mechanical equipment including air conditioning and heating, water and gas meters, exhaust fence are to be screened at the height of the particular piece of equipment by landscaping or by a solid wall or fence from view of the street or surrounding properties. (There is no mechanical equipment being proposed here, if the privacy fence was constructed it would be behind that).

Section 3.12.9 - Materials for structural screening. Wooden screens may be erected with wood posts not less than 4" x 4" of solid wood not less than 1" thick. Masonry piers may be substituted for wood posts. The posts shall be spaced not more than 8 ft apart on center. The finished side of the screen

shall face the abutting properties. Other screening may be allowed if the Planning Commission finds that such other structural screening will achieve at least the same degree of visual and/or sound barrier effect in the area of the screen and adjacent properties. The screening device is specified in this section. (The site plan is proposing a 6' high wood fence. The finished side of the fence shall be facing outwards.) - Would have to be a condition. The screening device is specified in this section. (The site plan is proposing a 6' high wood fence. The finished side of the fence shall be facing outwards. - would have to be a condition.)

Exceptions and alternate methods of compliance

The Planning Commission has the latitude to grant and approve such methods for landscaping, buffering, screening of greenbelt

Off-Street Parking - There will be no customers served at this facility. (No customer parking is proposed). There is adequate room for employee parking in the watercraft storage area. (It is recommended that a condition be imposed that there shall be no parking associated with businesses allowed on Peck Rd. or M-22).

Site Plan Review Section - Site standards for site plan review. The Commission or Zoning Administrator as applicable, shall approve or approve with conditions if the site plan meets all of the following standards. a) it meets the ordinance. Regulations of this ordinance which apply generally to all districts found in Article 3, General Provisions shall apply to all applicable regulations of the zoning ordinance which apply to specific zoning district which is commercial. All specific standards for the proposed special use if applicable (not applicable, not a special use). Any conditions imposed with the granting of a special use permit or variance - (not applicable). All utilities shall be distributed on site in a manner which is at least harmful to surrounding properties. All electric, telephone, cable and other lines shall be located underground. (usually a condition). Water lines, sewer lines, all provisions for surface water drainage shall be approved by the appropriate agency and designed in compliance with any applicable Federal and/or State statute and any township or county ordinance. Evidence of sufficient protection will insure that there will be no additional stormwater runoff created by this project, or that adequate measures have been taken to accommodate such stormwater runoff created on the site.

b) Reasonable conditions may include conditions necessary to 1) insure

that public services and facilities affected by a proposed land use or activity will be capable of accommodating an increased service and facility loads caused by the land use or activity. 2) Reasonable conditions may include conditions necessary to protect the natural environment and conserve natural resources and energy, 3) conditions may include conditions that necessary to insure compability with adjacent uses of land.

Conditions imposed shall meet the following requirements

1. Be designed to protect the natural resources, health, safety and welfare of those who use the land or activity under consideration. Residents and landowners immediately adjacent to the land or proposed activity in the community as a whole, 2 be related to the valid exercise of the police power and purposes which are affected by the proposed use or activity, 3) be necessary to meet the intent and purpose of the zoning ordinance, be related to the standards established in the ordinance to the land use or activity, consideration to be necessary to insure compliance with the standards. (That is the criteria for setting conditions).

Section 19.15 - (You can establish conditions on site plan approval).

There is a section about financial security.

Steve Patmore answered questions about the site plan -

- Need Health Department review. Sometimes things need to be taken care of before you do the approval.
- Graveling the whole site, was concerned about stormwater runoff, should the gravel be a condition.
- Have to get all permits and approvals.
- No parking allowed on APeck Rd or M-22 associated with the business.
- Any new utilities shall be installed underground.
- Any outdoor lighting shall be shielded downward and meet the requirements of the zoning ordinance.
- Any signage shall be in compliance with the zoning ordinance (add that a permit is required).
- Privacy fence requirements - finished side shall be facing outwards, shall be maintained, shall be solid with materials that can be addressed.
- That landscaping shall be installed as shown on the site plan.
- Maintain a greenbelt.

- Maintain the existing greenbelt along M-22. Not approving entrance on M-22.
- Revised site plan needs to be submitted showing that there is gravel.
- Building on site would be used to store life jackets, etc.
- Delineate the wetlands on the site plan.

Dennis Rathnaw - Another meeting should be held on the site plan review to get all the questions answered.

PUBLIC COMMENT

Gary Hoenscheid spoke about Leelanau Watersports.

Wayne Livingston spoke about Leelanau Waterports.

Steven King spoke about Leelanau Watersports.

NEXT REGULAR MEETING - June 7, 2022

ADJOURNMENT - The meeting was adjourned at 8:06 p.m.

Minutes by Marge Johnson, Recording Secretary
Dee McClure, Secretary