

SUTTONS BAY TOWNSHIP PLANNING COMMISSION

SITE PLAN REVIEW

LEELANAU WATERSPORTS

MAY 17, 2022

PAST MEETING MINUTES

Draft Minutes

SUTTONS BAY TOWNSHIP  
SPECIAL PLANNING COMMISSION MEETING

February 2, 2021

**CALL TO ORDER**

Dennis Rathnaw, Chair called the Suttons Bay Township Planning Commission Meeting to order on Tuesday, February 2, 2021 via Zoom.

Remote Access Meeting. Chair Rathnaw said there will be a roll call of any motions made.

**ROLL CALL** - Quorum Present Chair Rathnaw asked each member to introduce themselves and state their location.

Present: Dennis Rathnaw, Chair; Tom Nixon, Amy Coleman, Doug Periard, Susan Odom, Don Gregory, Dee McClure,. Absent: Rhoda Johnson

Staff Present: Steve Patmore. Planner Present: Matthew Cooke

**Approval of the Agenda**

*Tom Nixon/moved, Dee McClure/supported, to approve the Agenda, PASSED.*

**Public Comment**

Commissioner Susan Odom said she is concerned about a possible violation of the Open Meetings Act by members of the commission and submitted a statement in that regard. She asked that the statement be made part of the minutes which is attached hereto.

Barbara Hagan, 12260 E. Freeland Rd - asked about Southwell property, and the OMA.

**Conflict of Interest**

None.

**Approval of the Minutes – January 5, 2021 Meeting Minutes**

Don Gregory stated that the approval of the December 15, 2021 minutes should state he voted no on the Minutes. Chair Odom; "meaningfully". Jon Walter - absent.

*Tom Nixon/moved, Don Gregory/supported, to approve the January 5, 2021 Minutes with corrections. Roll call vote: Yes: Periard, Odom, Nixon, McClure, Gregory, Coleman, Rathnaw. No: None. Motion passed.*

## Items for Discussion/Consideration

### 1. Site Plan Review - Leelanau Watersports, 1274 S. Peck Rd.

Steve Patmore introduced the project. This is a detailed site plan review, not a special use permit which is considered for approval by the Planning Commission. The subject property is in the commercial zoning district and basically is a change of use at 1274 S. Peck Rd. The use changed from a residential dwelling to a commercial watercraft rental business. Improvements being proposed on the site - a new gravel access road on M-22 where there is not one now, the second is to improve the existing gravel drive on Peck Rd., and the third improvement is the installation of privacy fences on the property.

Applicant - Patrick Otto - owner of Leelanau Water Sports, Manton, MI, described Leelanau Water Sports.

Chair Rathnaw asked for public comment.

Scott Howard, Attorney, 420 E. Front St., Traverse City, MI, representing Sharon and Wayne Livingston indicated that he did not feel the proposed use was allowed and cited various areas of the zoning ordinance. 1. The proposed use is commercial storage which is only allowed in the Agricultural Zoning District. 2. The proposed buffering is not adequate. 3. The planning commission does not have much authority to deviate from the buffering standards.

Wayne Livingston, 1258 S. Peck Rd., discussed the proposed site plan and boat maintenance.

Sharon Livingston, 1258 S. Peck Rd., spoke about the site plan and the proposed fence

The applicant stated that he owns three other locations in Northern Michigan. He added that the he has 35 rentals (which include kayaks) at ~~each~~ *this* location—the boats are not moved around. (*Planning commissioner Johnson did not recall the # 35 being mentioned*) He added that they will be phasing out kayak and paddleboard rentals and focusing on boats. Mr. Otto indicated that they had ~~almost 700~~ 690 reservations last year.

Mr. Otto indicated he has 11 employees. He stated he has been working with Steve for over a year to get this plan submitted.

Mr. Otto stated that he planned for a number of improvements to the building as well as the site. He hoped to use the building and put on a nice store front that would face M-22 and close the Peck Road access. He plans to add an access road off of M-22. In addition, he plans to keep the screening on the north side of the property. When asked about the fueling station he indicated he has no plans to move it. He has submitted plans to EGLE and MDOT.

#### Planning Commissioner Comments:

The planning commission asked about the traffic count per day and parking availability for staff. Commissioners asked if approval had been received from MDOT for a curb cut. Mr. Otto

indicated he has spoken with both entities. The commission asked if this would be better suited in the industrial district. Patmore stated this is a commercial watercraft rental business. This is not a storage facility. The future Master Plan shows this area as commercial. Patmore went on to say this this is a use permitted by right.

Commission members asked if Section 4.4 was a better fit. Patmore stated a watercraft rental business is not allowed in the Agricultural district.

Commission members then discussed if it would fit better in the industrial district. Patmore did not disagree it would be allowed in the Industrial District, however it meets the use permitted by right in the commercial district and this is the location of the application at hand.

Commission members discussed personal services and a service establishment. Commission members asked about the definitions and whether they were defined in the Ordinance. Commission members asked if the attorney could weigh in and state if this is a personal or a business service and whether a watercraft rental is allowed.

It was noted that the role of the zoning administrator is to interpret the Ordinance. He has provided his interpretation. If an interpretation is requested from the attorney then the application should be tabled.

*Dee McClure/moved, Don Gregory/supported, that the Planning Commission seek an outside outside legal opinion from the township attorney on what is legally allowed in the commercial district, whether the proposed use falls within the approved uses in the commercial district. Roll call vote: Yes: Gregory, McClure, Odom, Periard, Nixon, Rathnaw. No: None. Motion passed.*

*Dee McClure/moved, Susan Odom/supported, to table the application of Pat Otto for site plan review until a township attorney's opinion is rendered. Roll call vote: Yes: Gregory, McClure, Odom, Periard, Nixon, Rathnaw No: None. Motion passed.*

## **2. Planner's Zoning Ordinance Overhaul Update and Schedule Special Meeting(s) to Complete Zoning Ordinance Overhaul Project - Proposed dates - February 16, March 16, April 20 & May 18.**

Mathew Cooke submitted a Memo regarding the zoning ordinance overhaul update. Those were the items he found in Kathy Egan's notes. Kathy Egan had noted that Section 3.2 has been completed and for Article XII, Waterfront Resort, the last paragraph of the article was left as something to be done. There were other notes with regard to other sections of the zoning ordinance that had to be done. Legal review will be followed by a public hearing.

Consensus to add #5- Look at special events in general with fresh insight and perspective to make sure the zoning ordinance reflects our true intent.

Proposed dates for special meetings was reviewed. The first meeting will be held on February

16, 2021.

**REPORTS:**

Zoning Administrator - Steve Patmore reported he has seen a new site plan for Capital Stone. He added that the owner is making refinements. The Southwell Project was approved with conditions. Applicant can appeal the decision or can wait 120 days to make a new application

Planner - Mathew Cooke - started the Zoning Administrator's Program thru MSU Extension.

Township Board - Expect to see draft of Network Northwest Contract. Also, looking at hiring independent planner.

**Commissioners' Comments** - None.

**PUBLIC COMMENT** - None.

Next meeting Agenda - February 16, 2021 - Zoning Ordinance Overhaul Special Meeting.  
March 2, 2021 - Review of By-Laws

**ADJOURMENT** - Chair Dennis Rathnaw adjourned the meeting at 8:03 p.m.

**Minutes by Marge Johnson, Recording Secretary**

**Amy Coleman, Planning Commission Secretary**

Statement of Susan Odom

At our last meeting on January 5 I was voted out as chair and Dennis Rathnaw was voted in. Those election results are satisfactory and are not the issue. The issue I object to are the events that happened on private phone calls before the meeting.

The following is an account of those pre-meeting calls. I received this information from Tom Nixon, Dennis Rathnaw and Dee McClure when they called me to discuss the situation. Here is the synopsis. Don Gregory called Dennis to ask him to be the next chair. Dennis said yes but only if I was willing to step down. Then Don called all the other Planning Commissioners, except Rhoda Johnson and me, to secure their votes for Dennis.

Then Don had Tom call me to ascertain my feelings about the election and if I still wanted to be the chair. Tom explicitly told me that Don had talked to the other Planning Commissioners and that another candidate had been found and also enough votes for him. I didn't give Tom an answer because it all seemed rather fishy to me and my intuition told me not to trust him.

Then Dennis called me to talk about it honestly. The first words out of his mouth were, "I think Don Gregory is using me". I replied that was probably true. Dennis wasn't sure what to do. I did tell Dennis I planned to nominate myself. Dennis also confirmed that Don said to him that he had talked to all the Planning Commissioners, except Rhoda and me, to secure enough votes so that he would be elected.

None of this seemed right to me. Don Gregory was orchestrating who the next chair would be and doing it outside of a public meeting. I thought there must be rules against this somewhere. So I went to the Michigan Township Association website for help. I read the language of the Open Meetings Act and then read the Handbook for that Act published by the State Attorney General. It says:

"...where board members use telephone calls or sub-quorum meetings to achieve the same intercommunication that could have been achieved in a full board or commission meeting, the members' conduct is susceptible to "round-the-horn" decision-making, which achieves the same effect as if the entire board had met publicly and formally cast its votes. A "round-the-horn" process violates the OMA. "

*([https://www.michigan.gov/documents/eqle/eqle-oqmd-mining-cmmfopenmeetingsact\\_674793\\_7.pdf](https://www.michigan.gov/documents/eqle/eqle-oqmd-mining-cmmfopenmeetingsact_674793_7.pdf))*

It is my opinion that Don Gregory violated the Open Meetings Act. He made private phone calls to all the Planning Commissioners, except Rhoda and me, to secure their votes for Dennis. I think the public should know about this. Even if it is proven that Don did not violate the Open Meetings Act his actions were sneaky and behind-the-scenes and not at all in the spirit of open public meetings.

I request that this statement be entered into the minutes in its entirety and I will provide a digital copy for that purpose.

Approved 4-6-21

Thank you for your time.

Most Sincerely,

Susan Odom

3400 N. Setterbo Road

Suttons Bay, MI 49682

**Draft Minutes**

**SUTTONS BAY TOWNSHIP**

**SPECIAL PLANNING COMMISSION MEETING**

**March 16, 2021**

**CALL TO ORDER**

Dennis Rathnaw, Chair called the Suttons Bay Township Special Planning Commission Meeting to order on Tuesday, March 16, 2021, at 6:02 p.m. via Zoom Remote Access. Chair Rathnaw said there will be a roll call of any motions made.

**ROLL CALL - QUORUM PRESENT**

(Planning Commissioners stated where they are during the meeting)

Present: Dennis Rathnaw, in Chicago, Ill.; Tom Nixon, Suttons Bay Township, Rhoda Johnson, Suttons Bay Township, Don Gregory, Suttons Bay Township, Susan Odom, Suttons Bay Township; Dee McClure, Suttons Bay Township; Andy Brandt, Suttons Bay Township; Amy Coleman, Suttons Bay Township.

Absent: Doug Periard

Staff Present: Steve Patmore, Mathew Cooke

**APPROVAL OF AGENDA**

*Dee McClure/moved, Andy Brandt/supported, to approve the Agenda as presented, PASSED.*

**PUBLIC COMMENT**

Chair Rathnaw opened public comment. Patrick Otto will be allowed to make a comment under Leelanau Watersports Site Plan Review.

Alex Dingrando, 7716 E. Otto Rd., read from a statement provided to the planning commission regarding Leelanau Watersports.

Scott Howard, Atty., 420 E. Front St, Traverse City, MI, representing the Livingston's, feels the use is a commercial storage and belongs in the Ag District.

Gary Hoenscheid, lives on Peck Rd. commented on Alex Dingrando's statement.

Wayne Livingston, 1258 S. Peck Rd., commented on the boat rental business.

Sharon Livingston, 1258 S. Peck Rd., commented on the boat rental business.

Public comment closed.



**CONFLICT OF INTEREST** - None.

**ITEMS FOR DISCUSSION/CONSIDERATION**

**1. Continuation of Site Plan Review, Leelanau Watersports 1274 S. Peck Road**

Chair Rathnaw said the Leelanau Watersports Site Plan Review had been tabled at the last meeting when the Planning Commission requested a legal opinion from the Township Attorney.

Steve Patmore reintroduced the Leelanau Watersports site plan. This is a request for a change in use in the commercial zoning district at 1274 S. Peck Rd. from a residential dwelling to a commercial watercraft rental business.

The improvements shown on the site plan are:

- A new gravel access road to M-22
- Improvement of the existing gravel road on Peck Rd.
- Installation of privacy fences.

Under the site plan the dwelling on the property would stay there.

Process - change of use requires a detailed site plan by the Planning Commission since the area is larger than 3000 square feet. There is no requirement for a public hearing and the governing standards for special land use permits do not apply.

The Planning Commission reviews a Detailed Site Plan.

General Findings of Fact was reviewed by Steve Patmore.

Patrick Otto, Leelanau Water Sports made comments about his business

- This is an equipment rental company which is allowed in the township.
- This is not a commercial boat storage, no storage of anyone else's boat. It is for Leelanau Watersports.
- He is the manager and owner of this company.
- MDOT has given approval for the driveway.
- The rental business is open from May thru September.
- Customers rent boats for 3-4 weeks at a time.
- Fuel storage - local company fills the fuel tank which has been approved by the State Fire Marshall and reviewed by EGLE
- Plan on landscaping all three buffer zones (back, northeast and south and

M-22) and construct a privacy fence.

- Goal is to move the commercial operation to M-22, no vehicles going in and out of Peck Rd. (approved by the Road Commission)

Questions from Planning Commission and answers from Patrick Otto

- Q - Where is the driveway to be located
- A - MDOT has approved a driveway away from Barrels & Barrels in a tentative location pending IGLE approval.
- Q - Looking at the site plan, what are plans for parking boats, turn around space, storage, restrooms, emergency vehicles, service trucks and employee parking.
- A - House will be pulled out of the back area in Spring of 2022. The office and shop will be built at the same time. Boats will be stacked two deep along the east side and west side. Will be driveway in the back for emergency vehicles on east of Peck Rd. Plan on putting the fences and landscaping in this spring. Will be crushed limestone parking lot. Will have handicapped parking area.
- Q - Requirement for parking
- A - Steve Patmore - employees come in and unload boats, no finished area for employee parking.
- A - Mr. Otto - currently have no Leelanau Watersports vehicles. Delivery drivers are using their own SUV's or pickup trucks. In future will have Leelanau Watersports vehicles that tow boats. This company purchased 4 years ago from the principal of Glen Lake which was based out of Leland and Cedar and now it is in Suttons Bay. There are other locations in Cadillac and Higgins Lake.
- Q - Where do the boats go that are rented?
- A - Some people rent the boats for the season. Some people rent the boats as extras when have family come to town. These boats are kept on the renters docks. Most are several day rentals. There are a lot of boats and a lot of trailers that are parked there.
- Q - What is the site plan we are supposed to be reviewing.
- A - Steve Patmore, site plan was sent to the planning commissioners, does not include any new building, doesn't show gravel driveway. Looking at a change of use, and the only improvements are a new driveway, buffering and fencing.
- Q - What are the size of trees and fencing?
- A - Would plant arborvitaes and put fencing back 6-8 feet from the north property line.

- Q - Can you share the approvals you have received?
- A - Driveway contingent on approval of the site plan and EGLE has to sign off on where the driveway can be.
- Q - Where is the fence going to be, no buffer planting shown on any of the borders, type of material for driveway - shouldn't the proposed improvements be on the site plan?
- A - (D. Rathnaw) - If applicant doesn't get the permits, the site plan is void.
- Q - What are hours of operation?
- A - 8 a.m. to 8 p.m.
- Q - Daily maintenance.
- A - Typically no daily maintenance involved short of filling them up at one of the gas stations in the area. The fuel tank on site is for filling everyone of the boats. Boats are wiped down every morning.
- Q - Seasonal maintenance?
- A - Boats are under warranty, go to the local marinas. Have changed oil before under controlled circumstances. Have 3,000 sq ft shop in Manton where do maintenance.
- Q - Winterizing?
- A - Done on site, wrap boat with plastic and put some supports in there. Heat gun shrinks it to the boat.
- Q - Storage, bathroom.
- A - Is liveable home on the property has bathroom facilities.
- Q - Would like to actually see where the boats are going to be stored and where the driveway will be.
- Q - What triggers site plan review?
- A - Steve Patmore - New building, new area that triggers site plan review in Article 19.

***Dee McClure/moved, Dennis Rathnaw/supported, to extend the meeting to 8:30 p.m., passed.***

#### Attorney Opinions Received

- All attorney opinions received refer to Leelanau Watersports and use by right under commercial zoning. Legal opinions on both sides.
- Planning Commission could release the Township Attorney's Opinion to the public.

Discussion - Township Attorney's Opinion

- (Summary of Opinion) – “It's my opinion that the proposed use of the watercraft rental business is allowed by right in the commercial district both under personal services as well as equipment rentals, and that no other zoning district appears to more specifically describe the use proposed by the applicant. The proposed use is subject to site plan review to ensure that it meets all of the other requirements of the zoning ordinance”.
- Dennis Rathnaw - Crux of that language - found to fit into other zoning districts but not specific to that district enough to make it limited only to that district. It may work in agriculture for instance or industrial, it isn't limited specifically to that zone and does fit under commercial.
- Tom Nixon - Attorneys Opinion does carry a lot of weight in my comment of support as do the other attorney opinions, recognize what Mr. Otto is proposing yet like Scott here, they are all officers of the Court, and I think have a due diligence to perform and come up with what they feel is the appropriate response to the question. Thinking about Mr. Otto's proposal, I would need arguments to persuade me away from why this is not a service because I think there are a host of activities that can certainly fall under that umbrella from bicycle rentals, motorcycle rentals, car rentals, equipment rentals like tools, power tools as well as hand tools, anything that somebody has a need of that isn't an ownership basis for themselves. Looking at what Mr. Otto has provided for us in the last few meetings, I am pretty well persuaded that he provides exceptional service, and I think having boats delivered to people in various locations is an extremely positive service. They don't have to come to him, he comes to them. Secondly, being in a tourist area, being able to provide people here who come with opportunities to enjoy our community is kind of like the guy downtown in the village who rents kayaks and rents out bicycles. I am persuaded this is really a service, and I think it meets the criteria that we should be looking at for being identified as a service as a rental because it does provide people a commodity for them to use for a specific period of time and no ownership right to that commodity.
- Rhoda Johnson - Steve mentioned that this could be released. I don't see anything confidential. I wouldn't have a problem with this being released and put in with the other papers in the file.
- Susan Odom - I think that this opinion from our attorney about the use issue should be released. I find that the information is released so that everybody is kept on the same page and has the same information. People can't go to the website and read this. Information should be shared and be utterly

transparent.

- Dennis Rathnaw - Are we leaning on agreeing with the opinion I guess is the idea here, or are there arguments against. To your transparency comment, we don't have to follow this opinion. Whether it is advisable to go against your attorney is another question, but we can decide this isn't the case.
- Dee McClure - I think the attorney brings up some good in the vagueness in the zoning ordinance. I am leaning toward agreeing with Tom relating to this is a service, and there the attorney's opinion would be a guidance for us, but I do think that it does bring up the clarification perhaps as we proceed on revisiting our zoning ordinance. By definition Dennis can't capture every single situation that we could think of, but it is food for fadder if you will.
- Dennis Rathnaw - I agree every time we get into a spirited debate, it is a good chance to look at the ordinance. I want to make sure we get both sides of the opinion before a vote. If there are good reasons not to go along with the opinion, then we should hear them.
- Susan Odom - I understand the opinions from both our attorney and the attorney that Patrick hired, and the attorney that the Livingstone's hired. I keep thinking about form-based zoning. If this was a formed based zoning thing, this looks like boat storage, like people are storing boats there, and it doesn't quite fit into our ordinance, but the reality of the situation is that when you are driving down M-22, it looks they are storing boats out here like right on the way into town. Generally, boats are stored out in a rural area be that agricultural or industrial in a place that's not visible from the road, and I heard illusions to Northern Lumber and their rental service. Indeed, they rent equipment, it's way around back. I have rented pieces of equipment from them. You drive into their driveway, and it's a couple of buildings, nobody can see when you are picking up a rental piece of equipment, or a piece of equipment that is for rent. This one particular question, use permitted by right, I think we might be penned in by our own language. The fact of the matter is that it looks like somebody is storing boats there, because for the vast majority of the year there are boats wrapped up in plastic like you would see in a boat storage area. The fact that the use if a fine point whether it is permitted or not, it's such a fine point that we have four opinions from four different attorneys on it with differing opinions. On top of that the site plan is so poor and inadequate and not including the detail that we need. I am not quite sure how to proceed.
- Dennis Rathnaw - I will add to that if it doesn't look the way the ordinance, if we are truly penned in by the ordinance language, we do have the power to change the look of it at least.

- Susan Odom - That's a going to be tricky, because our ordinance says it has to have a 15-foot fence, because our language says that nothing can obtrude over the top of the fence, or we could have 20- foot conifers planted. The objects stored within are not supposed to be observed from without. How are we going to do that on such a tight piece of property. Everything points that this is not an appropriate use of the property. We don't have to do what the township attorney says, that is his opinion.
- Andy Brandt - Thinking about it the same as you, Tom and Susan in this regard. It is equipment rental, and certainly during those summer months it meets that criteria for sure. During the rest of the year, it looks like boat storage. If one person owns all of them, where do you go with that. I don't know exactly where we fit, but I certainly think this fits as an equipment rental definition. In the same token, there is a lot of equipment that a company rents out for the few months of harvest. It is not dissimilar, but I don't know where they store it. I don't how you deal with the fact that pontoon boats stick up pretty high around there and am not sure how you buffer that, with plantings during the summertime, and store the boats somewhere else in the wintertime, take them elsewhere. You can't really block that, it's tall if it's 15 feet.
- Dennis Rathnaw - I would like to concentrate on the use by right. I'm not sure if the fencing is involved in that.
- Tom Nixon - An attorney for our township gives us advice to help us. That has to carry some weight. Their purpose in citing an opinion for us is to help us keep out of trouble. It doesn't mean that their opinion resolves all matters, but it's their thinking rather than our feeling that allows them to say, this is what we think is best for you. Secondly, I would remind the commissioners that Steve occupies a position of authority on this Planning Commission as well as an independent zoning administrator. As a respective township board member, I have no authority over what Steve can opine. I can't tell him what he should say and what he shouldn't say any more than the body of the township board can say to Steve, no, you must think this way Steve rather than that way. He is an independent contractor who is by law under the Zoning Act permitted the right to offer opinions and to seek redress for issues as he feels appropriate. .... The value of a township attorney is to be weighed in respect to their opinion to assist us, and to assist us from not getting into trouble. The value of a zoning administrator is an independent judgment as well, and I think that we have received both of those opinions which strengthens my point of view is that I think practically speaking that this meets the ordinance requirement for this being a service use.



**Motion that the water craft rental business is a use by right in the commercial district**

*Don Gregory/moved, Tom Nixon/supported, that the water craft rental business is a use by right in the commercial district. Roll call vote: Yes: Dee McClure, Tom Nixon, Don Gregory, Rhoda Johnson, Andy Brandt, Dennis Rathnaw. No: Susan Odom. Absent: Amy Coleman. Motion passed.*

Planning Commission requests that Patrick Otto submit a revised site plan with the following information:

**Leelanau Watersports Revised Site Plan**

- Show off-street parking and delivery access
- Show employee parking places
- Show how boat parking will be configured
- Show gravel field if part of this phase
- Show paved apron entrance - MDOT Standard
- Show evidence of 35 boat parking spaces
- Show where internal circulation is
- Show driveway location, indicate if tentative
- Submit letter from EGLE that the requirements for the location of the driveway have been met
- Identify where tall boats will be stored (less intrusive to the neighbors)
- Show drawing of the fence
- Show buffering-combine fence and landscaping-between different land uses (greenbelt on M-22)
- Need schedule of plantings for specific areas (type and size)
- Landscape Plan - Trees indicated in height, planting methods and a maintenance plan (on all 3 sides of the property)

Dennis Rathnaw said this discussion can continue in 2 weeks at the next meeting. Planning Commission is requesting a revised site plan with more detail.

**PUBLIC COMMENT**

Patrick Otto - will be working on revised site plan review.

Wayne Livingston - commented on the landscaping.

Sharon Livingston - commented on township attorney letter to Mr. Otto regarding

Approved 5-4-2021

site plan.

Scott Howard - is Planning Commission going to release the letter from the Township Attorney?

Release of Township Attorney Letter

*Susan Odom/moved, Rhoda Johnson/supported, to release the letter to the public that was written by the Township Attorney regarding the use issue on Leelanau Watersports. Yes: Andy Brandt, Susan Odom, Tom Nixon, Don Gregory, Rhoda Johnson, Dee McClure, Dennis Rathnaw.*

*No: None. Absent: Amy Coleman Motion passed.*

**Commissioner Comments -**

Tom Nixon - assume we are having on-line zoom meetings.

Rhoda Johnson - health, safety and welfare is measurable.

Next Planning Commission Meeting - Tuesday, April 6, 2021.

**ADJOURNMENT**

Dennis Rathnaw adjourned the meeting at 8:37 p.m.

**Minutes by Marge Johnson, Recording Secretary  
Amy Coleman, Planning Commission Secretary\_**



Approved 6-1-2021

**SUTTONS BAY TOWNSHIP**

**REGULAR PLANNING COMMISSION MEETING - MAY 4, 2021**

**CALL TO ORDER**

Dennis Rathnaw, Chair, called the Suttons Bay Township Planning Commission Meeting to order on Tuesday, May 4, 2021 at 6:10 p.m. via Zoom. Chair Rathnaw said there will be a roll call of any motions made.

**ROLL CALL -** Quorum Present

Present: Dennis Rathnaw, Chair; Tom Nixon, Stony Pt. Rd., Doug Periard, Herman Rd; Susan Odom, Suttons Bay Twp; Don Gregory, Setterbo Rd.; Andy Brandt, Suttons Bay Twp; Rhoda Johnson, Suttons Bay Twp, Dee McClure, SB Twp;

Absent: Amy Coleman

Staff Present: Steve Patmore. Planner Present: Mathew Cooke

**Approval of the Agenda**

*Dennis Rathnaw/moved, Dee McClure/supported, to approve the amended agenda, moving Annual Report to No. 1, and No. 2 Continuation of Site Plan Review- Leelanau Waterports, passed.*

**Approval of the Minutes**

Chair Rathnaw asked the Commission if there are any corrections or additions to the draft minutes.

March 16, 2021

*Tom Nixon/moved, Dee McClure/supported, to approve the March 16, 2021 Minutes as presented, passed.*

April 6, 2021

*Susan Odom/moved, Tom Nixon/supported, to approve the April 6, 2021 Minutes as presented, passed.*

**Public Comment**

Lois Bahle, Village of Suttons Bay, asked if there is a spot for community solar in

the zoning ordinance.

Larry Mawby, Village of Suttons Bay, asked if the Planning Commission would be willing to incorporate solar arrays language in the township zoning ordinance.

Jon Stimson, Home Stretch Non-Profit Housing Corp., said Home Stretch is planning to develop a multi-family residential site of 8 townhomes in the ag district on Marek Rd. Stimson said he is proposing a PILOT ordinance for this project.

Lydia Riley, Attorney, appeared on behalf of Sharon and Wayne Livingston and stated why the Livingston's are opposed to the Leelanau Watersports Project.

Wayne Livingston, 1257 S. Peck Rd., spoke about the proposed Leelanau Watersports.

Sharon Livingston, 1257 S. Peck Rd., spoke about the proposed Leelanau Watersports.

Alex Dingrando, spoke about the proposed Leelanau Watersports.

### **Conflict of Interest**

None.

### **Items of Discussion/Consideration**

#### **#1 - Annual Report -**

Mathew Cooke, Planner, submitted the Annual Report for 2020.

Tom Nixon asked that the following comments be added to the Annual Report. "Jon Walter will be remembered as an outstanding planning commissioner who consistently provided valuable insight for architectural issues, property usage and designs."

***Tom Nixon/moved, Dee McClure/supported, to adopt Resolution No. 1 of 2021 approving the Annual Report for 2020 with corrections and send it on to the Township Board.***

***Roll call vote:***

***Yes: Rathnaw, Gregory, McClure, Odom, Johnson, Periard, Nixon, Brandt***

***No: None***

***Absent: Amy Coleman***

***Motion Carried.***

## **#2- Continuation of Site Plan Review - Leelanau Watersports**

Steve Patmore said he received a message just before this meeting that Patrick Otto has another meeting, and he will not be present at this Planning Commission Meeting. Patmore said the Planning Commission does have a site plan, and that he would like to talk about the changes that were made.

Dennis Rathnaw said the Planning Commission voted to allow this application by right in a commercial zoning district. The lot has been zoned commercial for quite some time and is on our future land use map as a commercial parcel.

Steve Patmore reviewed the list of the items the planning commission wanted to see in the site plan.

- The entrance to M-22 would be added in the future. It needs approvals and details. Recommended that this not be part of anything approved as the original phase until such time as permits, approvals and details are submitted. It's not part of this site plan.
- The letter from EGLE stating the requirements for the driveway permit has been met has not been done yet because EGLE has not done any determination. Not shown where tall boats will be stored so as to not be obtrusive.
- The details of the 6 ft high fence were submitted today. The only schedule for plantings is 6-8 ft tall cedars along the fence line.
- He also noted that in Section 8.8, the word "obtrude" means visible in an obtrusive manner, does not mean it can't be visible. Is the watercraft a material? Keep in mind when reviewing buffering and screening.

Planning Commission - Discussion yard storage, fencing and buffering, definition of material.

- Can use word "obtrusive" in 2 ways - offensive, unwanted.
- Materials of his business are renting boats, what he is storing and shall not obtrude above the fence.
- Subcommittee envisioned a nice business area, fence an eyesore even if covered with trees.
- A lot of the boat parking spaces are less than 20 ft. wide.
- Fence shall not obtrude to adversely affect adjacent property.
- The watercraft is being stored outside the building.
- Defining boats as material
- Parking section of zoning ordinance - driveway shall be on stable ground.

*Consensus of the Planning Commission to extend the meeting to 8:15 p.m.*

Comments from Steve Patmore -

- The natural areas to the North is considered part of the site plan.
- Look at the whole property especially the improvements that are being proposed.
- The site plan would be amended when the M-22 driveway is put in, or could be a condition of the permit that you have to have a driveway to M-22.
- Findings of Fact would have to show why Peck Rd can't be used for that kind of use.
- MDOT has indicated that they would likely issue a permit for a commercial driveway there contingent upon EGLE approval.
- The applicant has a permit from the Road Commission to use the Peck Rd driveway based on a January 8, 2021 permit.

Comments from Planning Commission

- Would not approve site plan unless primary access is on M-22, not Peck Rd.
- Area where moving boats- is gravel necessary?
- Boat wrapping area should be gravel
- Can 35 boats fit on this site.
- Section 8;8 - limit the size of the boats that are stored so they won't be obtrusive.
- Section 19.15(c) talks about establishing conditions on site plan approval.
- How do you limit the use of oils, detergents, etc. which would affect the ecology?
- The desire to protect the welfare and health of the community should be the forefront in our mind.

List of what the applicant should show on the site plan

- Show what material the boats would be parked on.
- Need to show how big boats and little boats are going to be stored.
- Need to know why limited gravel is planned for the site
- Would like to have some verification that M-22 will be the access route
- Need to see better layout of the boats.
- Need to know the types of soils that will be used on the site.
- Need to know if the boats, other materials will be stored within a 6-foot fence.

Chairman Rathnaw - at the next meeting need more discussion with Mr. Otto in attendance.

**3. Acknowledgement of receipt of new Z.O. Coversheet and Article 4**

Chair Rathnaw said the Minutes should acknowledge receipt of new Z.O. Coversheet and Article 4.

**4. Reports**

Zoning Administrator - Steve Patmore submitted his written report.

Planner - None

Township Board - The Township Board needs to know the dates & times planning commissioners are available to schedule a meeting with the township attorney to review the Open Meetings Act.

Chair - None

Commissioner Comments - All the documents pertaining to a certain project (site plan review, etc). should be submitted to the planning commission at the same time.

**Public Comment -**

Wayne Livingston - thank you planning commission for your work.

Lydia Riley stated her opinion is this particular use is not a use by right.

Next Meeting Agenda - June 1, 2021

**Adjournment** - Chair Rathnaw adjourned the meeting at 8:24 p.m.

**Minutes by Marge Johnson, Recording Secretary  
Amy Coleman, Planning Commission Secretary**

Draft Minutes

**SUTTONS BAY TOWNSHIP**

**REGULAR PLANNING COMMISSION MEETING - June 1, 2021**

**CALL TO ORDER**

Dennis Rathnaw, Chair, called the Suttons Bay Township Planning Commission Meeting to order on Tuesday, June 1, 2021, at 6:02 p.m. via Zoom.

Chair Rathnaw said there will be a roll call of any motions made.

**ROLL CALL - Quorum** Present

Present: Dennis Rathnaw, Chair; Suttons Bay; Tom Nixon, Stony Pt. Rd., Susan Odom, Setterbo Rd; Don Gregory, Solon Rd.; Rhoda Johnson, Suttons Bay Twp, Dee McClure, SB Twp;

Absent: Amy Coleman, Doug Periard, Andy Brandt

Staff Present: Steve Patmore. Planner Present: Mathew Cooke

**Approval of the Agenda**

*Tom Nixon/moved, Dee McClure/supported, to approve the Agenda as submitted, PASSED.*

**Public Comment**

Alex Dingrando, spoke about Leelanau Watersports.

Scott Howard, spoke about Leelanau Watersports

Gary Hoensheid, Peck Rd., spoke about Leelanau Watersports

Wayne Livingston, spoke about Leelanau Watersports

Sharon Livingston, spoke about Leelanau Watersports

**Conflict of Interest**

None.

**Approval of the Minutes**

Chair Rathnaw asked the Commission if there are any corrections or additions to the draft minutes.

April 20, 2021 Minutes

*Dong Gregory/moved, Tom Nixon/supported, to approve the April 20, 2021 Minutes as submitted, PASSED.*

May 4, 2021 Minutes

*Susan Odom/moved, Don Gregory/supported, to approve the May 4, 2021 Minutes as submitted, PASSED.*

**Items of Discussion/Consideration**

**1. Continuation of Site Plan Review, Leelanau Watersports, 1274  
S. Peck Road**

Chair Rathnaw said more discussion on Leelanau Watersports could be held. All arguments have been made and all the information has been assessed. Mr. Otto is present at this meeting to answer questions.

Zoning Administrator Steve Patmore said this is the Planning Commission's site plan review, and it has been determined that Leelanau Watersports is a permitted use by right in the commercial district. Insight as to the site plan review: Section 8.8, yard storage, Planning Commission has reasonable latitude and flexibility which says a solid fence or equivalent, also uses the word "obtrude" instead of invisible. The flexibility has been used on the Northern Lumber site plan review. In Capital Stone it was decided they did not need fencing because of the natural materials being stored were not obtrusive in the rear. There was a lot of discussion last month about a 6 ft high fence. In the boundary section of the Zoning Ordinance, it's a use by right for anybody to put up a 6-foot fence on their boundary line. Subject site plan does not include access to M-22. If the entrance should change, the applicant would need to come back before the planning commission with an amended site plan.

Chair Rathnaw said it's up to the Planning Commission to decide what is best for the community based on the zoning ordinance and vote that. Every conversation lately has been about the welcoming aspect of the corridor, this is the entrance to the village. This project does not fit into those discussions. The Planning Commission wanted the traffic routed off the residential road and onto the commercial road which doesn't look like it will happen. What is important is to save the watershed and creek. I would defend the use in a commercial zone, but a boat rental might be a high an impact for this particular parcel of land at least as far as ensuring the safety, welfare of the community and the natural resources. He added that an Inland Marina/Boat rental is too high of an impact for this parcel of land.

Comments from Planning Commissioners -

- Concerned about the process, conditions have not been drafted and presented for approval. This use is not good for the area, and not good for M-22.
- A commissioner who was on the commercial committee of the zoning Ordinance overhaul project noted that the committee did not want uses like this one in the commercial district. Staff noted that the new draft Ordinance has commercial storage as a potential special use in that district.
- There should be a buffer between the subject property and the residents. It would be difficult to vote on this project without knowing the conditions that would be placed there. The proposed use of the property is far from what is thought it would be.
- If we were to move forward, the conditions would have to be pretty stringent in order to protect the wetlands. An inland marina in our township is a three/four- month business. Other than that, it falls in the category of boat storage and does not add anything to our community going forward. The Planning commission referenced the letter from 1998 that was submitted to the PC as public comment.
- Putting a boat storage on this parcel is like fitting a square peg into a round hole

- We do have a responsibility to the township for the totality of it. Each parcel is looked at independently.
- This site plan review has been on our agenda since February 2nd. Mr. Otto has been out of compliance since 2019. This is not a good plan for health, safety and welfare of the community. A use by right doesn't mean it will fit on each commercial piece of property. We are not denying the use can happen in our township, just not on this parcel. A boat rental is too high of an impact on this parcel.

*Susan Odom/moved, Rhoda Johnson/supported, to deny the site plan for Leelanau Watersports according to Section 19.15(c) of the Zoning Ordinance because it does not comply. Discussion - Need to publicly state all the reasons why the site plan is being denied. Most recent site plan did not reflect what the township is requesting.*

*Susan Odom withdrew her motion, Rhoda Johnson withdrew her support.*

Chair Rathnaw asked the Zoning Administrator about listing reasons for denial. ZA Patmore stated that the Planning Commission needs to list the sections of the Ordinance that the site plan does not meet. Commissioners noted that there are a lot of other reasons, and listing all of them would be burdensome. It was suggested to list 3.10. The Zoning Administrator noted this section does not apply to the site plan.

*Susan Odom/moved, Dennis Rathnaw/supported, that the Planning Commission deny the Leelanau Watersports Site Plan of property located at 1274 S. Peck Rd., based on Sections 19.1, Intent, and Section 19.15 of the Zoning Ordinance.*

*Susan Odom stated for clarification that a yes vote would deny the site plan and if you voted no, you are in favor of the site plan.*

*Roll call vote for the motion:*

*Yes: Don Gregory, Susan Odom, Rhoda Johnson, Tom Nixon, Dee McClure, Dennis Rathnaw. No: None*

*Absent and excused: Andy Brandt, Doug Periard, Amy Coleman  
Motion passed.*

## **2. Introduction-Application for Site Plan Review & Special Land Use Permit, Vineyard View Apartments, 525 N. Marek Road**

Steve Patmore introduced the project - Applicant: Homestretch Non-Profit Housing Corporation. Owner: Leelanau County Land Bank Authority. Existing zoning - agricultural for proposed 8 unit multi-family development at 525 N. Marek Rd.-

Background information and Zoning Administrator's Comments were reviewed.

John Stimpson represented Homestretch Non-Profit Housing Corporation.



The Land Bank has agreed to sell the property located at 525 N. Marek Rd. to Homestretch for \$1.00. Project: all electric, private well and septic. After approval of the project, Suttons Bay Township Board will be requested to approve a PILOT Program to allow the reduction of ad valorem taxes on the property.

*Tom Nixon/moved, Susan Odom/supported/ to schedule a public hearing for July 6, 2021 on the Application for Site Review & Special Land Use Permit Vineyard Apartments, 525 N. Marek Road, submitted by Homestretch Non-Profit Housing Corporation, MOTION PASSED.*

**3. Zoning Ordinance Overhaul Project-Items yet to be completed**

Mathew Cooke, Planner said for the July Meeting there will be draft language for special events and noise affecting the surrounding community.

**REPORTS**

Zoning Administrator - Written report submitted by Steve Patmore

Planner - Mathew Cooke - no report.

Township Board - Upcoming OMA Training with township attorneys and Township Noise Ordinance has been submitted to attorney. Tom Nixon reminded planning commission members that they are not allowed on applicant's property without an invitation.

Commissioner Comments - Planning Commission will probably continue with zoom meetings.

**PUBLIC COMMENT**

Wayne and Sharon Livingston thanked the Planning Commission for making a decision on Leelanau Watersports.

**Next meeting agenda - July 6, 2021**

**ADJOURNMENT**

Chair Rathnaw adjourned the meeting at 7:58 p.m.

**Minutes by Marge Johnson, Recording Secretary  
Amy Coleman, Planning Commission Secretary**