



**ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Monday, March 28, 2005**

Meeting called to Order at 7:00 p.m.

Members present: O. Sherberneau (Chair), B. Carstens, C. David, R. Hardin, D. Krause, D. Morgan, E. Takayama

Members excused: J. Pulcifer, M. Vermetten

Staff present: S. Corpe, Office & Planning Coordinator/Recording Secretary
J. Hull, Zoning Administrator
C. Bzdok, Legal Counsel (left at 7:31 p.m.)

1. Consent Calendar

Motion by Carstens, support by Takayama to approve the Consent Calendar as amended to remove the Acme Township Sexually Oriented Business Ordinance and approval of the agenda to follow Limited Public Comment for further discussion under New Business and , including:

Receive and File:

- a) Minutes of the March 1, 2005 Board of Trustees Meeting (**Attachment A**)
- b) Article from the 03/03/05 edition of *The Leelanau Enterprise*: "First attempt to zone county began over 55 years ago." (**Attachment B**)
- c) Invitations and schedules for Joint Planning Workshops sponsored by NW MI Council of Governments (**Attachment C**)
- d) ~~Acme Township Sexually Oriented Business Ordinance~~ (**Attachment D**)

Action:

- e) Approve February 28, 2005 meeting minutes (**Attachment E**)
- f) ~~Review and approve agenda, inquiry as to conflicts of interest~~

Motion carried unanimously.

2. Correspondence:

- a) E-mail dated 03-23-05 from Bryan Roth, 4222 Circle View Drive (**Attachment F**): read into the record by Corpe.
- b) E-mail dated 03/28/05 from Dan Rosa, 4707 Hampshire Drive: read into the record by Corpe

3. Limited Public Comment:

Steve Hayward, Planner for The Village at Grand Traverse and Lautner Commons stated that there has been a significant amount of correspondence between Meijer, Inc. and the township regarding scheduling of a hearing regarding the Lautner Commons applications. The applicant feels that since their application was provided to the township 2 months ago and in their opinion is substantially complete, it should be scheduled for public hearing on April 25. Mr. Hayward asserted that no new information will be brought forward between now and the end of April and that the application should be found to be substantially incomplete. They believe there is no basis in state law or the ordinance for a preliminary hearing to be held first.

Sherberneau asked Bzdok for some feedback regarding the township's practice of holding preliminary hearings. Bzdok quoted a section of the SUP section of the ordinance which calls for the Planning Commission to hold a public hearing after appropriate review and study. He

interprets this to be the genesis of the preliminary hearing process step usually undertaken. He disagreed with the assertion made in various e-mails and by Mr. Hayward that state law does not allow for a preliminary hearing. It is each community's choice whether or not to have preliminary review performed entirely by staff or with Commission involvement. Some sort of a study step is required prior to a Public Hearing being set. The Commission is free to decide whether or not to waive the preliminary hearing requirement in this case. It is neither prohibited nor required.

Sherberneau stated that the township experienced difficulties because it needed time to retain a planner to review this project. One has been retained and is in the process of reviewing the application. In this one case only he would be amenable to making an exception to the standard practice of holding preliminary reviews. He is unaware that anyone in the township has expressed a desire to delay the process.

Chris DeGood, Gourdie Fraser Associates stated that an application was delivered to the township two months ago for distribution. He listed a number of agencies that have provided input to date, and stated that the only agency that has yet to provide feedback. He asserted that the application has been deemed complete and that the applicant would appreciate furtherance of their process.

Scott Nowakowski, Meijer, Inc. stated that Meijer, Inc. has needed to replenish their escrow account several times due to costs for ongoing staff review;

Jim & Krista Johnson, Bates Road, provided a letter to be read into the record, which Corpe did.

Dan Hanna, 7239 Lautner Road stated that he realizes that the moratorium is not on the agenda. He thought it would be back before the Planning Commission tonight and asked for clarification of the process. The Commission and Corpe responded that consideration of the proposed moratorium is scheduled for public hearing before the Board of Trustees at their April 5 meeting.

Sherberneau asked for the Commission's decision regarding scheduling for the Lautner Commons application. He noted that in November the Commission was asked if they wished to eliminate the preliminary hearing process step and that the Commission indicated that they did not. He would support eliminating the step in this one case only.

David stated that the township has received a letter from Meijer stating their perception that a number of individuals on the Commission have a conflict of interest and should not review their application. It was his expectation that this question has been presented to the court for decision along with similar allegations made regarding The Village. Bzdok responded that the same set of allegations has been made regarding both applications and that therefore the court has been asked to decide both sets.

Krause asked if the litigation prevents scheduling a hearing regarding Meijer. Bzdok replied that there is nothing to present scheduling, but a determination from the Court is regarding the allegations is important.

Carstens is one individual who supported retaining preliminary hearings as part of the process. He has not yet seen the Meijer application materials, and feels a need to study them before he decides whether or not a preliminary hearing is necessary. The township has allowed six years to pass without ensuring that the zoning ordinance conforms to the master plan.

Mr. DeGood questioned Carstens' statement that he had not yet seen the Meijer application

materials. Corpe stated that they have not yet been distributed to the Commission, as application materials are generally not distributed to the Commission prior to a hearing being scheduled. Further, the Commissioners already had a heavy load of materials to review for the applications already under consideration.

Lewis Griffith, 5181 Lautner Road, asked who made the decision not to distribute the application materials earlier. Corpe replied that she did. Mr. Griffith expressed the opinion that Corpe does not have the authority to decide when the materials should or should not be distributed.

Takayama stated that this is the period in the agenda reserved for limited public input. Meijer does not appear on the agenda. This particular discussion

Motion by Krause, support by Hardin to schedule Meijer, Inc. for public hearing on April 25. Motion failed by a vote of 3 in favor (Hardin, Krause, Sherberneau) and 4 opposed (Carstens, David, Morgan, Takayama).

Shawn Husband asked if the purpose for the public hearing is the time when the public can voice their opinion as to whether or not the public supports the Meijer project.

Approval of agenda/conflict of interest: Approved with no conflicts of interest noted.

4. Public Hearings:

- a) [Application #2004-14P by Kenneth L. & Janet C. Engle](#) for development of a Winery and Bed & Breakfast operation on property located at 8114 Saylor Road and currently zoned A- 1, Agricultural: Ken Engle and his architect, John Walter, were present in support of the application, which began last summer. Since that time several members of the commission have changed.

Mr. Walter began with an overview of the project and the proposed site. The Engles have consistently expressed a desire to maintain a “farm-like” character to the property while developing a winery and a Bed and Breakfast operation. The land has a high point which provides for views of the bay. The goal would be to concentrate development on the central area of the property, to be surrounded by land in active agriculture.

One area of concern is how the site would be lighted at night. This evening the Commission has been provided with cut-sheets displaying the proposed lighting fixtures. These would be attached to 12’ lightpoles and would conform to dark-sky, full cutoff requirements. Further, a schematic has been provided to demonstrate that the placement of the lighting will ensure that the light source within the fixture and the light generated itself will not be visible off-site. Takayama asked if it would be possible to use lower bollard lighting as a replacement to pole lighting. Mr. Engle observed that the ordinance calls for outdoor lighting use only during the hours when the site is in use. He expressed commitment to minimizing the off-site impacts of the lighting. Sherberneau recalls that earlier discussions of the plan indicated some bollard lighting along drives and pathways.

A revised site plan for the winery was provided this evening. An area previously shown as being for future expansion of the winery adjacent to the proposed structure is now shown as being reserved for outdoor events and temporary structures.

Mr. Walter proceeded to display elevations and floor plans of the three proposed B&B structures. He also displayed the elevation of the winery, which is designed to look like a traditional barn with silo.

Mr. Engle introduced Garth Greenan from EC&S Engineering to discuss soils and slopes studies as they relate to the proposed project. All facilities will be served by a central well and on-site septic system. There are two proposed drainfield locations. In conjunction with the Health Department, soil borings have been conducted and soils found suitable for primary and reserve drainfields. A drainage management program will include small pods scattered around the property with slow-release. There are wetlands on the northeast corner of the property that have been delineated and from which a wide setback is being maintained.

Mr. Engle stated that all buildings are set back 400' from property lines and all parking is 340' from property lines. The goal is to contain the site development as close to the center of the site as possible to maximize views and minimize impact on neighboring properties. He provided some additional materials today in response to some questions posed by Corpe's staff report. An aerial photograph provides information about 4 existing houses that lie within 500' of the property lines of the proposed winery site. Special Events are another area for continued discussion, so his additional submission includes a worksheet of proposed special events broken down by type and numbers of people to attend each, as well as whether an event would be indoors or outdoors. The majority would be indoors. He is asking for more special events than many people might be comfortable with. Some might occur within the B&B, such as a cooking class which he would interpret as a special event that should be identified for the township. He has also provided a letter addressed to Corpe describing where he feels he is in his overall winery development process. Many tasks left for him to do are dependent on the outcome of the hearing process.

Krause stated that the proposed special event worksheet indicates that the largest crowds would be expected at hosted weddings. Mr. Engle stated that new information regarding the soils on-site indicate that the maximum number that the septic fields will be able to handle at any one time is 200. He understands that if round tables are to be used he needs to allow for 15 sq. ft. per guest. This means he could accommodate about 160 people in the winery or perhaps 80 people in the B&B. He has cut down on the number of requested events over 160 people because he will need to hold those events outdoors. Krause asked where cars for 160 people attending an event would be parked.

Mr. Engle replied that there are 42 designated parking spaces. Soils on the east side of the parking lot could accommodate grass pavers for a temporary parking area. He would rather have people parking on the grass pavers a few times per year than to create additional paved parking. People might also park along the sides of the driveway.

Morgan asked about the use of music on-site and whether it would be acoustic or amplified. Mr. Engle indicated that he and Corpe have discussed this. Any amplified music would be used indoors only. Morgan felt that amplified music might be used outdoors on a very limited scale or as acoustic only. Mr. Engle stated that his daughter plays two instruments and one of them makes sound that carries.

Takayama is concerned with the septic field arrangements. The fields are on a sloped area and he is concerned that if the system purges it could negatively impact the wetlands. Mr. Greenan indicated that if over 200 guests were present, portable facilities would have to be brought in. Previously no portable facilities were to be used but tonight's submissions have amended that plan. The Health Department is specifically requiring that portable facilities be used for events over 200 individuals, and the ordinance requires that portables be in place for no longer than two days. Mr.

Greenan stated that there is sufficient level land to create drainfields with sufficient infiltration capacity.

Takayama expressed concern with large groups and a high number of special events in terms of the spraying of on-site and neighboring orchards. Mr. Engle indicated that most spraying occurs at night and would not be occurring during an event. Grapes also require less spraying than cherry trees. Takayama was concerned with the impact of spraying on the Sayler Farm on winery special events. Mr. Engle stated that spraying on the Doug White farm might be more of an issue, and that he and Mr. White have discussed spraying and potential screening along boundaries. They are both reluctant to install fencing or landscaping due to air drainage issues. Mr. Engle also noted that he must submit a yearly calendar of events that can be used as a way to coordinate with neighbors.

Carstens noted that the special events plan provided this evening requests a total of 147 events. There are subtotals by size and category as well. Only 10 of the events are proposed to have over 160 attendees. To be on the safe side, all weddings were proposed to be outdoors, and a maximum of 24 events of this category are proposed, some of which might occur in the B&B.

David noted that Mr. Engle plans to initially plant about 5 acres of grapes, with more to be planted as cherry trees leave production. He plans to produce approximately 2,000 cases of wine – can this be done from 5 acres of grapes? Mr. Engle stated not, and that many wineries are buying grapes from neighboring farms in this area. If more wineries come to this area of the region there are more opportunities for cooperation. David stated that at previous meetings about the amendments to the winery ordinance it was mentioned that grape juice is occasionally imported from outside of the area. Mr. Engle stated that he may do this. It will cost between \$10,000 - \$12,000/acre to institute grapes. He may be producing wine before his grapes are planted and/or established. Many local wineries produce some excellent cherry wine. There are other agricultural crops that can be turned into wine as well. David's concern as he reads the ordinance is that the township's intent to preserve and encourage agricultural activity in our area. In the statement of intent there is a mention of making beverages from "locally grown fruit." The ordinance also states that only alcoholic beverages produced by the winery may be sold at the winery. If the winery isn't growing the grapes, how is this helping local agriculture? Morgan, Sherberneau and Hardin stated that it will take time for grapes to become established on the property. Mr. Engle recently learned that several operations are doing very well producing hard cider. This is a type of beverage he could produce; he does farm some apple trees. One hard cider maker received a grant from the state Department of Agriculture for the purpose of encouraging innovative new products.

Morgan stated that grapes are generally grown without pesticides because it is better for them. She has heard that grapes are generally low-maintenance, not even always needing watering. Mr. Engle is uncertain how true this perception may be. He believes that pesticides will be necessary. One also puts nets over them to keep the birds away.

Takayama asked if Mr. and Mrs. Engle will operate the B&B. No, but since the ordinance requires that a B&B be operated by the owner, the eventual operator will be a part owner of the business. Overall he expects to need a staff of 8-12 good individuals who are excited about being part of the project.

Public Hearing opened at 8:17 p.m.

Chuck Walter, 6584 Bates Road, stated that he feels the winery ordinance and this project have been “worked to death” and that it would be an outstanding project for the agricultural community. It would keep 40 acres from housing development, and nothing would be more of an asset to the community and that portion of it.

Jim Johnson, Bates Road stated that his wife taught in Paw Paw. There are many wineries down there, and many people grow 5 or 7 acres of grapes for local wineries. It’s a great project that can create jobs.

Public Hearing closed at 8:19 p.m.

David asked if anyone on the Commission has a concern about 147 special events being requested per year. Carstens stated that the proposed number has been pared down considerably from the originally-proposed 179. Mr. Engle has done considerable work on his application and the activity calendar is subject to annual review. There is a possibility of having up to 400 people on-site for an event, but only a maximum of 6 times per year. The breakdown of events proposed this evening has increased his comfort level.

Hardin observed that there would be nothing preventing a landowner in the agricultural district from holding private parties on his property several times per year. David observed that it would be inappropriate for this to occur on a commercial basis. Hardin noted that the ordinance provides for significant controls and checks and balances regarding special events and that Mr. Engle has presented a worst-case scenario.

Takayama was also initially concerned with the number of special events proposed but has been impressed by the work the Engles have done on their application and feels that the ordinance provides excellent control. Sherberneau and Krause concurred that it is an excellent project.

Motion by Krause, support by Takayama to recommend approval of Application #2004-14P to the Board of Trustees.

Carstens asked if there a prohibition against outdoor amplified music is included in the proposal at this point? He has found it to be too loud to hear birds on Bunker Hill Road due to music from the casino.

Motion carried by unanimous roll call vote.

A recess was called from 8:25 p.m. to 8:31 p.m.

- b) **Application #2004-22P by Michael and Sherry Hedden**, 12110 Scotch Hollow Drive, Bath, MI for Special use Permit/Site Plan Approval of a 15-unit single-family residential Open Space Development on 17.63 acres of land located on the east side of Kay Ray Road and the west side of US 31 North and currently zoned A-1, Agricultural and R-2, One Family Urban Residential: Wayne Seger – Wells Mansfield presented the application. Mr. and Mrs. Hedden and their attorney, Charlie Myers, were also present. Mr. Seger briefly discussed the location and layout of the proposed housing development. A steep slope bisects the parcel, practically making it seem like two separate pieces of property and leading to proposal of an access for 5 lots from US 31North, 3 lots from a new road accessing Kay Ray and 7 lots using shared driveway cuts directly on Kay Ray. 50% of the land will be placed under conservation easement and is anticipated to be owned and cared for by the development homeowners. The protected open space includes an identified wetlands

and the steep ridge. It is anticipated that many of the eventual homeowners will choose to leave their lots in relatively natural condition. The lots fronting on Kay Ray Road and Mike's Lane are required to maintain at least a 20' wide natural buffer along the roadside; the applicant has volunteered a 40' natural buffer on the lots fronting on Kay Ray Road directly. No street lighting is proposed for the project.

The wetlands delineation has been performed, and the Drain Commissioner has found that the wetlands will not be regulated. As of April 1 an application can be submitted to the DEQ for confirmation of the delineation, which is then due back within 90 days. The township requires a 25' building setback from all wetlands areas whether regulated or not.

Mr. Seger noted that a number of concerns have been raised by neighbors about the project. Right now, there are MDOT and Road Commission drainage ditches that collect runoff from US 31 and Kay Ray Road, funnel it to a culvert which runs north-south along US 31 and directs it towards Yuba Creek where it surfaces in a roadside park about 400' south. At the Drain Commissioner's request, a detention basin at the south end of the property is being oversized and the existing runoff flows from the roadways will be directed towards this basin. The basin will be sized to hold the type of sudden storm that occurs on average once every 25 years. Contaminants will settle out of the water before it is released slowly into the environment. Overall, an improvement in surface water runoff conditions is anticipated. A very small percentage of the site will be developed into additional impervious surface.

There has also been discussion regarding ground water impacts. In particular there has been discussion about a pipe from which water issues on the beach of the Hinds property 2 lots north of Saylor Park. There were concerns that the new development could cause contaminants to enter this water which flows into the bay. It has been determined that this water comes from a geothermal heating/cooling system in the Hinds house, and that there is no possibility of cross-contamination. Other concerns regarding the general possibility of groundwater contamination by new septic systems have been raised. Mr. Seger noted that 4' of sandy soil is required to cleanse grey water coming from a drainfield before it reaches the aquifer. This site will provide about 32' of soil separation. Then there is a 20' clay layer before the aquifer is reached. Additionally, he has researched the flow of water underground and has determined that the water flows underground at a rate of approximately 4 cm/day. At this rate, his math indicates that it would take over 30 years for water from the Hedden property to reach the bay. He is unconvinced that a hydrogeologic study is truly necessary to assess the potential impacts.

There were also concerns regarding the safety of the intersection of US 31, Kay Ray and Yuba Park Roads. The applicant, MDOT and the Road Commission looked at crash rates (7 in the past 5 years; most of which were related to wildlife crossings) and determined they could work together to relocate the intersection of US 31 and Kay Ray 250' north of the intersection of US 31 and Yuba Park Road to enhance traffic safety.

Mr. Seger indicated that legal documents related to the required conservation easements and homeowners association will be fairly standard and are generally ready excluding some details. The applicant is requesting a recommendation for approval contingent upon approval of the required legal documents.

Carstens stated that he has recently attended an educational session regarding maintaining water quality. He is not an expert but did hear that water can run rapidly along clay layers. He is concerned if the clay layer is close to the surface. Mr. Seger

noted that there is clay along the top of the ridge; in this area the Health Department is requiring deeper drainfields and/or removal of an upper clay layer.

Hardin noted that the open space with the conservation easement does not include the 40' of property on the lots fronting Kay Ray Road. How will the requirements for maintaining this in a natural condition be met? Mr. Myers indicated that the standard easement language he is proposing will make it clear that the conservation requirements can't be changed without township approval. Regarding the 40' natural buffer, if the township so desires he can make anything outside of the building envelopes on each site a limited common element with enhanced restrictions regarding what action can and cannot be taken. Hardin is concerned that neighbors are anticipating a 40' buffer and that there be a process to deal with what would happen if this expectation isn't met. Krause reported that the Landscape Committee met with the applicant and there was agreement on a condition whereby 40' of natural vegetation would be retained on the lots with driveways on Kay Ray Road. Mr. Meyers offered to make all setback areas on each lot be limited common elements and the natural vegetation buffers as general common elements. The Commission agreed that this approach would be desirable.

Krause asked if it would be possible to move the process along with a recommendation to the Board contingent upon satisfactory provision of the remaining items of concern. Corpe indicated an opinion that the two key issues outstanding are DEQ confirmation of the wetlands delineation and whether or not a hydrogeological survey is warranted. Carstens expressed concern because originally the applicant didn't appropriately identify the presence of the wetlands. They now assert that there should not be a groundwater concern, but past experience leads him to a certain amount of skepticism. Krause feels that this project has been discussed exhaustively and that it's time for a decision to be made. David believes that the hydrogeological survey is an unnecessary step. Mr. Meyers indicated that he used to work with the federal government regarding hydrogeological issues. He is not an expert but it has been his experience that hydrogeology is barely more precise a science today than dowsing for water with a stick in the old west used to be. It would be a large expense that would involve disruption to neighboring properties, and all for a property for which less than 50% of the land area will be developed. The Health Department has indicated approval of the plan, as has the Drain Commission. He feels that a requirement for a hydrogeological study is not economically feasible for the applicant, and needs some clear direction in this regard. The requirements for the legal documents and DEQ delineation seem reasonable to him.

Hardin asked Corpe to discuss the other options for dividing and using the property; Corpe recited the information contained in her report. Hardin stated that one way or another the land could be divided into as many units as are being requested now over time, and with no public input process and no requirement for a hydrogeological study. He therefore does not believe the requirement should be imposed in this case.

Takayama is generally concerned about the health of ground and surface waters, and has followed this application for a long time. He believes that there is more danger from the aging septic systems along the bay than from this new proposed development, and that there would be trouble getting assistance from the existing property owners because it could reveal problems to be corrected on their properties. He therefore does not support a requirement for an expensive hydrogeological survey. He would like to see deed restrictions in place, particularly preventing dumping of yard waste in common areas.

Mr. Seger stated that this project began as a solo effort by the Heddens, and that a

number of professional firms have provided assistance at different stages. The wetlands were identified when the project was taken on by Wells Mansfield.

Public Hearing opened at 9:17 p.m.

Faye Emerson, Juniper Hills asked about fire department requirements for access. Mr. Seger noted that roads longer than 150' require a cul-de-sac or a hammerhead ending so that trucks can turn around. Mike's Lane is shorter than this so neither road ending is required. There is a turnaround area on the road from US 31. Ms. Emerson also asked if something in the condominium documents will prevent dumping in the detention basins. This is covered

Shirley LaPointe, Kay Ray Road stated that claims that there are no traffic concerns currently on US 31 is somewhat blithe. She has encountered dangerous situations trying to turn onto her road. Mr. Seger indicated that an extension of an existing passing lane is being created. Kay Ray Road will now meet up with US 31 at a right angle rather than a hairpin turn, with the geometrics for the intersection to be provided by MDOT. Mrs. LaPointe is also concerned with sight distance for the new intersection. Corpe mentioned that the proposed intersection redesign occurred during two meetings between herself, Mr. Seger and the engineers from MDOT and the Road Commission. The Heddens are providing the easement, and the value of the easement will provide the 50% match towards construction costs that is required. The work is expected to be done when US 31 North is repaved during the summer of 2006.

Public Hearing closed at 9:25 p.m.

Morgan asked if the setback requirements on each site can be designated at limited common elements; Mr. Myers indicated that this would be the case.

Takayama indicated that he shares Mrs. LaPointe's concerns with traffic safety on US 31, and that the township does it's best.

Motion by Takayama, support by Carstens to continue the public hearing on Application #2004-22P pending receipt of the condominium documents for review, receipt of approval from the Health Department, and confirmation of the wetlands delineation from the DEQ.

Mr. Seger asked if it would be necessary to await a response from the DEQ, which could take up to 90 days. Corpe stated that there are three possible outcomes of the delineation review: agreement with the delineation, or enlargement or contraction of the defined wetland area. Only enlargement poses a potential concern, and even then it would only impact two lots. On those lots, placement of homes might be affected by the need for a 25' setback from the wetland. It might be reasonable to proceed with approval based on a condition that no land use permit be issued for lots 8 or 9 until DEQ delineation confirmation is received.

Motion rescinded by Takayama.

Motion by Takayama, support by Morgan to recommend approval of Application #2004-22P to the Township Board contingent upon provision of satisfactory condominium and conservation easement documents, Health Department approval and that no Land Use Permits be issued for lots 8 and 9 until wetlands delineation received. Motion carried by unanimous roll call vote.

- c) **Application #2004-23P by POW Investments, LLC**, PO Box 681, Traverse City for Special Use Permit/Site Plan approval to construct The Cottages at Windward Ridge, a 44-unit single-family residential Open Space Development on 12.53 acres of land located at 6685 US 31 North and currently zoned R-3, Urban Residential: Brad Kaye and Troy Molby from Gourdie Fraser were present to present the application. Also present are the principals of POW Investments. Mr. Kaye presented an overview of the proposed 44-unit development. He stated that as much as possible the units were moved to the southwest portion of the site to keep the development units as far from US 31 as possible. When this project was originally presented as “Acme Acres” it also proposed two curb cuts for a U-shaped road on US 31, but MDOT requested that one curb cut be eliminated. A flare on US 31 and a boulevard entrance to the project are proposed.

Mr. Kaye turned to a response to comments provided by Corpe in the staff report. First, she calculated the allowable density on the site at 43 units rather than 44. The property includes ownership of land within the US 31 right-of-way; Mr. Kaye has not found that the ordinance would exclude the area of the land within the right-of-way from the density calculation. Additionally, Corpe expressed concern about the proposed condominium units being closer than 20’ to the edge of the internal road right-of-way and setbacks within lots. This project is proposed as a full condominium rather than a site condominium; therefore essentially the entire site has been considered by the applicant as one big lot. If the Commission feels that the standards should be construed as if there were lots for each structure, the applicant is asking that the Commission allow a 15’ setback from the right-of-way rather than 20’.

Regarding water and sewer, the project will utilize the regional sewer system. Mr. Kaye believes that Corpe has correctly raised a concern regarding provision of water to the site; the applicant suggests that it would be appropriate to simply require that final approval is contingent to appropriate approved provision of water. Regarding questions raised regarding landscaping, the applicant is hoping that the fact that most of the site will be left in a natural condition is sufficient in conjunction with the planned trees to be planted in front of each unit.

Mr. Kaye noted that this project has been reviewed by the County Land Development Review Committee. Each of the agencies normally providing separate letters is represented in that committee and the applicant hopes that their comments as part of the committee are sufficient.

Turning to the standards for review, many highlighted issues deal with approval letters from various agencies. The larger issue is the conservation value of the site, and Corpe has raised some concerns. Mr. Kaye stated that there is foresting on 2/3 of the site. The applicant is seeking to maintain a large forested area in the center and southwestern portions of the site, and to provide walking trails through and around these areas. They are also seeking to preserve natural appearance conditions along the US 31 corridor. They are seeking to work with the natural topography which drops off to the west to help hide the housing units from view and protect some seasonal views over the tops of the houses. The proposed units would be 1 ½ stories at most to work with the topography. Over time as the trees grow, the seasonal views may naturally disappear. They are also seeking to preserve some rural scenic views to the west; these views were not actually defined on the protected viewshed map in the township’s Master Plan but still have value.

The applicant is requesting recommendation of approval to the Board pending provision of the condominium and conservation documents and resolution of questions regarding provision of water by the Tribe.

Krause expressed concern because the applicant is seeking to use the OSD ordinance. One key tenet of that ordinance is the clustering of units, but to him the proposed layout appears to be fairly standard development that does not preserve contiguous open spaces. Takayama agreed, stating that the neighboring parcels along US 31 if developed in this same pattern will result in no improvement over normal patterns for the community. Mr. Kaye stated appreciation of the concern, and noted that open space can mean many different things, including preservation of forests, agriculture, wetlands, wildlife corridors or scenic views. All are in agreement that the natural features of the site appear to have no special conservation value and no connection to natural features corridors. The focus has been on preservation of a central forest area and bringing the development as far to the west as possible to protect the US 31 corridor, which seems to be the key value to be gained in the situation along with Master Plan issues of scenic view preservation. Each housing unit will be approximately 42' x 68'. While they don't appear to be clustered, they are closer together than would ordinarily be permitted by ordinance. Krause stated that nonetheless he does not believe the development as proposed fits the definition of clustering.

Sherberneau is unconvinced of the conservation value of the site. David stated that non-contiguous open space requires a density transfer, and he feels that the proposed open space is substantially non-contiguous. Mr. Kaye stated that the applicant feels that the open space along US 31 is the key feature, with pathway linkages to central open space areas. Mr. Molby pointed out that a total of 51% open space has been provided exclusive of building areas as defined in the application materials. Takayama feels that the open space really has been broken up into small cubicles and strips along property lines that doesn't meet the intent of the ordinance. Mr. Kaye countered that the ordinance requires that the open space be contiguous and that the letter of the requirement has been met. The applicant believes that the proposed plan does a good job of meeting a variety of desired elements. Krause strongly disagreed, stating that the project should be redesigned. There appeared to be general consensus that a more innovative approach should be taken.

Public Hearing opened at 9:55 p.m.

Sandy Pownall is a partner in POW Investments who states that she has created several open space developments. One in Long Lake Township had a very similar format. A large open area is provided in the middle of the project that is usable space for the residents. There are walking paths. The structures are placed closer together than would otherwise be permitted, which to her appears to be as clustered as possible for the site. They have tried to maintain views of the water and the scenery along US 31. Ms. Pownall asked if Krause would have a concrete suggestion for redesign. Krause stated that he has designed several clustered projects in the past and would be glad to provide additional input. Mr. Kaye feels that the only way to achieve more clustering on the site would be to change the balance of detached and semi-detached lots. Krause stated that he believes the OSD ordinance is being used to try to maximize the number of housing sites over and above what the property can really accommodate. Ms. Pownall stated that when she acquired the property it would have been possible for her to create a PUD with over 60 units had sewer service been available. Now sewer service is available but the PUD ordinance no longer exists. The number of units has been reduced from what was once possible. She does not believe that a project where the units are more closely combined in an apartment-style concept is marketable. People want separate homes with a little space around them. She has worked hard on the project and would like a chance to bring it to being.

Mr. Walter stated that he has over 40 years experience in the building products and development arena. He feels this is a nice project and would serve the community well with some upscale housing that will provide nice views along US 31.

Public Hearing closed at 10:05 p.m.

A recess was declared from 10:05 p.m. to 10:09 p.m.

Mr. Kaye stated that the project design was accomplished by studying other potential options. They applicant feels that they have clustered the units as tightly as possible without utilizing a different housing mix. After studying the market they feel that single-family and duplex units are the optimal choice. Mr. Kaye noted that the township has the option of asking a developer to study an OSD approach if they feel an application is too “cookie cutter” in approach. They believe that other options for the site would be detrimental in terms of preserving views and natural character. There has been an attempt to provide a little open space around each housing unit along with the larger open areas to provide a feel that is overall more spacious for the residents than the closeness of the structures might otherwise suggest. It would be possible to move two proposed housing units from the inside of the road loop to the outside to make more of a contiguous component to the open space, but this would move the housing units closer to the road.

Motion by Krause, support by Morgan to continue the Public Hearing to the April 25 meeting to allow time for further design discussion with the applicant. Motion carried unanimously.

Mr. Kaye asked what would be expected of the applicant between now and the next meeting. The Commission indicated that the applicant should meet with Krause to discuss revisions to the site plan. Takayama expressed a personal feeling that the proposed walking trail is so close to the housing units that it might not be very desirable. He believes that by bringing things closer together and creating larger wooded areas around the building sites that the sites would sell better. Ms. Pownall expressed a desire to take the Commissioners on a walking tour of the property, feeling that being on the site might create a greater appreciation for how the plan works with the unique features of the property. Their Long Lake OSD required creation of an OSD ordinance and has received excellent reviews from project residents who feel as if they each own many more acres as individuals than they actually do. She indicated willingness to work with the township to better cluster the sites. Ms. Pownall feels like an expert in this arena, having been a local Realtor for over 30 years. She designed the site both for the township and to sell. Timing is everything; there are only a few months to prepare the site. She really likes the plan she has proposed and hopes that the Commission will be persuaded. The Long Lake Development is called Windy Pines and is off of Barney Road. Turn onto Breeze Hill Road to get there.

Corpe asked that the Commission make a decision regarding the number of housing units that can be permitted on the site. About 2 acres of the land in the legal description for the property are in the US 31 right-of-way. This land would not be developable regardless of whether a traditional development were pursued or the OSD. The applicant stated a belief that at least one OSD already discussed had density calculations based partially on land within a right-of-way. The applicant noted that they have been paying taxes on the right-of-way land for years and that the ordinance does not state that this area should be excluded. It was agreed that further research and discussion would occur between Corpe and Kaye to fully determine the

precedents that exist and they will report back to the Commission for the next meeting.

Motion by Carstens, support by Takayama to extend the meeting past 10:00 p.m. Motion carried unanimously.

5. Preliminary Hearings:

- a) **Application #2005-5P by LochenHeath LLC** for Special Use Permit/Site Plan approval for an amendment to SUP #2004-5P for the LochenHeath PUD Development to allow reconfiguration of the northern housing cluster (Prestwick and Carnoustie Court) and an increase in density from 85 to 99 units on property situated on the west side of US 31 North and bounded by Woodridge Shores on the north: Dean Connors from R. Clark Associates and Joe Elliot from Gourdie Fraser presented the project. The request for an increase in density is based on calculations of total allowable density made by Sherrin Hood in 1998 when the LochenHeath project was originally proposed. Mr. Connors' PowerPoint presentation provided a graphic representation of how this density was calculated. He displayed changes to the lots in more southerly parts of the overall development whereby lots were divided so that they enlarged other lots. Only the layout of the northernmost building pod would be substantially reconfigured.

The plan submitted in the packets eliminates one proposed road and relocates a few lots providing better flow for golf carts throughout the site. Some enhanced landscaping abutting Woodridge Shores is also shown.

Mr. Elliot reported that the existing and new lots will be served by existing forcemains and pump stations already serving the 24 lots currently in that area. Water service will also be provided by existing infrastructure and an existing central well. The road will be completely redesigned from the point where there are fence bollards on the road coming in from US 31 on into the property. Drainage patterns will be maintained as they exist, and several new drainage basins will be constructed along with changes in golf course layout.

Takayama expressed concern about the relocation of hole 6; it appears that the green will be close to some of the homes on Woodridge Shores with the homes directly behind the green. Right now hole 6 is to the south of Woodridge. Krause stated that most problems are from slices and hooks, with relatively few problems arising from overshooting the green on a par 3. He feels the concern is minimal; Mr. Connors noted that additional trees are proposed to provide buffering.

Motion by Carstens, support by Krause to schedule Application #2005-5P for public hearing on April 25. Motion carried unanimously.

Carstens asked if LochenHeath is an OSD and if density calculations included land in the right-of-way. Mr. Elliot responded that the new portion proposed for the former Veliquette property is an OSD. He does not believe right-of-way was included in density calculations, but double-checking will be done.

6. New Business:

- a) **Discussion of Sexually Oriented Business Ordinance:** Takayama would like to pursue this discussion with Bzdok present. It appears to him that the ordinance regulates such businesses, but he would like counsel to review the ordinance to ensure it is adequate to protect against future problems.

- b) Sherberneau observed that there is a significant workload for each Commission

meeting. He has discussed this with Kurtz, who has expressed willingness to permit the Commission to hold an additional meeting once every other month. The purpose of the extra meeting would be to facilitate the Commission in working on township generated-business, which is not receiving enough attention due to the heavy flow of development applications.

- c) Carstens feels it would be appropriate to consider an amendment to the OSD ordinance that clearly defines any property owned within a right-of-way as being excluded from allowable density calculations.

7. Old Business:

8. Public Comment/Any other business that may come before the Commission:

Mr. Walter sought to address the Meijer application. He stated that when Meijer was ready two months ago and provided an outstanding presentation in relation to location within The Village, the Commission tabled the matter pending resolution of legal issues. He hopes that the township will bear in mind that the Meijer store itself is in some ways separate from the rest of The Village. Meijer volunteered to build a flagship store in The Village. They then presented a plan for a store on their own site. The ZBA made a ruling that the application should be processed according to the rules for Special Use Permits. He is not sure that failing to schedule a public hearing next month is legal, and that the decision may have been influenced by an outside force in a “corrupt” manner. He believes that Vermetten stated that the application for The Village was the most complete he had ever seen, but that this comment was not included in the minutes of the meeting where it was said. He does not understand why the development of a Meijer is being opposed when it appears that so many of the township residents want to shop at a Meijer on this side of town. He is confused about what the direction that is being set for the community. He believes that the fact that a planner had to be hired is not the township’s fault or the applicant’s fault; it is Bill Kurtz’ problem because he fired planners that were working on the project for us and doing a darned good job. Further he believes that if Meijer’s does not have an opportunity to present its plans, the township is creating liability for itself. He believes that the fact that the Meijer application materials have not been distributed to the Commissioners to date is an indication that Corpe is opposed to the project. He feels it was a poor decision on the staff’s part to not have distributed the materials to date. Mr. Walter asked if anyone on the Commission has had a discussion with representatives from Meijer. He cited the recent case in Novi where the township was sued over a zoning decision and had to sell their parkland to settle the resulting debt. Mr. Walter observed that Takayama stated that he likes flexibility from developers. He believes that The Village and Meijer have exhibited flexibility, and that Takayama is the inflexible party.

Corpe stated that she followed the customary procedure of distributing application materials after a hearing is scheduled. She feels it is inappropriate for Mr. Walter to state an inference as to her position regarding the application.

Mr. DeGood stated that through a letter to the township today he has requested the opportunity to meet with Beckett and Raeder to go over the project this week, and hopes that the Commission will direct the staff to facilitate the meeting. He also asked for confirmation that a preliminary hearing regarding Lautner Commons is on the agenda for April 25, which Sherberneau provided.

Meeting adjourned at 10:59 p.m.