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WHITE LAKE TOWNSHIP

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WHITE LAKE TOWNSHIP PLANNING COMMISSION

Regular Meeting
7525 Highland Road
White Lake, MI 48383
June 21, 2012 @ 7:00 p.m.

Mr. Martinko called the meeting to order at 7:00 p.m. and led the Pledge of Allegiance. Roll was called: Mr. Pierson was excused.

ROLL CALL: Steve Anderson
Todd Birkle, Board Liaison
Debby DeHart
Steve Martinko, Chairperson
Sarah McNulty
Peter Meagher, Vice Chairperson
William Pierson – Secretary - Excused
Gail Novak-Phelps
Stan Woodhouse

Also Present: Sean O'Neil, Community Development Director
Jason Iacoangeli, Staff Planner
Greg Need, Township Attorney
Lynn Lindon, Recording Secretary

Visitors: 87

Approval of Agenda

Ms. Novak-Phelps moved to approve the agenda as presented. Mr. Woodhouse supported and the MOTION CARRIED with a voice vote. (8 yes votes)

Approval of Minutes

a. June 7, 2012

Mr. Birkle moved to approve the minutes of June 7, 2012 as presented. Ms. Novak-Phelps supported and the MOTION CARRIED with a voice vote. (8 yes votes)

Call to the Public (for items not on the agenda)

Mr. Martinko opened the discussion for public comment on items not listed on the agenda, but none was offered.

Public Hearing

a. Willow Lake Estates Boat Dock / Ramp, File No. 12-012

Location: Property described under parcel number 12-34-377-015, located at the southwest end of Woodstone Ct., consisting approximately 0.7 acres, currently zoned (R1-D) Single Family Residential
Request: Special Land Use Approval under Zoning Ordinance 58
Applicant: Willow Lake Estates Homeowners Association, 531 Woodstone Ct., White Lake, MI 48386

Ms. Dehart requested to be excused from this discussion. She indicated she has a home in this neighborhood and it may be a conflict of interest.

Mr. Woodhouse moved to allow Ms. Dehart to abstain from the discussion on Case 12-012 this evening. Mr. Anderson supported and the MOTION CARRIED with a voice vote. (7 yes votes; 1 abstain – Dehart)

Tim Quaintance and Brett Olson of Willow Lake Estates Homeowners Association gave a presentation on the proposal. They noted that the original developer left the residents of Willow Lake Estates hanging because he promised a park and a boat launch and subsequently went out of business before this was completed. The residents would like to enjoy the lake and have access to it. The recorded deed states that they would have access to the lake through the park. They are requesting special land use approval to make this happen.

Mr. Olson indicated when they purchased their property they didn't know of the history. They were told they would have a park and lake access. They are trying to pick up where the developer left off. The DEQ permit is due to expire in July and if the timing weren't so strict they could have a better ending. Their 14 lot subdivision would have to pay \$14,000 to get another DEQ permit. They have asked the DEQ for an extension on the permit was were denied. They would like to split the boat ramp approval from the dock, park and restriction discussions and would like to put the ramp in now and discuss the controversial matters in the near future.

Mr. Olson referenced the township attorney's review, which they interpret that there is no legal grounds to restrict the construction and noted that the homeowners will be assuming all costs to do this. Mr. Olson also reviewed the timeline to complete the project and gave an overview of the deeded access. The association was informed of additional restrictions, at which they were instructed by a real estate attorney not to agree to them as it may decrease the value of their homes.

Mr. O'Neil reviewed the department reports associated with this proposal. The Police and Water departments had no objection to the request, but the township engineer had concerns with regard to access and turn radius for vehicles. The township consultant's recommendation was to deny until signage and the additional restrictions are reviewed. The Sewer and Environmental departments have noted that soil erosion and sedimentation permit is required prior to construction and the project must be completed prior to DEQ permit expiration. The Assessor is still showing the property as being owned by Willow Lake Estates

Mr. O'Neil reported that the Fire department's opinion has not changed. They have stated that fire access will be impossible due to issues with non-compliance to the International Fire Code (IFC) and the road width is inadequate per the road requirements. The road surface is also questionable as to whether it would sustain the weight of some of the larger fire trucks. The fire department could recommend approval with conditions that there will be limited access, and the residents need to understand this. This is a recreational/seasonal access and the Fire Chief knows this won't meet the IFC.

Mr. Olson responded that the fire department could access the proposed park through the neighbor's driveway if they had to in an emergency. He added that many access roads would be difficult. Mr. O'Neil noted that the fact the gate was moved to the actual access point is a better solution. Mr. Olson stated the association would work closely with the fire department for the safest alternative.

Mr. Birkle asked about the property conveyance and Mr. Quaintance responded that the developer is prepared to do a quit claim as early as tomorrow. Mr. Anderson didn't understand why this didn't take place earlier. Mr. Olson stated that the developer was surprised that he still owned the property, he assumed the residents owned the property now.

Mr. Anderson asked Attorney Need to clarify and verify this. Attorney Need stated the park parcel was never taxed and the residents have the right to use the park. Mr. Birkle wants to make sure there are no delinquent taxes on this property.

Mr. Olson addressed the concerns raised from the township departments. He stated that the ramp would be constructed per DEQ requirements. They will have American Marine construct the ramp and they would be willing to answer questions in a preconstruction meeting. With regard to turnaround radius, the dimension at the boat launch is 15 ft. wide with no encroachments to the wetlands. They are not intending on having 22 ft. boats, the proposal was calculated for an 18 ft. boat. They would be willing to discuss this further if the size of boats is still an issue.

With regard to Mr. Birchler's comments, Mr. Olson stated they would get an easement on file with the owner's permission if required. Regarding signage, they agree to discuss what is appropriate for the area and will make it respectful. He asked whether they could construct the ramp now, and they can discuss controversial matters later, including the additional restrictions being proposed by the township. Mr. O'Neil noted that 75% of the property owners in Willow Estates would have to sign off on anything for it to be approved, which is 11 of the 14 and anything has to be put to a vote of all homeowners. Mr. Quaintance felt the homeowners would be giving up some of their rights by agreeing to the additional restrictions, and Mr. Olson added that regardless of the kinds of boats that would be allowed, they still have 3 lots that have open access. Attorney Need stated this could be discussed later.

Mr. Olson continued that they would work with Mr. McAdams on any requirements he is setting forth with soil erosion and sedimentation. Mr. Bonnivier's issues were not previously noted, but they will work with the township to resolve in the preconstruction meeting. They are doing everything in their power to follow all rules and regulations.

Mr. Anderson questioned whether the funds for the project have been generated from association dues. Mr. Olson confirmed and added they were surprised with a strong backing from 13 of 14 that paid dues for the year. They got a loan from Chase Bank to cover the cost of the ramp and there is risk involved with loans if the loan is not paid. The homeowners are putting everything up front.

Mr. Anderson asked if the township collected any fees from the developer if they were to go out of business. Mr. O'Neil indicated the 2nd developer put up funds and any leftover funds were refunded when project was pulled.

Mr. Woodhouse feels the conditions are controversial. He asked Attorney Need if the commission could separate the ramp from the conditions. Mr. O'Neil responded that they could not be split. Whether a dock or ramp, there are concerns with restricting others from using it. Attorney Need confirmed they cannot split. There are concerns from the township because the association is adding to original approval. The ramp was not in the original and the township added restrictions to protect certain interests because of that. Mr. Olson stated they don't want to fight with other associations or the township. They are looking for a spirit of friendship and will discuss and deal with the issues at hand as to not forfeit the permit.

Mr. Meagher questioned referenced the original approval, which did not include the ramp or dock. Mr. O'Neil indicated that the approval did not say they couldn't have it, but only access was addressed with that approval in 2002. The applicant is adding to the original approval and the discussion needs to continue on additional restrictions. If a dock and launch would have been approved in 2002, it would have been conditioned and restricted at that time.

Ms. Novak-Phelps stated she was present in 2002 and remembers that the ramp and docks were not part of the use. She questioned how the DEQ could grant a permit if this is a private lake. Also, if this request is for a special land use, and there are no taxes, she questioned who owns the land. Attorney Need noted that the land would be conveyed by the developer. Mr. O'Neil added that the township believes this issue will be cleared up, and in order to move forward the conveyance has to happen.

Ms. McNulty questioned how this would affect the lake with more access if the request is granted. Mr. O'Neil indicated that others may have their own access points and can continue to use their property

consistent with the deed restrictions. The township does not get involved with enforcement unless it decides to be involved in the process. It is the township's recommendation in this case that it does get involved with enforcing deed restrictions. Attorney Need stated he looked at the additional restrictions and he doesn't see how these restrictions would devalue property, nor does he see a problem with getting 75% approval from the residents.

Mr. Birkle asked whether the property is still in the developer's name. He would like to double check on this and if the property is coded exempt, he wants to make sure it didn't go delinquent and any approval could be conditioned on this. He asked Mr. O'Neil whether he was satisfied that the applicant will meet all the concerns addressed. Mr. O'Neil responded that they never turn down an applicant's request to come before the board and most of the issues can be addressed, but there are still concerns with the additional restrictions and access points. The applicant is requesting approval because the DEQ permit is set to expire in July.

Mr. Martinko opened the public hearing at 8:22 p.m.

Brian Campbell, representing the Friends of Sugden Lake Association (FOSL), stated the goal as a group is to protect the safety and wellbeing of their lake. He explained to the board that Willow Lake's proposal came to their attention on Wed June 6, which didn't allow for a lot of time properly discuss and address this. They had an informal discussion with Willow Lakes.

Matt Grisius, President of the Friends of Sugden Lake Association, 1112 Castlewood, indicated that there are 170 homes being represented. He gave a brief presentation on the issues that concern their association, those being: The original 2002 Park Restrictions/Access; the Special Land Use process, procedure, and requirements; Safety; the affect on the environment (and not wanting to infest the water with zebra mussels; regulation, monitoring, administration, accountability/fiduciary responsibility; declaration of additional restrictions; the negative precedent this would be setting for the future; and the legality/binding arbitration.

The Friends of Sugden Lake Association are collectively against this request. They feel the lake is over crowded as it is. They only had 12 business days to formulate opinions and present to the board. Mr. O'Neil noted for the record that the 15-day notification requirement is consistent with state law.

Mr. Grisus feels there can be the desired outcome for both parties, but they agree they need to gather more information. They are requesting this be tabled pending due diligence so the FOSL can determine how to contribute to the best possible outcome.

Susan Krizina Young, stated she sent a letter dated May 25, 2007 that indicates she would gladly let Willow Lake Estates Lots 9, 10, and 11 launch their boats from his facility, but has concerns with the use of the launch of boats of friends and relatives. She also referenced the letter from Attorney Need to the Planning Commission and questioned how the township would be made aware of restrictions. They don't want to monitor this and they shouldn't have to, nor should the police.

Matt Carr, Sugden Lake Civic Association, indicated that their property was platted in the 1920's. They have added Oakridge Park, and they have an easement from the township that they pay taxes on and maintain, but they have never put in a request for a dock. They don't have an interest, but would do something similar if the Willow Lakes request is granted. He is asking the commission to deny this request.

Robin Krimper, stated Sugden Lake is not an all-sports lake. The proposed dock allows for 11 slips and the other 3 properties are lakefront. Currently there are 89 boats on the small 66 acre lake.

Brad Connell, 1349 and 1234 Castlewood, sympathizes with the broken promises by the Willow Lake Estates developer, but this is his association's fault, nor is it their fault that the permit is expiring. There are concerns from the township engineer and fire department, and those are also concerns of theirs. Safety is a huge concern and should be addressed. The park is still in LLC and not with the association, and tax issues should also be addressed. He doesn't feel there is a need for the dock other than for the 3 residents that have lakefront property. There are other areas those 3 could launch their boat. He would

like to see this readdressed with the Township Board for re-approval whether a dock and launch should be permitted. He urged that this request be denied.

Ryan Gershen, 515 Woodstone, in Willow Lake Estates asked the neighboring associations to put themselves in their position. They were promised these amenities when they purchased their property. Their current tax bills shows they are being taxed on "Lake Improved Property". Until recently they found it is residential lake improved property. They are not asking to rip around on speed boats and are willing to make compromises, but also don't want to devalue their property. Safety is also an issue for them and if an emergency was to arise, there are other ways to access the area. He understands the position of Sugden Lake, but they are looking for a compromise.

Mr. Martinko noted for the record that 10 emails were received addressing safety, taxes, and access concerns, all opposing approval tonight. A petition of 55 signatures is also on file opposing this special land use request.

Richard Lapell, stated there was short notice and very little detail presented with this request. He objects to future marinas on this small lake. There is only 1.6 miles of shoreline and as a lakefront owner, he feels things are crowded as it is. He asked what the limit is for watercrafts allowed on Sugden Lake and whether there have been any studies done stipulating capacity. He is also concerned with who will be responsible when this is not being taken care of. He needs more information and wants to see real facts. A quick decision on the fly could make them all sorry.

Ron McCrumsel, noted the lake is 66 acres and $\frac{1}{4}$ of the lake is a no-wake zone.

Ken McCloud, states he owns Lot 10 in Willow Lakes Estates and he is one of the 3 that will have access to put a boat on the water. There are legitimate concerns with safety and the residents of Willow Lake have the same concerns. He owns a boat and has no legal right to put his boat in. He has informal access, but can't legally put his boat in on his lakefront property.

Steve Levin, is also a part of the Willow Lakes Estates subdivision and noted they are talking about 14 lots out of 170. He would like to see them treated the same as the other 170.

A resident at 1318 Castlewood, is concerned with the launch being so close to the park and asked if it were legal to do this.

John Campbell, 1218 Castlewood, is concerned with the precedence that would be set. He feels other people will come in asking for marine access if this is approved.

Lindsey Gershen, 515 Woodside, stated they moved here for lake access. They want the same for their kids. She understands how the other residents on Sugden Lake feel, and noted that the Willow Lake neighbors are strong working professionals and will respect the lake.

Laura Kenney, property owner on Sugden Lake and Cedar Island Lake, is concern that this will set a precedent. She feels this should be taken larger and every lakefront owner in White Lake Township should be concerned. The residents in Willow Lake Estates may have more than 1 boat.

Mr. Woodhouse stated that the group approaching has indicated they would not approve the added restrictions. Mr. Olson indicated that if the issues could not be separated, they do not want to cause strife and anger. They will take more time to discuss this and come up with a proposal where the residents won't fear that safety is being jeopardized. Mr. Quaintance added that they could come back with an answer to new restrictions on Monday if they can agree to still get the launch in.

Mr. Birkle indicated he has read restrictions and questioned if there was something where boats could be moored overnight, since this would dramatically impact the size of the dock if they can't be.

With no other comments, the public hearing was closed at 9:10 p.m.

Mr. Anderson is concerned that these things will happen within this time frame. The commission will be making a decision based on the idea it will happen, but there is no action plan. Mr. O'Neil asked the

commissioners to make a decision based on the facts and not the calendar. If the permit expires, they will have to make a new application.

Mr. Olson stated they have absorbed everything that was said this evening. If this isn't possible, they need to get together with other communities and understand what it will take to get this to move forward. They are trying to find a peaceful solution and he agrees there is not enough information to move forward at this point.

Mr. Birkle moved to table File 12-012 so the applicant can get more information gathered and come back on July 5 to continue the discussion. Mr. Anderson supported and the MOTION CARRIED with a roll call vote: Birkle – yes; Woodhouse – yes; Dehart – abstained – Martinko – yes; Anderson – yes; Meagher – yes; McNulty – yes; Novak-Phelps – yes (7 yes votes; 1 abstained – Dehart)

New Business

a. DTE Solar Panels Field, File No. 12-010

Location: Property described as parcel number 12-03-100-005, located at 5200 Indian Trail Road inside Indian Springs Metropark, on the north side of White Lake Road consisting of approximately 2.35 acres, currently zoned (ROS) Recreation Open Space
Request: Preliminary and Final site plan approval
Applicant: Nova Consultants Inc., 21580 Novi Road, Ste. 300, Novi, MI 48375

Mr. O'Neil stated that this request is unique. There are very few of these in southeast Michigan and there is excitement that one is coming to White Lake Township. This is an ancillary use to the park property and provides supplemental power to the park, along with an education opportunity. They are by-passing the special land use permit, but this still has to go to the Township Board. He added that there were concerns from the fire department with regard to hazards with solar currents, i.e., steps for precautions, what materials will be onsite and information on how to combat a fire of this type.

The representative from Nova Consultant stated they would put in wind turbines and 15 megawatts of solar power. This will be the 10th project of 30-40, which will meet their megawatt requirement. This will power approximately 60-80 houses and will tie into the utility grid. White Lake Township would be getting some of that energy and a learning tool. DTE will pick projects in areas and market as a tool. The metropark will have a kiosk for learning about renewable energy. This will be located on metropark property and will have no impact to adjacent properties.

Mr. Martinko asked if this would include site removal and the Nova representative confirmed that it would. Mr. Martinko asked about landscaping/screening and whether there would be any reflective glare from the panels. He asked what the most vertical angle of the panels would be. The rep stated the FAA has done research and there would not be any glare. The panels are 30 degrees and fixed array.

With regard to landscaping, Mr. Iacoangeli noted that they didn't know whether DTE wanted this visible to the public or if they wanted a berm. It was discussed that this is a green project and DTE wants it visible from White Lake Road.

Ms. Dehart questioned whether this would affect the horse trail. The rep stated it would not and further, it cannot be readily accessible to the public. This is surrounded by the wetlands, very thick brush and the old prison. And with public safety in mind, there will be a 7 ft. fence around the voltage area.

Mr. Birkle asked Mr. O'Neil if he was happy with the proposed screening/fence. Mr. O'Neil stated the township wants a vinyl coated fence rather than a chain link fence. The rep confirmed that the proposed fence would be 1 inch black vinyl coated chain link.

Mr. Anderson questioned the timeline for the project. The rep stated they would start July 23 and be completed by mid-November.

There was continued discussion on screening. DTE would like people to see this, but they will put in native grasses and possibly a berm.

Ms. Novak-Phelps moved to recommend to the Township Board to approve File 12-010, DTE Solar Panel Fields for preliminary and final site plan approval, with staff and consultant review, and without the berm. Mr. Meagher supported and the MOTION CARRIED with a roll call vote: Anderson – yes; Birkle – yes (but he feels there should be a berm); Woodhouse – yes; Martinko – yes; Meagher – yes; Novak-Phelps – yes; McNulty – yes; Dehart – yes. (8 yes votes)

Liaison's Report

Mr. Birkle reported that the Township Board approved funding for West Nile Virus control; adopted the Commerce Township sewer rates; approve the 2nd reading of the solicitation ordinance; will have a 1st reading for outside storage of vehicles; and extended the Wexford Manor project 3 years beyond 2014.

Consultant's Report

None was presented.

Director's Report

No further discussion

Communications:

Next meeting dates:

- Regular Meeting – July 5, 2012 (Martinko/McNulty cannot attend)

Adjournment

Mr. Birkle moved to adjourn the meeting at 10:07 p.m. Ms. McNulty supported and the MOTION CARRIED with a unanimous voice vote. (8 yes votes)