

MANISTEE CITY PLANNING COMMISSION

70 Maple Street
Manistee, MI 49660

MEETING MINUTES

September 7, 2006

A Meeting of the Manistee City Planning Commission was held on Thursday, September 7, 2006 at 7:00 p.m. in the Council Chambers, City Hall, 70 Maple Street, Manistee, Michigan.

MEMBERS PRESENT: Maureen Barry, Ben Bifoss (7:08 p.m.), Tamara Buswinka, Dave Crockett, Greg Ferguson, Ray Fortier, Harlo Haines, Tony Slawinski and Roger Yoder

MEMBERS ABSENT: none

OTHERS: Gary Wickens (213 Elm Street), Gary Schwaiger (representing Guardian Angels Church), Kate Wickstrom (Narconon Stone Hawk), Brian Sousa (City Engineer), Sid Scrimger (Fire Chief), Dick Lindberg (27 Cottage Lane), Cathy Knechtges (1310 Cornell Street), Dennis Benson (73 Brookharbor South), Chuck Canestraight (Sand Products Corporation), Lee Trucks (D.D.A.) Dave Carlson (D.D.A.), Mitch Deisch (City Manager), Cyndy Fuller (City Council), Jon Rose (Community Development), Denise Blakeslee (Planning & Zoning) and Others

Meeting was opened at 7:00 p.m. by Chairman Yoder.

PUBLIC HEARING:

Gary & Marilynn Wickens/Stephen & Cynthia Peterson - Street Vacation Request (Third Street east of Elm Street)

A request for a Street Vacation has been received from Gary & Marilynn Wickens (213 Elm Street, 51-51-364-711-01) and Stephen & Cynthia Peterson (490 Fourth Street - 51-51-364-720-09 & 51-51-364-720-11) to vacate 121 feet of Third Street east of Elm Street.

Mr. & Mrs. Peterson own two parcels that front on the undeveloped portion of Third Street east of Elm Street totaling 121 feet. Mr. & Mrs. Wickens own one parcel (198 feet of frontage) on the undeveloped portion of Third Street east of Elm Street. They have jointly requested to vacate a total of 121 feet of Third Street.

Notices have been sent to the Utility Companies and all property owners within 300 feet of the request. We have received a response from Michcon/DTE Energy that they have utilities within the proposed area of vacation.

Gary Wickens, 213 Elm Street - Mr. Wickens explained the request and spoke of the topography of the property and noted how both applicants currently mow the lawn and maintain the property. Granting the request would put that property on the tax rolls.

Chairman Yoder read a letter from Jane P. Cole in support of the request (attached)

There being no further discussion the Public Hearing closed at 7:04 p.m.

APPROVAL OF MINUTES:

Planning Commission Meeting of August 3, 2006

MOTION by Ray Fortier, seconded by Tony Slawinski that the minutes of the August 3, 2006 Planning Commission Meeting be approved.

With a roll call vote this motion passed 8 to 0.

Yes: Barry, Buswinka, Crockett, Ferguson, Fortier, Haines, Slawinski, Yoder
No: None

NEW BUSINESS:

Gary & Marilyn Wickens/Stephen & Cynthia Peterson - Street Vacation Request (Third Street east of Elm Street)

A Public Hearing was held earlier in response to a request from Gary & Marilyn Wickens 213 Elm Street and Stephen & Cynthia Peterson, 490 Third Street to vacate Third Street from the east line of Elm Street east 121 feet.

Staff review of the request shows no reason to oppose Vacating this portion of Third Street while recommending an easement be retained for maintaining the storm sewer and utilities within the right-of-way.

MOTION by Ray Fortier, seconded by Tony Slawinski to recommend to City Council the vacation of the undeveloped portion of Third Street east of Elm Street totaling 121 feet subject to maintaining easements for all utilities.

With a roll call vote this motion passed 9 to 0.

Yes: Haines, Bifoss, Ferguson, Barry, Fortier, Crockett, Buswinka, Yoder, Slawinski
No: None

Guardian Angels Church - Parcel Split request

A request has been received from Guardian Angels Church to split parcel # 51-51- 646-702-01 into three parcels. The Church and adjoining property across Michael Street will remain the parent parcel. The convent will become Parcel #1. The Vacant property to the south of the convent will become Parcel #2.

Gary Schwaiger representing Guardian Angels Church spoke of the request. They no longer have any nuns using the convent and to eliminate the cost of maintaining the property they decided to sell the property. This would also put the property on the tax rolls.

Staff review of the request shows that all of the set-back requirements have been met.

MOTION by Ray Fortier, seconded by Tony Slawinski to recommend to City Council the approval of the request from Guardian Angels Church to split parcel #51-51-646-702-01 into three parcels as shown on their request dated August 30, 2006.

With a roll call vote this motion passed 9 to 0.

Yes: Fortier, Buswinka, Bifoss, Haines, Yoder, Slawinski, Crockett, Barry, Ferguson
No: None

Narconon Stone Hawk - Planning Commission review, analysis, and recommendation

The Planning Commission has received a Special Use Permit application from Narconon Stone Hawk Rehabilitation Center for the former Manistee Heights/Tendercare Property.

Kate Wickstrom , Narconon Stone Hawk - Ms. Wickstrom spoke of the facilities that they currently operate in Battle Creek (since 2003) and Albion (since April 2006). There is an overwhelming need for their service. They are a long term treatment facility averaging 4 to 6 months. They provide an alternative method for treatment and do not use drugs to get people off drugs. They do not accept convicted felons. They have had over 600 graduates with a 70% success rate after two years. They are not a lock down facility, but their clients do not leave the facility without a staff member. They anticipate between 60 - 80 jobs.

MOTION by Ray Fortier, seconded by Tony Slawinski to Schedule a Public Hearing on the application from Narconon Stone Hawk for October 5, 2006 and continue discussion with the applicant at their Worksession on Thursday, September 21, 2006 (6:00 p.m.).

With a roll call vote this motion passed 9 to 0.

Yes: Bifoss, Crockett, Haines, Slawinski, Buswinka, Ferguson, Barry, Fortier, Yoder
No: None

UNFINISHED BUSINESS:

Sand Products Corporation - Planned Unit Development Amendment (Phase 3).

The Planning Commission will continue discussion on the request from Sand Products Corporation for a Planned Unit Development - Phase 3.

Due to a conflict of interest Commissioner Ben Bifoss left the room and abstained from any deliberation or voting on the request from Sand Products Corporation.

Jon Rose spoke of the history of the project.

Chairman Yoder wanted it noted in the minutes that since the August Planning Commission Meeting the following items have been submitted to the Planning Commission. The Public Hearing has been held on March 2, 2006 in response to the request for an Amendment to allow Phase 3 development from Sand Products Corporation. These items will not be attached to the September 7, 2006 meeting minutes but are available at City Hall for review by the Public.

22 letters (including newspaper clippings)

246 people submitted the cut out letter from the "Save Man Made Lake" ad printed on Friday, August 25, 2006 in the Manistee News Advocate paid for by Citizens Committee to Save Man Made Lake.

Petitions in opposition to Sand Products Corporation request for a Phase 3 Development on the Northwest side of Man Made Lake, Manistee Michigan were submitted with 699 Signatures

Brian Sousa, City Engineer spoke of his memo dated August 30, 2006 and answered questions by the Commissioners.

Fire Chief Sid Scrimger spoke of his memo dated August 30, 2006 and answered questions by the Commissioners.

MOTION by Greg Ferguson, seconded by Dave Crockett that the Planning Commission adopt a resolution to deny the request from Sand Products stating that:

The use shall be deemed not compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is not consistent with the public health, safety and welfare of the residents of the City of Manistee and the benefits of the development shall not be achievable.

MOTION by Dave Crockett, seconded by Tamara Buswinka to amend the motion to allow additional items to be included in the resolution.

Planning Commission took a recess for copies to be made. After the recess Commissioners were handed out a list of items 1 thru 8 prepared by Commissioner Buswinka.

MOTION by Greg Ferguson, seconded by Dave Crockett that the list be divided in to items for inclusion.

With a roll call vote this motion passed 7 to 1 with Commissioner Bifoss Abstaining

Yes: Barry, Buswinka, Ferguson, Slawinski, Crockett, Yoder, Haines
No: Fortier

Chairman Yoder asked for a vote on each item by the Planning Commission for inclusion. Items 1 thru 4 were handled by a voice vote as follows:

1. The proposal is within a High Risk Erosion Area as determined by the Michigan Department of Environmental Quality and is subject to special consideration, review and evaluation;

Approved

2. Lake Michigan water levels are near record lows, as illustrated by the US Army Corps of Engineers report titled "Lake Michigan Lake Levels 1960-2006" from their Monthly Report for "Michigan-Huron" giving a false sense of the actual size of the property in questions;

Approved

3. The Planning Commission is considering in this decision that favorable conditions today may not continue in the future. The proposed homes are located on a sand dune that separates Man Made Lake and Lake Michigan. This sand dune has historically been breached due to natural erosion and fluctuations of Lake Michigan water levels opening Man Made Lake to Lake Michigan. Sand dunes by nature are subject to drifting and moving sand as well as water erosion. The Planning Commission understands that historical analysis of the subject property illustrates the fluctuations that has left the subject property undevelopable in the past. It is only due to historically low water table levels and the application of engineering methods to stabilize and increase the dunes size that the applicant is able to pursue developing the dune at this time - natural conditions may change again subjecting the property to natural elements. Prudent natural hazard mitigation principles dictate not developing in known areas where the environment will most likely compromises human activity.

Approved

4. The Planning Commission has approved the development of Phase 1 and Phase 2 of the parcel in question and recognizes that when the site is reviewed as a whole the environmental considerations do not allow the development of a Phase 3 but believes the applicant has been allowed to take advantage of their economic backed expectations of their property;

Approved

Items 5 thru 8 a roll call vote was taken as follows:

5. While not required by State or local regulation, the Planning Commission accepts the advice of Penny Holt of the Great Lakes Shorelands Section, Land and Water Management Division of the Michigan Department of Environmental Quality that it would be prudent for the applicant to obtain State building permits to determine if the lots as proposed are buildable. This would avoid future problems for the sellers or new owners and..."there would be no question as to whether the property was buildable at the time of creation...(Penny Holt letter dated April 6, 2006)"

With a roll call vote this item was denied 5 to 3 with Commissioner Bifoss Abstaining

Yes: Crockett, Buswinka, Slawinski

No: Haines, Ferguson, Barry, Fortier, Yoder

6. While not required by State regulations but within the right of the Planning Commission when reviewing a PUD as per the requirements of the City of Manistee Zoning Ordinance finds that locating utilities (water, sewage, etc.) between and within close proximity of two bodies of water, within an unstable sand dune, in a State designated High Risk Erosion Area not in the best interest of the public health, safety and welfare of the residents of the City of Manistee as those utilities are in jeopardy of being subjected to an unusual amount of environmental stress that may cause a public health, safety and welfare issue.

With a roll call vote this item was approved 5 to 3 with Commissioner Bifoss Abstaining

Yes: Buswinka, Haines, Yoder, Slawinski, Crockett

No: Fortier, Barry, Ferguson

7. The Planning Commission finds that the location of the driveway in such close proximity to Man Made Lake, with an understanding that Man Made Lake Water levels fluctuate over tie, is unsuitable to support proper access to the site. Issues such as stabilization - erosion (landslide) be considered.

With a roll call vote this item was approved 6 to 2 with Commissioner Bifoss Abstaining

Yes: Slawinski, Yoder, Crockett, Ferguson, Haines, Buswinka,

No: Barry, Fortier

8. That there are agreements between Applicant and the City that need to be resolved.
With a roll call vote this item was approved 6 to 2 with Commissioner Bifoss Abstaining
Yes: Crockett, Slawinski, BUswinka, Ferguson, Barry, Yoder
No: Haines, Fortier

VOTE ON MOTION TO AMEND MAIN MOTION TO ALLOW ADDITIONAL ITEMS TO BE INCLUDED IN THE RESOLUTION AS FOLLOWS:

MOTION by Dave Crockett, seconded by Tamara Buswinka to amend the motion to allow additional items to be included in the resolution.

With a roll call vote this motion passed 7 to 1 with Commissioner Bifoss Abstaining.

- Yes: Haines, Crockett, Barry, Yoder, Buswinka, Ferguson, Slawinski
No: Fortier

VOTE ON MAIN MOTION AMENDED TO READ AS FOLLOWS:

MOTION by Greg Ferguson, seconded by Dave Crockett that the Planning Commission adopt a resolution to deny the request from Sand Products stating that:

1. The use shall be deemed not compatible with adjacent land use, the natural environment, and the capacities of affected public services and facilities, and that such use is not consistent with the public health, safety and welfare of the residents of the City of Manistee and the benefits of the development shall not be achievable.
2. The proposal is within a High Risk Erosion Area as determined by the Michigan Department of Environmental Quality and is subject to special consideration, review and evaluation;
3. Lake Michigan water levels are near record lows, as illustrated by the US Army Corps of Engineers report titled "Lake Michigan Lake Levels 1960-2006" from their Monthly Report for "Michigan-Huron" giving a false sense of the actual size of the property in questions;
4. The Planning Commission is considering in this decision that favorable conditions today may not continue in the future. The proposed homes are located on a sand dune that separates Man Made Lake and Lake Michigan. This sand dune has historically been breached due to natural erosion and fluctuations of Lake Michigan water levels opening Man Made Lake to Lake Michigan. Sand dunes by nature are subject to drifting and moving sand as well as water erosion. The Planning Commission understands that historical analysis of the subject property illustrates the fluctuations that has left the subject property undevelopable in the past. It is only due to historically low water table levels and the application of engineering methods to stabilize and increase the dunes size that the applicant is able to pursue developing the dune at this time - natural conditions may change again subjecting the property to natural elements. Prudent natural hazard mitigation principles dictate not developing in known areas where the environment will most likely compromises human activity.

5. The Planning Commission has approved the development of Phase 1 and Phase 2 of the parcel in question and recognizes that when the site is reviewed as a whole the environmental considerations do not allow the development of a Phase 3 but believes the applicant has been allowed to take advantage of their economic backed expectations of their property;
6. While not required by State regulations but within the right of the Planning Commission when reviewing a PUD as per the requirements of the City of Manistee Zoning Ordinance finds that locating utilities (water, sewage, etc.) between and within close proximity of two bodies of water, within an unstable sand dune, in a State designated High Risk Erosion Area not in the best interest of the public health, safety and welfare of the residents of the City of Manistee as those utilities are in jeopardy of being subjected to an unusual amount of environmental stress that may cause a public health, safety and welfare issue.
7. The Planning Commission finds that the location of the driveway in such close proximity to Man Made Lake, with an understanding that Man Made Lake Water levels fluctuate over time, is unsuitable to support proper access to the site. Issues such as stabilization - erosion (landslide) be considered.
8. That there are agreements between Applicant and the City that need to be resolved.

With a roll call vote this motion passed 5 to 3 with Commissioner Bifoss Abstaining.

Yes: Buswinka, Haines, Slawinski, Crockett, Ferguson
No: Fortier, Yoder, Barry

OTHER COMMUNICATIONS:

The Planning Commission Worksession will be held on September 21, 2006 at 6:00 p.m.

CITIZEN QUESTIONS AND CONCERNS:

Lee Trucks, D.D.A. Representative - handed out information on "Downtown Sturgis" for the Commissioners review and asked if they would be able to meet in the future to further discuss it.

Dick Lindberg, 27 Cottage Lane - Thanked the Planning Commission for their consideration.

Cathy Knechtges, 1310 Cornell Street - Thanked the Planning Commission.

Ray Fortier, Planning Commissioner - Spoke of hope that people continue to try to purchase Man Made Lake.

Dennis Benson, 73 Brookharbor South - Asked how should funds be obtained to purchase Man Made Lake?

Greg Ferguson, Planning Commissioner - Spoke of how an individual could file a petition for a vote.

Chuck Canestraight, Sand Products Corporation - Mr. Canestraight thanked the Planning Commission for their process and said he will be in contact with the City.

Ben Bifoss, Planning Commissioner - Mr. Bifoss asked if the request from the DDA to meet with the Planning Commission could be added to the Worksession Agenda on September 21, 2006.

Chairman Yoder directed staff to add this item to the Agenda.

WORK/STUDY SESSION:

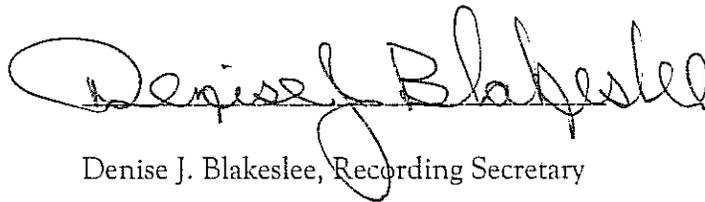
Worksession for September 21, 2006 at 6:00 p.m. will include review of request from Narconon Stone Hawk - Rehabilitation Facility and D.D.A. - Downtown Sturgis.

ADJOURNMENT:

MOTION by Tony Slawinski, seconded by Ray Fortier that the meeting be adjourned. Motion passed unanimously.

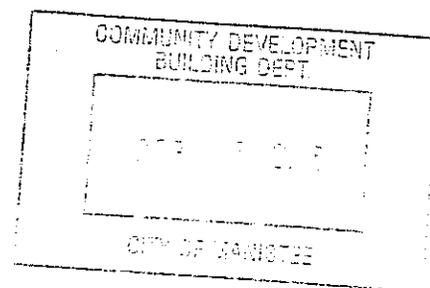
MEETING ADJOURNED AT 8:55 P.M.

MANISTEE PLANNING COMMISSION


Denise J. Blakeslee, Recording Secretary

488 Fourth Street
Manistee, MI 49660-1629
September 1, 2006

Mr. Jon Rose, Community Development
City of Manistee
P. O. Box 358
Manistee, MI 49660



Dear Mr. Rose:

There would be no reason for me to attend the meeting of September 7th. In my opinion, there would be no reason to prevent closing Third Street from the East line of Elm Street for 121 feet East.

As far as I am concerned, Stephen and Cynthia Peterson have been nothing but an asset to this neighborhood since they moved here.

Sincerely yours,

Jane P. Cole