

BENZIE COUNTY PLANNING COMMISSION  
JANUARY 10, 2008  
MINUTES

**MEMBERS PRESENT:** Mary Pitcher, Alan Luedtke, Karen Roberts, Mike Moorman, Anne Damm, Kathy Ralston, Cliff Graves, Don Tanner, Katherine Ross

**STAFF PRESENT:** Dave Neiger, Planning Director, Craig Seger, Zoning Administrator, Richard Figura, Esq. Counsel for Planning and Zoning Matters, Chris Flynn, Recording Secretary

**OTHERS PRESENT:** Roger Hubbell, Mary Miller, Keith Bonney, Crystal Poulisse, Sara Bonney, April Dunlop, Cathy Demitroff, Bob Patten, Sylvia VanHeyningen, Terry VanHeyningen, Bruce Dixon, Mary P. Dixon, Thomas J. Webor, Lindsay Vincent, Samantha Rhodes, Jerry Bush, Gardner Klaasen, Christy Andersen, Mike Cochran, Deb Cochran, Louis P. Tocco, Esq. and several other interested citizens

**I. CALL THE MEETING TO ORDER:** Chairman Graves called the meeting to order at 7:00 p.m.

**II. APPROVAL OF THE AGENDA:** Motion by Roberts seconded by Moorman to approve the agenda as submitted. Ayes: All **Motion Carried.**

**III. \*\*PUBLIC HEARING – ZONING AMENDMENT, TURTLE LAKE OVERLAY DISTRICT**

A. Open the Public Hearing Chairman Graves opened the public hearing at 7:02 p.m.

B. Introduction of Planning Commissioners and Call for Conflict None stated

C. Staff Analysis Craig Seger explained that he would be presenting the changes made since the last meeting and passed out blue folder containing the document with the changes included and explained the map. Changes made are: the date has been removed. A significant change to the Scope which takes into account lands that are outside the ordinance requirements, the definition for natural vegetation has been minimally adjusted and examples are inserted, adjustment to the table which reflects a change further on by adding combined cutting and mowing/vegetative cover is rearranged and now mandatory that natural vegetation will be included in vegetative management, Page 7 has a sketch added. Karen Roberts questions change from mowing to clearing, on Page 8. Language has been added that allows some otherwise prohibited uses outside the 500' mark.

D. OPEN PUBLIC INPUT Chairman Graves opened public input at 7:13 p.m. and reviewed public input policies.

1. Proponents Terry VanHeynigen reviewed the history of this amendment and states it is their hope that if Inland Twp. does adopt their own zoning ordinance that they include this overlay. The Turtle Lake residents who were involved with this project support this overlay.

2. Opponents Bob Patton for Secluded Land Comment speaking for 19 lots. Comments that this ordinance has elements that will burden the county, the homeowner, and the zoning administrator with provisions that don't belong in this document. He questions Slope Determination and the referral to the Crystal Lake Overlay District and asks if a slope map exists for Turtle Lake. He asks if the slope requirements will prevent any lots in The Oaks at Turtle Lake or any other lots around the lake from being buildable. He questions the vegetative cover as the first part doesn't have a percentage. He states it should be replaced with more common sense. He approves making the clearing/mowing requirements apply to everyone, but states it's not fair to burden people who have lawns/beaches and growing trees, when no studies have been done that show they are harming the lake (excluding fertilizer). He objects to turning the area into a forest instead of allowing meadows. Keith Bonney questions vegetative management, where tier 3 goes into 500'. He asks if minimum setbacks are 75' or 500'? He objects to the section that will allow him only 25' of his 1200' shoreline to use. He states he has a problem with rules just for rules and he feels this Overlay still needs some work. April Dunlop disagrees with the Overlay in it's present state and the lack of communication with the property owners around the lake, she comments that everyone wants to protect the lake but she wants it to be fair.

3. General Statements and Questions Mary Miller states she doesn't understand Pg. 7 because it doesn't identify what tier(s).

4. Rebuttal

a. Proponents Mary Dixon states she believes it is the responsibility of the real estate agents for the Oaks at Turtle Lake to inform potential buyers of the overlay district and that they will have to follow those requirements. She states that mowing might not matter now but it will have a future impact.

b. Opponents Keith Bonney also comments that the overlay could have a negative economic impact. Bob Patton asks to hear from the Planning Commission on how they feel on adopting an ordinance without the input of the township?

5. Correspondence Craig Seger summarized letter received earlier from Connie Reinhard which state she feels the provisions of the Overlay District should not be interpreted to include preexisting lawfully allowed uses. She states compliance should be voluntary for existing conditions and be mandatory for new uses, and a letter received from William Kozart, yesterday, supporting the protection of Turtle Lake and encourages others to support the overlay.

E. Close Public Input Chairman Graves closed public input at 7:41 p.m.

F. Board Discussion Cliff Graves stated he is glad the issue of whether this amendment would be included in the Homestead/Inland Townships Zoning Ordinance if the decision is made by the townships to zone themselves, and he hopes they would include it. He also states that the Benzie County Planning Commission plans to continue the best administration we can to Homestead and Inland Townships right up to the time they adopt their own and we do not intend to ignore them at any time. He adds that we expect input from Inland Township on this matter. Cliff Graves asks if there is a slope map? Craig Seger states there is for the area of turtle lake which needs of some modification. Craig Seger states that work on the slope maps will done during the work on the Zoning Ordinance and explains that the slope maps helps the Zoning Administrator to determine the slopes so vegetation that is required on each part of slope can be determined. He adds that at this time we are using the Crystal Lake criteria and using field inspections and tests to determine the slope. He states the ordinance has provisions for slopes greater than 25% that have no other prudent alternative to be buildable, and it is not the intent to create unbuildable lots. There was discussion on whether relying on the map alone a lot could be determined unbuildable. There was some discussion on whether the slope maps could be created "in house". There was more discussion on the slope maps and buildable lots. Motion by Tanner to refer slope map back to staff for further work, seconded by Moorman. Karen Roberts states she doesn't know if she can support this, if it's a tool, and if it works why not use it. He states he believes there is a successful system in place and we can move forward. There was more discussion on maps versus site inspections. Don Tanner and Mike Moorman withdraw their motion. **Motion** by Roberts seconded by Pitcher to allow the language in 12.5.8 stand. **Ayes:** Pitcher, Luedtke, Roberts, Moorman, Graves, Ross , Ralston **Nays:** Tanner **Motion Carried**

Moving onto the question on, the percent of vegetative cover, Cliff Graves states there is missing information and we also need to address the 25' allowable beach area on a 1200 shoreline parcel because that was not the intent.. There was more discussion on the amount of vegetative cover to be left, how much could be cut in the different tiers. **Motion** by Cliff Graves seconded by Mike Moorman to revise Sec. 12.5.C to read tier 1 & 2. There was discussion on whether the "path" was to be included in the calculations. Mike Moorman asks if could it be worded as a percentage of the width of the lot. Disc on the difference between beach and clearing? Cliff Graves comments that the MDEQ allows sand to be put on cleared areas. There was discussion on the 25% of the width allowed to be cleared. **Motion** by Karen Roberts seconded by Mary Pitcher to amend the 2<sup>nd</sup> sentence to read "The width of the cleared area should not exceed 25% of the parcel width and shall run parallel to the edge of the water body". **Ayes:** Mary Pitcher, Alan Luedtke, Karen Roberts, Mike Moorman, Anne Damm, Kathy Ralston, Cliff Graves, Katherine Ross **Nays:** Tanner stating because he doesn't understand it at all. **Motion Carried** Discussion on tier 1 and 2 and the cleared beach areas and if there is conflict with clearing for view? It was stated no, filtered views are allowed. Discussion on 12.5.7 Table, Craig Seger thinks there is one too many checks and states he will to remove the check the incorrect check. There was discussion on plant removal on Agriculture land for air drainage, which was the intent and is why it is not there. Mary Miller asks if it is tiers 1 – 3 and beyond. Craig Seger states yes. Cliff Graves suggests to amend to say "within the overlay" and eliminate the rest. Craig Seger states we have received much input from the township and have included them throughout the entire process, and

asks if there is more tonight. . There was discussion on Table 12.5.D and that the table came from our county forester. Craig Seger comments the table is footnoted and described ways to measure basal area and what needs to be measured. It was stated that everything is being done to protect the lake without getting into everyone's way and telling them they can't do anything. The purpose is to protect the lake – and if anyone can find a better way to say it, please bring it forward. There was more discussion on clearing, pruning, calculating basal area, the path area and better defining these Don Tanner still feels conflict. Kathy Ralston thinks there must be a way to fix it, but is comfortable that it does what it is intended. Anne Damm agrees with Don Tanner, when reading it sounds like no cutting. Cliff Graves states they are all tied together. Anne Damm states it needs to be more clear, suggests notations to reference the other sections. Mike Moorman is satisfied, and let's move forward. Karen Roberts agrees with Anne Damm, it's not clear and suggests using a footnote. Alan Luedtke is satisfied and let's move forward. Mary Pitcher is comfortable and let's move forward. Don Tanner states it is an onerous document. Katherine Ross suggests putting the pruning section on Pg. 6. Cliff Graves suggests adding it to the table. Karen Roberts and Anne Damm begin to create a motion.

Chairman Graves recesses from 8:38 to 8:43 p.m.

**Motion** by Karen Roberts seconded by Katherine Ross to amend table 12.5 c Row 2 Column 2 to read Percentage of total lot to remain in natural vegetative cover in Tiers T1 and T2 shall be 100% minus the area allowed for an Access Path (Section 12.5.9.C) and Cleared Area (Section 12.5.12.D.1) and managed per Section 12.5.12, "Vegetative Management". **Ayes: All Motion Carried**

G. Decision **Motion** by Mary Pitcher, supported by Mike Moorman to approve as amended, including the map. **Ayes: All Motion Carried**

H. Close Public Hearing Chairman Graves closed the public hearing at 8:47p.m.

#### **IV. Public Hearing – P.U.D. 08-02 Revision to Inland Oaks**

A. Open the public hearing Chairman Graves opened the public hearing at 8:49

B. Call for conflict The Planning Commissioners re-introduced themselves, with no conflict stated.

C. Staff Report Craig Seger reviewed his Staff Report, handed out, with a power point presentation. He recited the "facts" and exhibits, per the packet and report and adds that the Inland Township Zoning Ordinance in effect at the time does not dictate criteria for bonus lots. He states the pages provided to the pc are just the pertinent pages of the Master Deed. Dave Neiger asks if the master deed is only for the southern portion. Craig Seger states he believes it was the whole project. Attorney Lou Tocco states it covers both the north and the south. Craig Seger continued to review the Sections of the Inland Township Ordinance and the conditions of approval per the minutes of the public hearing held by Inland Township. He then reviewed the Benzie County Zoning Ordinance P.U.D. sections as well as sections regarding non-compliance with the motion to approve and violations, stating that the sections on non-compliance and violations are almost identical in both ordinances. Craig Seger reviewed the new proposal commenting that it eliminates 7 home sites although it allows 5 new land divisions to the north of Bronson Lake Road. He comments that this plan has less open space than what was originally approved and he feels that the Planning Commission, working with the developer, can make the plan better. He suggests one option of allowing a portion of the north section to be deeded to the P.U.D. in order to maintain the 56% open space that was originally approved, and states there could be others. Craig Seger reviewed some of the issues that were in non-compliance with the original approval: (1) the community garden has not been provided, the water tank has not been installed, and the open space has been considerably reduced. He repeats that he feels we can make something better that the applicant, Inland Township and the Planning Commission can live with. Craig Seger commented that the P.U.D. was approved with conditions on October 22, 2003, and the Master Deed was filed on September 2, 2005.

D. Applicant presents his case and any further information Christy Andersen explains that the adjoining property owners on the north side were an important part of the original approval process and that they now want to purchase the northern(north of Bronson Lake Road) portion. Attorney Tocco

states that Craig Seger's analysis would be great if the application were simply to amend the P.U.D., but this application is to sever the northern portion and sell it outright to Mr. and Mrs. Cochran. He states they will be working with the Cochran's to put restrictions on the number of lots that can be created and how much open space will be preserved. He states the buyers will agree to limit the land divisions to 6 no matter what the zoning allows under a straight land division. Mary Pitcher comments that the open space planned is not what she was expecting. There was discussion on the amount of open space. Craig Seger comments that there can be different interpretations of what the open space is, right up to the Township's approval of the original which states that 56% open space will be included in the P.U.D. Attorney Toco argues that the Township had no requirement in its P.U.D. section for open space no matter what the motion said. Mike Cochran states that they were against the P.U.D. in the beginning, but they are willing to purchase the property so they can remain out in the county. He states they would have to sell some lots because of the financial burden of purchasing the property. He adds that the separation of the garden and path on the north side would defeat the reasons for their purchasing the property. Mr. Klassen states that he has developed a lot of property, but this is the first time he has separated a portion to sell outright. Deb Cochran states she thinks the basis of this meeting is to remove the property from the confines of the P.U.D. and start over. She adds they don't want to buy an amended P.U.D., they want to buy a large piece of land. They have told the County that's not what they want and she thinks they should have gotten a draft staff analysis. Attorney Tocco points out they accept the responsibility of the on and off the agenda process but they are asking for something different than an amended P.U.D. He states he has found incorrect statements and can point them out. Cliff Graves expresses concern about seeing all of this for the first time, but commends Craig Seger for getting the review and Staff Report done in time for the meeting, but he is concerned about getting into all the new detail without a change for thorough review.

E. Open Public Input

1. Proponents - The Cochrans are in favor. Mary Miller states she went over and over this when 1<sup>st</sup> brought to Inland Twp. and the project was contentious. She thought that people in the south side wouldn't have the open space, but this proposal is really what the Township truly wanted. Marilyn Wareham states she is not opposed to removing the north part, but you need to do something with the south part because you have too many lots on the south side for the size of the parcel, only 14 lots would be allowed with 2.5 acre (the minimum lot size under both zoning ordinances). She was told in the beginning that the open space would be in the north to allow the density in the south.

2. Opponents None

3. General Statements None

4. Rebuttal Attorney Tocco commenting on Ms. Miller's comments that the owners on the south side thought they were getting open space on the north, stating the Master Deed is clear that they were not promised that much open space, the P.U.D. was only approved to allow the lots if the developer wanted to develop that portion. He adds the standard they were previously approved on is different than the standard now. He went through the documents and saw no requirement that if the south portion was developed they had to develop the north, and a requirement that both sides had to be developed was as clearly not part of the approval. Mary Miller asks if there is any discussion on increasing the open space for the people that are already there.

5. Correspondence Craig Seger reviewed the letters from Attorney Tocco, the letter from Attorney Figura and notes the inclusion of a letter Mr. Klassen sent to the 9 property owners in the P.U.D. He notes that the meeting was noticed per requirements and while he did get a couple of phone calls, no residents from Inland Oaks are here tonight.

6. Close Public Input 9:46 p.m.

F. Board Discussion Cliff Graves states his personal opinion is that we need some time to digest all the information presented tonight. He states he would entertain a motion to postpone. Attorney Tocco states that all the new information is about amending a P.U.D. and they are asking for outright removal. Motion by Mary Pitcher seconded by Kathy Ralston move to postpone this public hearing to Feb 6, 2008. There was considerable discussion about needing time to review all the information. Don Tanner states would like time to review the packet and has concerns about what he

has seen and heard tonight. He states he would like to be sure that any approval that might be made would make sure that it is a "best fit" with the intent of what was approved originally. Karen Roberts asks if they want to sever the P.U.D. and return the south part of the property back to RP-2.5 zoning. She asks if they are asking us to do something creative? We would have to rezone the southern half to R-2 to make it comply with the zoning ordinance. If we do something creative on the south side, can we do something creative with that north part? Cliff Graves comments that he hopes we can work through this and make a win-win situation for everybody. There was discussion on taking everyone interests into account. Don Tanner requests a Point of Order, there is a motion on the floor. Attorney Figura was asked if we are following the right procedure. He replies that a motion to postpone is perfectly ok. There was discussion on where the next hearing would be held and it was decided that the Benzie County Government Center would be the meeting place, as there is already a public hearing scheduled there for Feb. 6, 2008. It was announced that this would again, be the second item on the agenda due to the previously noticed hearing on another matter. Ayes: ALL The public hearing on the Inland Oaks P.U.D. will be held Feb. 6, 2008 at the Benzie County Government Center, immediately following another public hearing.

**V. Adjourn** Chairman Graves adjourned the meeting at 9:57 p.m. The next meeting will be February 6, 2008 at 7:00 p.m.

Respectfully Submitted:

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Kathy Ralston, Secretary

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Christi Flynn, Recording Secretary