CITY OF LUDINGTON
PLANNING COMMSION
MINUTES 11/05/08

A meeting of the Ludington Planning Commission was held on ~~Tuesday~~ Wednesday, November 5, 2008. The meeting was held at the Ludington Municipal Building, 400 S. Harrison St., Ludington, MI and was called to order at 7:00 p.m. by Tom Coleman, Chairperson.

ROLL CALL: The roll call showed the following results:

Present: Robert Garrett, Kaye Holman, Gary Schnitker, Tom Coleman, and Mike Nekola

Absent: Chris Pontz, absent, Chris Gamble, absent, Clay Olmstead and Joe Moloney, excused

Also Present: Recording Secretary, Carol Ann Foote, City Manager, John Shay and City Attorney, Roger Anderson

AGENDA APPROVAL:

Chairman Coleman added PUD text to Unfinished Business and signs to Commissioner's Comments. Commissioner Holman made a motion to approve the agenda, seconded by Commissioner Schnitker. Motion carried unanimously.

PUBLIC COMMENTS:
None

APPROVAL OF MINUTES:
Commissioner Holman pointed out a correction to be made to the October 7 minutes. The name Denise Knudsen should be changed to read Elise Knudsen.

Commissioner Schnitker made a motion to approve the minutes of the October 7, 2008 meeting, seconded by Commissioner Holman. Motion carried unanimously.

PUBLIC HEARINGS:
To consider a request by Rieth-Riley Construction Company, Inc. to modify an existing 1996 Special Land Use at the following described property:
Part of Tax ID #53-051-590-019-00 described as: Beginning at a point on the North line of Section 22, T18N, R18W, in the City of Ludington, Michigan, that is N86° 44'01" E274.58 feet from the North quarter corner thereof, thence continuing N 86° 44'01" E 141.82 feet along said Section line to the extended West right of way line of James Street; thence S 0° 27'05" E 481.55 feet along said right of way to a traverse point adjacent to the waters edge of Pere Marquette Lake; thence N 86 ° 51'20" W 208.54 feet along a traverse line adjacent to Pere Marquette Lake; thence S 14° 39'48" W 77.58 feet along a traverse line adjacent to Pere Marquette Lake; thence N 68° 37'02" W 376.34 feet along a traverse line adjacent to Pere Marquette Lake; thence N 19° 05'29" E 187.42 feet along a traverse line adjacent to Pere Marquette Lake; thence S 70° 21'18" E 266.89 feet; thence N19° 42'13" E 331.76 feet to the place of beginning. The lease area is +/-3.79 acres.

Gary Schenk, Attorney representing Reith-Riley Construction, introduced Keith Rose, Executive Vice-President of Reith-Riley and Don Clingan, Lake Michigan Carferry. Mr. Schenk told the Commissioners that Reith-Riley was requesting approval of an amendment to the existing Special Land Use at the aggregate dock located at 701 Maritime Drive. The amendment is for the revision of the property description to reflect the actual conditions of the use of the dock of the past ten years. We are not requesting an expansion of operations, the operations are there. We are asking for an amendment to the description that was put into the 1996 approval that recognizes the area we use. All of the zoning setbacks are to be observed and there are no changes to the existing development. In short, we want your approval for a change of description to reflect what we have been doing, and we would like to keep on doing.

In 1996, the City approved a Special Land Use request to operate this aggregate dock in the newly created Waterfront Shipping zone. The approval was in keeping with the City's Master Plan, to keep the lake a working harbor. Reith-Riley has indeed used this area to create a working harbor. We watched the demand for our product grow; the demand for change in mixes from the State that requires the use of a number of different kinds of aggregate, and the all get supplied through the lake, through this dock. We now employ twenty-seven direct employees and an additional three to five truck drivers and others that work at the dock. We support a number of local trucking operations, buy fuel locally, get repairs and buy tires locally. As a working dock, we contribute to the community's economy and the commercial vitality of the harbor. The tonnage that comes into the Reith-Riley dock is the tonnage that justifies the continued dredging of the harbor by the appropriate agencies in charge of that requirement to keep it a deep water port. We dredge our own channel in front of the dock and have done so since the dock was first approved. Pursuant to the appropriate permits we have made it possible to bring in large ships to that dock with a commercial purpose.

The need for the amendment came about through three factors. First was the original intent of the parties to the lease agreement. When the originally description came about, Mr. Laman was under the mistaken impression that he was leasing the entire area that we have, as a dock. Some of that was not used as a dock or working dock area for a couple of reasons. The sixty feet on the east line was reserved by Lake Michigan Carferry for a potential project that did not come to fruition. The landlords stated use it until they need it; that is why that area became occupied. As demand for the product grew and space became available on the site and the need for more mixes came about, there were more aggregate piles introduced and more space occupied. The area to the north coming back toward the roadway became occupied the same way and as need developed, use of the property expanded. Subsequently, the lease was amended by the parties in 1998 to create the description that we have now before you and on the site plan. Unfortunately, through inadvertence and ignorance, the parties did not come back to the Planning Commission or the City to get approval of the description that describes the area of the actual use of the dock. I say that with this in mind that is not an excuse. There is no excuse for the failure to do that. But I can tell you, it was not done in bad faith. It was not done to intentionally disregard the City's rules and regulations, or to operate in disregard of those regulations. The mistaken belief was that the property was available for use. That was ten plus years ago.

The first day that material was taken in from the lake, it was put in to that sixty feet area, the unloading area. The piles move around as more product comes in. They are relocated to accommodate the product. To be economically viable and to continue to be a working dock and a community employer, to be able to uphold the working harbor designation in the intent of the City's Master Plan, we need to be able to continue to use this space. The operation has that kind of demand and the dock has grown. Beginning ten years ago, the demand for our product in Northern Michigan spiraled to that intent. Again, the economic viability of Reith-Riley in this dock really needs the additional space to work with, with your approval. The amended lease added about 3/10 of an acre to this site. The remainder is due to the seawall in that area which brings about a 4.1 acre total to the property. We are requesting your approval of the amended description.

Dave Haywood, Attorney representing Northshore Villas (adjacent property owners), stated that his clients had a plan for a marina and condominiums. The marina with the condos was approved by the Planning Commission about one and a half years ago. That approval had a one year limitation on it for commencing construction. They have not been able to commence construction because of other permitting requirements, primarily the Department of Environmental Quality. The developers were also told, in a letter, that the one year was extendable. The letter did not indicate if the application for extension had to be done at a certain time. We are in the process of negotiating the DEQ permit and there are Federal permits required from the Army Corps of Engineers. We obviously oppose the expansion to the east by Reith-Riley in terms of an approval to operate and maintain their stockpiles. We do not take issue with the things that Mr. Schenk said in regards to the value to the community. We recognize that this is a valuable enterprise for the City and for the harbor and Ludington. The fact that it maintains commercial use of the harbor and the maintaining of the channel by the Federal Government. We do not stand here to diminish the value of their operation. We do own property immediately adjacent and are proposing uses that are permitted by the zoning, such as the marina, and condominium development which has already received approval, although the approval is over a year old.

Our concern is what is going to happen right at the property line. One of the things the City wanted was a public access to the waterfront. Our plan shows that access to be immediately adjacent to the property line. Our concerns are, if there are stockpiles immediately adjacent to the property line, that might not be the best place for the access to occur. Back in 1996 a Special Land Use was granted to Reith-Riley. Mr. Haywood pointed out the drawing of the 1996 site and noted a berm and vegetation. He said that the berm was not required, but the City did reserve the right to advise when the berm should be put in. He said that he would indicate that it will be advisable to put in the berm very soon because of the residential that has been approved right next door. In addition, the drawing indicates a setback of fifty-five feet. Mr. Haywood stated that he was not here then or through the course of other meetings, but it would seem logical that the Commission had in mind a possible conflict with an adjacent owner as a result of this kind of use. As a result of that, that is why you reserved the right to require a berm, a vegetated top and a fifty-five feet setback from the property line. It looks to me; you had in mind a potential conflict with the adjacent property owners.

Prior to this time, there has been no use made of the property. It has been that way for many years even though there are old dock structures that were used in the lake in some way. Under those conditions, there was no reason to require Reith-Riley to construct a berm. At this point and time, there is a use that is on the drawing board that has already been approved by the City. We are well into securing permits with the State and the Federal Government. He said that an application was filed with the State of Michigan and went before the Department of Environmental Quality. The DEQ reviewed the application

and found a number of things objectionable and denied the application. Since that time, we have negotiated with the DEQ and suggested some amendments to the project. We suggested some different dredge areas and pulling the marina back some. We thought that we had gotten to a pretty good resolution with the staff. About the time we were putting this together for a dismissal of the contested case, the Lake Michigan Carferry filed a motion for intervention. Right on the heels of that motion came a motion from Reith-Riley to intervene in the contested case. Those motions were granted by the administrative law judge. Now we have a four party contested case. It behooves us to reach some kind of agreement that is acceptable with both Lake Michigan Carferry, the property owner and Reith-Riley, the tenant of the property.

Mr. Haywood said that last Friday was the first time that he had met with counsel for the interveners, Mr. Schenk and Richard Wilson from Manistee. They tried to talk about their mutual concerns and got a better idea of the real concerns of they neighbors. We need to satisfy some of the concerns and reach an agreement, and then we could reach an agreement with DEQ. A couple of things that Reith-Riley was concerned about was the marina reaching out further than their dock because they dredge there to allow large vessels to com in and a potential for damage to recreational watercraft as a result of prop wash and thruster wash. Mr. Haywood suggested a possible barrier there, like the Corps puts in. It would be a heavy rock rip-raff structure that would prevent the wash from coming across.

The second thing that may be major in their concern is what I call a nuisance factor and what they call a nuisance factor. When I look at the nuisance factor, it is almost as we would become the nuisance, but the fact of the matter is that they would be a nuisance to our activity. We would be a nuisance to the extent that the two developments are not necessarily all that compatible. They could expect to get complaints about dust and noise, lights during the night and trucks. From our side, the nuisance would be the same type things. There was at one time some discussion about putting a pre-cast concrete wall along the property line. It is my understanding that Reith-Riley took the position that they were not interested in them building a wall because they were opposed to the development. That wall might remove some of Northshore's objections to Reith-Riley using the additional area of land. The fact is they have the right to use their property for what they are using it for and we have the right to use our property for what we propose. We do not want to be a bad neighbor, and do not think that Reith-Riley wants to be a bad neighbor. We have to come to an understanding that we both have some rights and we both will exercise those rights. We certainly do not want to suggest that Reith Riley cannot continue to exercise their right to have a deep harbor dock there, but we want to put our development in as well. Until we can come to some kind of agreement to how we can cohabitate in that area of the lakeshore, we have no other alternative than to oppose their operation coming right over to the property line. We believe the Commission had in mind the fact that the operation could be detrimental or not consistent with a use that would eventually be but on the adjacent property. That is why the Commission put the berm condition in and why a fifty-five feet setback was created. In the letters that were submitted, there were some strong claims made by my clients. Mr. Schenk responded to one of the letters, but not to the latest one.

He said that he would not get into those claims, but would like to impress upon the Commission that they strongly object to having that use extended on and continued beyond the area that was granted in the Special Land Use of 1996. We ask that the City enforce the 1996 Special Land Use and have Reith Riley pull the operation back to where it was permitted. We asked the Commission not to grant the extension requested.

Todd Radashaw, Civil Engineer working with Northshore Villas, stated that they were against the approval of the modification and would rather see the 1996 version enforced. Mr. Radashaw pointed out that in the 1996 site plan submittal; the area did pull back about fifty-five feet. There are many conditions placed by the Planning Commission for the underlying zoning that have been misinterpreted or not complied with fully or at all. They said that they were complying with the six conditions of the Special Land Use, one that said no storage of aggregate would be allowed in a required setback. The aggregate is being stored in the setbacks and goes all the way to the property line. About three years ago, they constructed a chain link fence. In the 1996 approval, there were three piles of about twenty to twenty-five feet in height on about 2 ½ acres. He referenced the Commission to a site drawing that was submitted.

He said that at that time, there were two buildings to the north. In a letter from Terry Laman, it was stated that the buildings would be used to screen the aggregate piles. A couple of years ago, the buildings were demolished and replaced with aggregate. In talking to City staff, these buildings were demolished without the City's knowledge, consent or permits. This goes along with the historical pattern of not following rules and regulations.

He presented a potential public hazard map showing how close the existing piles would be to the proposed public walkway. As the site is sitting now, it is sitting on about 1 ½ acres larger than originally approved for, which is about a 62% increase. The letter submitted should tell you all the reasons that we feel you should deny the request for modification and enforce the

1996 approvals. If you go through the Waterfront Shipping and Waterfront zoning, the standards talk about noise, no dust emanating off site, and others that we will have issues with. Reith Riley says in their application that they are complying with all the letters, but in my letter to you I have attached letters from Lake Michigan Carferry and Reith Riley that state that dust is a big issue. Originally, when Mr. Laman asked for the approval, they were receiving 3-5 ships a year. In his letter to the DEQ, he states that they receive 25-30 ships a year. He is running 24 hours a day, 7 days a week which contradicts his statement when he went for the original approval of working daylight hours.

With the construction of the landscape berm, most of the issues will go away. It would be nice to see screening on the north side also. On the road frontage, that is the first thing people see when they come off the boat.

Mr. Schenk stated that Mr. Radashaw said that 3-5 ships a year were approved in 1996, but the approval did not limit the number of ships that could come in. The addition of that shipping has been a benefit to the harbor. Mr. Haywood has indicated moving the operation to the east, but Mr. Radashaw seems to have an opposition to all of it. In conversation last Friday asking what his clients objected to, Mr. Haywood said that the movement to the east of the description, and they did not have a problem with the north end of it. Mr. Schenk said that he was getting mixed messages, depending on whom you talk to. The statement regarding operating 24/7 is simply not true. Unless there is a ship there, which is permitted to unload at night, the dock does not operate 24/7. Mr. Schenk pointed out the letter from Mr. Radashaw which indicated things like Silicosis. He stated that according to OSHA, Silicosis does not come from this type of operation. That is just a scare tactic. The same thing with the mention of collapsing piles. When the aggregate is off-loaded from the ship, the piles reach their natural angle of repose. The cone does not shift once it reaches its natural angle. We try to maintain the 35 ft. height. The Commission did not approve three piles at 25 ft. each. Those were put in as a descriptive measure to show how it might look in that space that was occupied at the time.

Mr. Haywood's speculation of what the Commission really meant with the fifty-five feet setback is just that. The reason that corridor appeared and was left out of the description was the landlord wanted to reserve that for access for a project that never came about. Mr. Radashaw's letter also says how we violated the setback requirements. We do have the 7 ½ ft. side setback, 15 ft. from the high water mark and 10 ft. from the road. We know that the maximum height is 35 ft. for structures. Nobody gets up every day and measures to the top of the stockpile, but we have a pretty good idea of what 35 ft. is. We do not purposely violate City regulations as Mr. Radashaw said in his letter. Reith Riley has a reputation of being a good community member and a good neighbor, all over this state and in three other states. That is not our style. Mr. Haywood asked if we were opposed to the project or if there were issues with the marina that could be solved. The project has been approved by the City. If they want condos, they can build condos. There are some real issues with the size of the marina and the way it juts out into the harbor. He said he does not know if a rip raff wall would solve it. There may be a problem with the filling in of silt as a result of prop wash hitting against the wall and coming back in, leading to more dredging and more cost to Reith Riley. Then there are potential dangers to the ships. Those are safety concerns. We were willing to talk about resolving these issues, but we see this kind of vituperative negotiating measure and that is not the way it works. He stated that they intervened in the DEQ case because they have an interest in protecting commercial shipping in the harbor. That is one of the reasons sited by the DEQ for denial of the permit. We did not realize there were negotiations going on. He said that he was concerned about the apparent conflict between Mr. Haywood and Mr. Radashaw.

The fact is the fifty-five feet was left out of the description because of the landlord. Mr. Schenk said that he did not believe that the Planning Commission was contemplating the development of the condominium project next door, or the boardwalk, or were they scared of collapsing piles. He described what efforts were made to control the dust. First, there is a street sweeper. There is also a truck wash for trucks and tractors leaving the dock. The tires are washed before they go out onto the roads. A sprinkler system is installed along the roadway to keep the roadway watered down in dusty conditions. No matter what size aggregate you have, there will be some dust involved. The question becomes, when does it become an enforcement issue? It hasn't been. We spray the piles in dry, windy conditions. There is a hardener that can be used to keep dust from flying around. When the ships are unloading, water is mixed in to hold the dust down. The chutes are covered. Sometimes the drop height is higher than Mr. Radashaw suggested, but once that pile is established, the drop height is usually 4-6 feet. The conveyor cannot be pressed any lower. We take dust control seriously at Reith Riley and the Ludington dock. It did not matter that there were no neighbors there. We are not a bad neighbor.

We just need to get an amendment to reflect what should have been done ten years ago. If the developer came in ten years ago and asked for a change in description it would not have been a big issue. Now we have a developer and we have an issue. The dock looks the same today as when they bought the property and submitted their plan for a Planned Unit Development. We contribute, and would like to continue to contribute and need this for our viability. Being opposed to the

project was not in the cards, but I am beginning to think that the condominium development is opposed to Reith Riley having its gravel dock. We ask for your consideration and approval.

Mr. Haywood stated that he did not intend to suggest that Reith Riley was not a good neighbor. What was said was that the two activities were not necessarily all that compatible. If you are going to have living units close to the setback on the east side and an aggregate pile up to the property line on the west side it is not the best mix that you can have. We are looking at how we can we come up with a suitable solution so everyone can live to the best of their ability. He said that he has not heard from his clients that they want Reith Riley to close down their shop or not operate on that site. That was not mentioned to me and I do not intend to make that representation. It was my understanding that when the wall proposition was presented that was what I understood was the outcome. I did not represent that was a result of our meeting on Friday and did not intend to represent that as a result of the meeting, only what I understood occurred a couple of years ago regarding the wall. As to Mr. Radashaw making a comment in regards to the north side of the property, I think that was fortuitous to the extent that he commented about the north side being open to views by everyone coming off the ferry. He was only saying that, not that we object to what the north side looks like, other than it is a bit of a blight, and not necessarily a concern but maybe something the Commission may want to think about. It is exposed to the north more than intended at the time of the Special Land Use of 1996. He stated that he did not feel that he and Mr. Schenk were in disagreement in what they talked about, what the position of the parties was stated at that time, and did not mean to misrepresent them.

We would like to be a good neighbor and live with Reith Riley. We would like to have the least detrimental impact on our project that we can. If Reith Riley moves all the way to the property line, it would be detrimental to what has been proposed and permitted and to the public access.

Doug Kloostra, Northshore Villas, said that he would ask that Reith Riley abide by their existing approval and Special Land Use conditions. He asks that the City enforce a buffer zone with a berm. The option of installing a berm at a later date is coming soon. Also the landscaping and trees as approved in there Special Land Use. Do not allow them to put higher piles than approved and stay within there hours of operation that was approved. Continue to manage noise and dust as they are doing currently. We also have an interest in the development along the waterfront that fits into the Master Plan along with the boardwalk plan to develop the north edge of Pere Marquette Lake. He said that he was asking that they abide by their existing permit, no more, no less and the City not modify the agreement.

Todd Radashaw said that according to a site plan addendum that was added in the 1996 application by Terry Laman, there would be 3-5 ships coming in per year. Also in that addendum, it says that the buildings to the north were being used as screening for the materials. The screening is now gone, replaced with piles. In a letter dated September 26 from Terry, he states that material is brought in by freighter, approximately 25-30 per year, and a 24 hour, 7 days a week schedule. It also states that operations would produce dust, noise and heavy traffic. On September 28, a letter from the Lake Michigan Carferry to the DEQ, signed by Don Clingan, stated that the existing aggregate dock in the condition that it is in now will result in significant dust and noise that will impact the enjoyment of boaters. Mr. Radashaw pointed out Section 900.13.19 of the Zoning Ordinance. It states that aggregate shall be of sufficient size so that such materials will not create dust emanating off of the property. He state that the design standards state that there will be no dust or fumes emanating from the property. He also read 900.3.19 (a) with regards to the piles: The Planning Commission shall impose such screening requirements as shall be appropriate to protect surrounding uses, including its impact upon vistas from other waterfront areas and from Pere Marquette Lake. There is a limit set and the Planning Commission can set stricter limits to protect the vistas on surrounding properties. Mr. Schenk stated that there had been no complaints, but in talking to David Field, Brill Manufacturing, he has made complaints many times about dust from the trucks. He said that Reith Riley had been very proactive, but it is still a problem. Every time we talk to the LMC people, they have dust everywhere. He said that he has walked the property looking at the dust situation.

Gary Schenk stated that the removal of the buildings was an improvement to the property. The structures were decrepit, one a crumbling concrete block structure. He stated that he did not know about the permit situation, but everything that has been done there has been open and obvious for the last ten years. He said that in regards to Mr. Radashaw looking for dust, if you go on the property there will be dust. He said that he felt that Mr. Field from Brill was perfectly content as a neighbor. They try to help their neighbors and do everything they can to make it a good working aggregate dock.

Close Public Hearing

Chairman Coleman stated that there would be further discussion and he was not interested in tabling the issue. It would be referenced back to the sub-committee.

Chairman Coleman said that it is important for everyone to recognize that when there is a Special Land Use situation and it comes back for reconsideration, it opens up the whole issue including the footprint and the conditions. Also when a developer comes in after the original approval has expired, there also could be new conditions for approval.

Commissioner Garrett stated that it seems as though both of the parties are trying to negotiate through the Commission. He asked if there was a chance that they could get together. He feels like both parties want to be good neighbors. Chairman Coleman iterated the fact that they had a formal request for a Special Land Use amendment and they have to honor that. He said that he would encourage joint discussion.

Commissioner Holman asked Mr. Radashaw what happened to the idea of a twenty feet wall that was discussed when the proposed project was first presented. Mr. Radashaw said that there were discussions with LMC regarding the wall and they flat out said get it off the property. They did not want to do it, did not want to be a part of it. We would have butted up to the piles, and they could have used the wall for their aggregate. We then shifted the wall a couple of feet, but we needed and easement to construct the wall. We had discussions with Reith Riley, Don Clingan and Bob Manglitz. Mr. Manglitz was against the idea, so we shut it down completely. There is no way to build the wall without cutting into the property. Because of the poor soil quality and the wind load, it would take a deep piling.

Chairman Coleman asked Keith Rose to explain their current a future operation. Mr. Rose explained that as far as the receipt of ships, that does occur 24 hours 7 days a week. As far as trucking aggregate, that occurs during daylight hours. This year with Michigan being in a one state recession, the work load has been down. The Department of Transportation budget has been slightly down from the previous year and projected to be down significantly in the next three years. So there is a funding issue state wide. The types of aggregates have changed and the mix that is required for the roads today are more complicated crushed aggregates. He stated that the Ludington dock is a key dock on the west side of the state. It is the deepest water port that ties into a lot of other docks on the west side. A lot of boats come here to take some of their load off in order to get into shallower docks. This operation is not only key to this market and economy, but to other economies up and down the lakeshore. Mr. Rose said that this operation is significant to the Big Rapids, Traverse City and Grand Rapids market. He explained the different types of aggregate that are unloaded at the Ludington dock. Chairman Coleman asked Mr. Rose where he saw the shipping business in the next ten years. Mr. Rose said that it would be needed and very viable for construction aggregates up and down the western lakeshore. This dock, being a deep water dock, is key for all of the industries up and down the lakeshore. Railing of aggregate has not been cost effective and there is really nowhere to come into this market by rail.

Chairman Coleman said that he hears that the developers are opposed to the expanded footprint, and then he hears that the major issue is the setback on the east side along with the berm. He asked the developers to give a summary of where they are in disagreement.

Doug Kloostra told the Commission that some time ago; they went to Rieth Riley, Don Clingan and Bob Manglitz for construction easements for screening or some kind of a wall. It was very clear to us that they were in disagreement with us. They did not feel that we would be able to work together. It was Bob Manglitz who said that he was not interested at all in working with them. The concern was trying to abide by the City with the sidewalk; we would have to have a clear view down to the waterfront. We had a couple of meetings with Don and Bob regarding landscaping. They did not want to work together on that at all. So, we were not able to construct a retaining wall. We were looking for an easement to construct a larger wall, a berm or anything they were willing to do.

Don Clingan, Lake Michigan Carferry, said he was there and does not remember the discussion of a wall running north and south. The request that was made by the developer was to have a permanent easement that would let them construct a large wall that would run along the northern part of the Rieth Riley leased portion of land. This was to block the view as you go down James St. looking in.

Todd Radashaw said they did have a couple of meetings with Don and Bob for an easement for an east, west wall on the north end. We also wanted a temporary construction easement to put in landscaping. We wanted to do some work at the

entranceway of Reith Riley because Terry said the trucks had issues coming out. In the conversation, we also talked about the north/south wall and a temporary construction easement. We would have had permission for the pilings for that wall. Chairman Coleman asked what the function of the wall was. Mr. Radashaw said that it was to screen the piles. We were not aware that Reith Riley was under a Special Land Use with restrictions imposed on them. After some due diligence, we did find the Special Land Use and the fact they were not complying with the restrictions. That is when we went to Terry and asked to work together with a screen wall. That is were we ran into some of the issues that we are having now.

Chairman Coleman stated that the main issues that he sees are setback and screening. The screening being landscaping and a berm off the east property line.

Chairman Coleman asked Reith Riley to identify their major concerns.

Mr. Schenk said the major concern was the marina. There is a safety concern with ships, boats in the marina and the docks. There are potential problems with thrust wash and prop wash. The force at times is enough to tip a floating dock. With respect to the condominium development, the City had already approved the development. The setback requirement is 7 ½ feet. Despite the fact that we are using land that was not in the original description, that setback is being maintained. As far as coming onto our property with a concrete wall, that is a negotiating matter. It is hard to negotiate when it is "do it our way, or you aren't going to do it". That is not us. So our concerns are safety as far as the maritime in concerned, and the ability to use the property as we have used it for the last ten years in order to maintain our economic viability. If we lose the fifty-five feet of space, the constriction is going to have some serious impacts on our operation. On the north side of the property, one thing that occupies the area is the truck scale. The loss of the truck scale would be debilitating and crippling to the operation.

Chairman Coleman asked Mr. Rose how many types of materials were carried in on a ship. Mr. Rose said that typically it was a single cargo although at time they might bring in a split boat carrying two products. Chairman Coleman asked what the difference in unloading a large size aggregate compared to a small size one. Mr. Rose said that it could require a little more expertise and a little slower conveyor rate in order to get the piles established. He explained about the spotting of a pile. Once you have one pile, it is then moved to wait on the next shipment. Because of the limited space, we have to bring in a pile and move it out quickly. We then take it to our plant here in Ludington or one of our others throughout the region.

Mr. Rose explained that the aggregate is watered when it leaves the ship. Commissioner Schnitker asked how effective that was. Mr. Rose said that it is extremely efficient at controlling dust. Commissioner Schnitker asked where the noise emanated from. Mr. Rose explained that the aggregate that was dropped was very minimal. The noise from the conveyor and the vibrator is very minimal.

Chairman Coleman asked Commissioner Nekola to further discuss this issue with the sub-committee and bring it back to the Commission at the December meeting.

NEW BUSINESS:
None

UNFINISHED BUSINESS:
Comprehensive Plan: No discussion

Planned Unit Development Consolidation:
A hand out with proposed text for PUD consolidation was given to the Commissioners. The Commissioners were asked to read over the text and refer any comments to Chairman Coleman.

Daycare:
Commissioner Nekola said that the committee was looking at restricting group daycares to 900 ft between another one. He will have more at the December meeting and will furnish suggested text changes to the text sub-committee.

Downtown Walk ability:
No report

SITE PLAN REVIEW REPORT:
None

COMMISSIONERS' COMMENTS AND COMMUNICATIONS:
The monthly building and zoning report was distributed.

Joint PC meeting: Chairman Coleman reported there was a joint meeting of the County, City and Pere Marquette Township planning commissions. They looked at their Comp Plans and discussed possible areas of joint interest. Commissioner Moloney is interested in Trails/Non-motorized, Commissioner Garrett would like to work on future land use, and Commissioner Holman will work on signs and Chairman Coleman on the Access Management Plan.

Chairman Coleman said that there has been discussion on signs with the Building and License Committee. There have been some sign challenges and the Text Committee will be taking a look at the issue.

Commissioner Nekola suggested that the Commissioners look at the Master Plan and the Zoning Ordinance to further educate them. He would like to talk about Special Land Uses at the next meeting.

ADJOURNMENT:
The meeting was adjourned at 8:43 p.m.

Respectfully submitted,
Carol Ann Foote, Recording Secretary

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Tom Coleman, Chairperson