Gmail **Nicole Arbury <narburynptpc@gmail.com>**

FW: Seventh Street

1 message

Joanne Geha Swanson <jswanson@kerr-russell.com> Wed, Apr 19, 2023 at 3:39 PM
To: "narburynptpc@gmail.com" <narburynptpc@gmail.com>, "bobceng@att.net" <bobceng@att.net>, "jwoomer1@gmail.com" <jwoomer1@gmail.com>, "kathy.wessell@gmail.com" <kathy.wessell@gmail.com>, "jgalenptvc@gmail.com" <jgalenptvc@gmail.com>, "lcavendishnptpc@gmail.com" <lcavendishnptpc@gmail.com>, "danielcaudill@me.co" <danielcaudill@me.co>

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From: Joanne Geha Swanson <jswanson@kerr-russell.com>
Sent: Tuesday, April 18, 2023 11:29 PM
To: pc@villageofnorthport.net
Cc: Robbie Swanson <swansoro@gmail.com>; Elizabeth Swanson <eliz.swanson@gmail.com>; Christina J Swanson <cswansoprano@gmail.com>; Suzanne Swanson <suzanne.swans@gmail.com>
Subject: RE: Seventh Street

Dear Ms. Scott:

Please share the below email and attachments with the Planning Commission members in conjunction with the April 19, 2023 Planning Commission meeting. Please also include this email and attachments with the Seventh Street correspondence.

Thank you.

Dear Planning Commission Members:

I am writing to address the draft rubric documents for Proposed Use 1 and 3 that appear in the April 19, 2023 meeting packet relating to the Seventh Street property.

Over the past year and a half, I have expressed my opposition to what is now known as **Proposed Use 3**. I won't repeat again the many reasons I oppose development but I would like to address certain aspects of the rubric responses.

- On page 1, under the heading Master Plan Goal, the first point is "*Protect the area's natural beauty, open space, environmentally sensitive features*, …" I believe the answer to this point, which is "*This proposed use does not align with this goal*," is highly inadequate. Not only does Use 3 "not align with this goal," it is destructive of, and completely undermines, the goal. The same is true of Master Plan Goals five and six. Proposed Use 3 opposes, undermines, and is anathema to the goal of "*encourage energy conservation*" and "*conserve natural resources*."

- On page 1, under the heading Master Plan Goal, the third point is "*Encourage the provision of adequate and affordable public utilities and services,* which is answered *"Good alignment. Increasing the number of residences that are hooked up to the village sewer spreads the operating costs over more users, Hookup fees will help to pay off the sewer debt*." I disagree. At best, there would be four additional hookups, not enough to make a difference and certainly not worth the price the Village will pay for destroying this natural wetlands environment.

- On page 1, under the heading Master Plan Goal, the fourth point is "*Encourage affordable housing and diversity in housing types and lifestyle*." The rubric answers, "*This proposed option may align well with this goal if the 7th Street portion of the property is developed into affordable housing*." I disagree. Given the property appraisals, it is unlikely that Proposed Use 3 will result in affordable housing. A developer will seek to maximize profits by building large luxury homes on the sites.

- On page 2, under the heading Recreation Plan Goal, the fourth point is to "*preserve and maintain the scenic and natural open areas within the village*." It is answered "*Keeping a portion of this area undeveloped achieves alignment with this Master Plan goal*." I disagree with this response, which ignores the greater impact of Proposed Use 3; any developer who purchases the property will be incentivized to maximize profits by building upon as much of the property as possible. This should be plainly acknowledged. The answer should recognize that Proposed Use 3 completely undermines this goal.

- On page 2, the answer to "*Any applicable Federal or State Regulations*" fails to explain that there absolutely are state and federal environmental regulations that would control the development of this property. It is not just that "*some State and Federal agencies … could argue …*" The Village's own Wetlands Delineation Report identifies at least 3-4 applicable regulatory bodies that will have to be consulted regarding development of this property.

- On page 2, I appreciate the answer to *Describe the Environmental Impact* but I do not think it goes far enough in assessing the true detrimental impact of Proposed Use 3, principally because the environmental impact has yet to be investigated, studied, or delineated. Nor have I seen a serious evaluation of the tremendous benefits wetlands provide to a community.

- One page 3, the answer to *Unanswered Questions About the Proposed Use* is inadequate. A big unanswered question is the impact that development and filling in of the wetlands will have on surrounding property owners and any related costs. Also unanswered is how development will impact the wildlife that inhabits the area, how water filtration will be impacted, how carbon absorption will be hindered, etc.

As for **Proposed Use 1**, I fully support leaving the property in its natural state. I believe that your rubric could provide more information on the benefits natural wetlands provide. To that end, I am attaching several articles that discuss the value of wetlands. Here are a few interesting points from the articles:

- An acre of wetland can store 1-1.5 million gallons of floodwater.
- Up to one-half of North American bird species nest or feed in wetlands.
- Although wetlands keep only about 5 percent of the land surface in the coterminous United States, they are home to 31% of our plant species.

- Once wetlands are lost through development, the loss of their functions and values is often irreversible.
- The social trap of assigning value to wetlands … is that it will always be possible to find a more profitable use for the land if short-term economic analyses are made.
- After being slowed by a wetland, water moves around plants, allowing the suspended sediment to drop out and settle to the wetland floor. Nutrients from fertilizer application, manure, leaking septic tanks, and municipal sewage that are dissolved in the water are often absorbed by plant roots and microorganisms in the soil. Other pollutants stick to soil particles. In many cases, this filtration process removes much of the water's nutrient and pollutant load by the time it leaves a wetland.

In *Ecological Economics, The Value of Wetlands*, the authors state, "While wetlands do provide economic 'payoff' to individuals … most of the services of wetlands accrue to the public at large. Thus wetland protection is, properly, the domain of a representative government working in concert with private landowners."

Similarly, in *Wetland Functions, Values, and Assessment*, the authors conclude, "If any hope remains for preserving the Nations wetland resources, it depends upon obtaining public support. Public support can be won if scientists can explain clearly how wetlands function, how they interact with their surroundings, and how their functions can benefit society."

I am concerned that the science of wetlands is absent from the rubrics and the study of this issue in general. The Village has purchased property appraisals; it has spent money on surveyors, road design, and tree removal. Would it not also be wise to retain a wetlands expert to fully advise the Village regarding these issues?

Finally, for what it's worth, I have attached an article prepared by the Great Lakes News Collaborative that contemplates Michigan's climate-ready future with wetland parks, less cement, and roomy shores. The article notes:

> Pre-industrialization, much of Michigan was covered in wetlands that served as nature's sponges, absorbing rainfall. But as population and industries grew, large swaths were filled in for farms and development. Covering porous soil with concrete and asphalt sends rain streaming into streets, sewers and neighborhoods, where it sometimes floods homes, overtaxes infrastructure and raises water treatment costs.

> "We can turn back the clock, in terms of urban development," … transforming cities with vast acreages of paved land that no longer serve a purpose, from Detroit to Milwaukee, into "garden cities" where large urban parks double as stormwater retention ponds…
>
> … [C]ommunities save big on water treatment by "treating the rain where it falls," allowing natural filtration in the earth to strip away sediment and toxins …

How fortunate we are that all of this is happening naturally on the Seventh Street property!

I know you have said you will not take a position on which Proposed Use the Village Council should adopt but I urge you to reconsider that approach. If not you, then who? You are the Planning Commission. You have the ability to influence the outcome of this process in a way that will benefit future generations of Village residents for years to come. You have overwhelming public support for leaving the property in its natural state. Please consider taking a stand.

Thank you for your hard work and for patiently (and respectfully) listening to the residents.

Sincerely,

Joanne Geha Swanson

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From: Joanne Geha Swanson <jswanson@kerr-russell.com>
Sent: Tuesday, January 17, 2023 10:35 PM
To: pc@villageofnorthport.net
Cc: Robbie Swanson <swansoro@gmail.com>; Elizabeth Swanson <eliz.swanson@gmail.com>; Christina J Swanson <cswansoprano@gmail.com>; Suzanne Swanson <suzanne.swans@gmail.com>
Subject: Seventh Street Timeline

Dear Ms. Scott:

Please share the below email with the Planning Commission members and place it in the Seventh Street Dropbox. Thank you!!

_____

Dear Planning Commission Members:

Public Hearing

In reviewing the Planning Commission documents relevant to the January 18, 2023 meeting, I noticed a document titled **Planning Commission Work (Summary as of 1-12-23)**. As to the 7th Street property, it provides a timeline which begins with a February 2022 entry, continues through other timed points, and concludes with the following future undertakings:

Commissioners independently evaluate 3 proposed uses (Jan./Feb 2023)

Begin drafting PC report to VC (February 2023)

Finalize PC report to VC (March 2023)

Present PC report to VC (April 6,2023

Develop plan to present to community

Public Meeting

Village Council makes final determination

Shouldn't the Planning Commission's report be presented to the community for input - and a public hearing held - ***before*** the report is finalized and presented to the Village Council? Holding a "public meeting" after the report/plan is finalized would seem to moot the intent of a "public hearing" as a forum for community discussion. And it seems inconsistent with the "Trustee's Report to the Village Planning Commission" dated January 2023, which states:

> Trustee/Commissioner Gale presented the four land use proposals for the
>
> 7th Street property defined by the Planning Commission. Trustee/Commissioner
>
> Cavendish created visual aids to assist the audience in visualizing the options.
>
> The most recent evaluation tool was shared with the Trustees as well as the plan
>
> to proceed with the evaluation process. The Trustees asked the PC to eliminate the four lot single
>
> -family residential division. The evaluation tool and plan to proceed were accepted with the
>
> caveat that the public hearing be held in April/May when more residents
>
> are in Leelanau.

Doesn't that highlighted language mean that the "caveat" (a public hearing to be held in April or May and not just a public meeting) should be held before the "plan to proceed."

I ask these questions with the utmost respect for the work you are doing. The Seventh Street property has generated a great deal of community interest and concern. In my view, a public hearing should be held before your report is drafted and finalized to avoid the perception that the hearing is merely pro forma and will not affect the outcome.

Evaluation Tool

I have previously commented about the evaluation tool the Planning Commission has devised to evaluate options for the Seventh Street Property and I will not repeat those comments here. However, it seems that important pieces of information are necessary to complete that rubric.

- For example, there is a section that addresses "***Any applicable Federal and State Regulations***," which some of us have discussed and inquired about in comments and correspondence to the Planning Commission and the Village Council. The Wetlands Delineation Report conclusion states "Based on its proximity and connection by drainage to Lake Michigan, the wetland is regulated under Part 303 of the Michigan Natural Resources and Environmental Protection Act , P.A. 451 of 1994. Any development within the wetland will require a permit from EGLE. The USACOE might also claim jurisdiction and require a permit jointly with EGLE. A Soil Erosion and Sedimentation Control Permit will be needed from the Leelanau Conservation District." I certainly may have missed it, but I do not see any information, nor have I heard the Planning Commission discuss, how the applicable federal and state regulations would apply to the development of this property and *whether the Seventh Street options you are considering would comply with those regulations*.

- Another section of the rubric states "***Describe the Environmental Impact***." This is an important question. What sources of information are available to the PC to answer this question?

- Yet another section asks "***Does the project remedy an Existing Deficiency, explain***[.]" In a prior email to the PC Dropbox, I asked about the impetus for developing the Seventh Street property. How and why did this begin? I still do not have a clear understanding of this. I continue to believe that in the interest of transparency, your report should clearly delineate the reason this "evaluation" (for lack of a better word) was initiated nearly six years ago. Is there some deficiency that the options the PC has identified will resolve?

Removal of Deed Restrictions

I previously inquired about the manner in which the restrictions on the property had been removed. I was referred to a letter (email) in the Dropbox from the lawyer consulted about

the deed. But that email begins with a "brief disclaimer" that the lawyer did not have, and has not reviewed, the May 26,1941 deed that "established the DNR's right of reversion restricting the 7th street property to park purposes." While the lawyer opines that the restriction for park purposes was removed by a 2018 Quit Claim/Release of Reverter, he asked for a copy of the earlier deed or other documents or agreements that might alert him to other restrictions. Were those documents ever provided to tie up the loose end? I do not see that original deed in the Dropbox.

The Quitclaim Deed which releases the reverter restrictions is in the Dropbox. It quitclaims the property "for Public purposes …" Is the sale of the property to a private developer for subdivision and sale a "Public purpose?"

The deed also contains provisions stating

- if the property is sold, the proceeds from any such sale in excess of expenditures shall be accounted for to the State and local units of Government pro rata …, and
- the State of Michigan reserves the rights of ingress and egress over and across all of the above-mentioned descriptions of land lying along any watercourse or stream, …

I do not know what these provisions mean or are intended to convey, but would this not be something that the Planning Commission should explore and understand (particularly if the impetus is monetary gain)? I have not heard any discussion (or seen any documents) that discuss the meaning of these terms.

Thank you for considering my questions.

Sincerely,

Joanne Geha Swanson

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4 attachments

The value of wetlands_ importance of scale and landscape setting - ScienceDirect (D1816368xA18F1).pdf
1081K

Wetland Functions, Values, and Assessment (D1816367xA18F1).pdf
797K

Functions Values of Wetlands (D1816369xA18F1).pdf
409K

Michigan#s climate-ready future_ wetland parks, less cement, roomy shores (D1816370xA18F1).pdf
3664K