

CASCO TOWNSHIP PLANNING COMMISSION
REGULAR MEETING
November 17, 2021
6:00 PM
Casco Township Hall

1. Call to order
2. Review/Approval of Agenda
3. Public Comment - items **NOT** on the Agenda (please keep comments to 2 minutes) & Correspondence received
4. Approval of minutes:
 - a. 10/20/21 meeting minutes
5. Public hearing - none
6. New Business:
 - a. Any other business that may come before the commission
7. Old Business:
 - a. Discuss / Decision Leeward Pool Association – Conditional Rezoning (21.09) 7302 Lakeview Ave 0302-542-053-00 from LDR to C-2 – for an association pool and building
 - b. Continue text amendments; if time allows
 - c. Any other business that may come before the commission
8. Administrative Reports
 - a. Zoning Administrator – upcoming public hearings
 - b. Township Board representative
 - c. Report from ZBA representative
 - d. Water/Sewer representative
9. General Public Comment (2 minutes each)
10. Adjourn

Casco Township Planning Commission
Regular Meeting & Public Hearing
October 20, 2021; 6 PM
Casco Township Hall

Members Present: Chairman Lewis Adamson, Vice Chairman Andy Litts, Board Representative Dan Fleming, Secretary Greg Knisley, ZBA Representative Sam Craig and members Kelly Hecker and John Weaver

Members Absent: None

Also Present: Zoning Administrator Tasha Smalley, Recording Secretary Janet Chambers and approximately 20 interested citizens

1. **Call to Order:** The meeting was called to order by Chairman Adamson at 6:00 PM.
2. **Review / Approval of Agenda:** A motion by Fleming, supported by Litts to approve agenda as presented. All in favor. MSC.
3. **Public Comment – Items not on the agenda & correspondence received:** none
4. **Approval of minutes from 9/15/21:** A motion by Litts, supported by Hecker to approve minutes of 09/15/2021. All in favor. Minutes approved as printed.
5. **Public Hearing: Leeward Pool Association – Conditional Rezoning (21.09), 7302 Lakeview Avenue, 0302-542-053-00, from LDR to C-2 – for an association pool and building.**

Open Public Hearing. The public hearing was opened at 6:04 PM. Notice of public hearing (Attachment #1)

Applicant present: Kay Kossen, Attorney with Kreis Enderle Hudgins & Borsos, spoke on behalf of Leeward Pool Association. She said the applicant is requesting a pool on the corner of Lakeview and Blue Star Highway, in a residential area. Pools are allowed, but this is a unique rezoning that fits in C-2 best as a health fitness facility. It will be used by members only, with bylaws, a nonprofit corporation similar to the stairs. It will be run by members and will follow State pool guidelines. The rezone request would be a contract rezone. Under a contract zone there would be an agreement with the township. Kossen said it fits well with the Master Plan and the vacation community. There is residential, Bed & Breakfasts and motels up and down Blue Star Highway. The nonconforming lots allow a pool to exist with setbacks and area requirements. Kossen invited questions from commissioners.

Fleming asked if contract zoning is the same thing as conditional rezoning.

Kossen said yes, it is the same thing.

Hecker asked about the number of members.

Darron Massey said the use would be limited to the 25 members who bought in. It would not be open to the public. It would be only Miami Park residents. If someone sells their interest, it could only be sold to a Miami Park resident.

Knisley asked what percentage of Miami Park is represented in the 25 members.

Adamson asked if a "member" means a household.

Litts asked if a member of the household must be present for guests to use the pool.

Kossen said the pool would not be for STRs. She said there would be a set of bylaws. Maybe they would allow a long-term renter, i.e. 90 days or more.

Knisley asked if a person from a member's house has to be present for a guest to use the pool.

Kossen said yes.

Craig asked who chose the 25 members?

Darron Massey said a small amount of people got together and decided to buy in and that group decided 25 would be a good amount to cap it off.

Adamson asked if it would be licensed by the state.

Kossen said yes.

Knisley asked about the fact that there is no onsite parking?

Massey said it would be golf cart parking, walkups and one handicap car space.

Fleming asked why 35000 sq ft does not apply?

Kossen said because it is a nonconforming lot of record it complies with lesser footage.

Bultje said it would be conditional zoning. He just learned about this and got background material today. He said contract zoning is allowed in the Michigan Zoning Act. By going through contract zoning, it would not be considered spot zoning. Spot zoning is frowned upon and is not a good idea, not a good planning practice. Bultje said he would not reject this based on spot zoning. Normally, this is done at the time of the subdivision being built. In that case it would be a Planned Development and a pool included for the use of the residents of the subdivision. Because they are adding the pool to an existing subdivision it could only be done through contract zoning. The use is limited to only one use that is compatible with the subdivision. It is important to include conditions in the contract. If there was a change to something in the contract, the township would have to approve it.

Hecker asked if in the future the property changed hands, would the rezoning follow the use. If someone wanted to do something different, the property would revert to LDR?

Bultje said the use follows the land. We don't care if it changes hands if the use doesn't change.

Adamson asked where in the plans it says they will limit to 25 families, or hours of operation.

Kossen said they have not included bylaws. These types of things could be included in the contract.

Adamson said with a pool in a neighborhood, people would like to use it late at night.

Litts asked about the intended use of the pool house. Will it be a gathering space?

Smalley said the site plan does not give a size.

Massey said if rezoned it would be a pool house with changing facilities. Regarding hours of operation the pool may close at 8 or 9 PM. There will be no refreshments. Maybe a small kitchenette.

Hecker said limitation of 25 is concerning. There are many more households in the subdivision. Capping it at 25 means other residents would not benefit. She asked what happens to the 25 memberships if their home is sold? She asked if they could increase the 25.

Kossen said limiting to 25 families is more prudent as far as being busy.

Knisley asked how taxes would work. Is it a commercial venture with 25 who have equity?

Kossen said people buy memberships and they have rights to use it.

- **Correspondence:** Because of the great number of correspondences, Chairman Adamson elected not to read all of them, but are attached to the minutes.
- **Audience comments – for/against:**

John Barkley from the Boardwalk Condo Association said he is not against association pools, but feels the proposed location is not feasible. His concerns are related to disruptions. It cannot be adequately buffered from adjacent homes especially along Blue Star Highway as required by Section 3.33, to provide physical and visual separation between potentially incompatible uses. The minimum green buffer zone requirement is a min. of 100 feet deep from the right-of way along the entire frontage of any public road. The lack of required buffering along Blue Star would allow the pool area to be an attractive nuisance and a site for vandalism and nuisance. Lack of buffering would cause noise to disrupt the rural and residential expectations of adjoining neighbors including 7207 Lakeview Ave. and the SE section of Boardwalk. The location could create a safety hazard for passing vehicles along Blue Star Highway or Lakeview Ave. because the small drop-off, pickup area is not large enough for multiple vehicles. Barkley asked that Casco Planning Commission reject the conditional rezoning request.

Sue Muller, Lakeview Avenue, said she is 4 lots from the proposed pool. She did not receive notice of the meeting. Neighbors object for several reasons. When she moved here 2 years ago, she was told this area would never be developed. She was told it is the wildlife corridor and will be preserved for perpetuity. Little by little they take more and more along the corridor,

but until now has not changed the essence. A commercial pool is the first domino and the chain for that domino is the wildlife corridor. Pretty soon one by one, you open the corridor for development. We represent birds, animals, insects, plants, and trees. If they had a human voice this place would be filled. We are their voices. You who are making this decision are speaking for them. It is more than just us. This is a lot to give up for a pool for the few. You (Casco Planning Commission) represent the many.

Muller said 25 households might be 10% of the subdivision. Another issue is the attorney said, "it is in the bylaws", the bylaws are not ready, not determined. How can you make a decision before you know what the bylaws will say? This is not ready. This is not wise. This should not be allowed.

Franklin Sisson said there were wetlands behind there and there were two houses people wanted removed. Some want to put in a pool that will attract some. They are trying to make an exception of the rules for 25 people. Nobody told him or asked him if he wanted to be included. He said he has been around business for a long time and sees how this is being thrown together. If you accept this, with all the human trafficking and young girls in bathing suits walking around by Blue Star it will not be safe.

Kathy Watt, Atlantic Ave. said nobody invited her to join in with the pool membership. She questioned the selection process. There is a long history of advisory in the neighborhood. This will only exacerbate it. There will be parking issues, parking on the road, noise, alcohol. There already has been noise all night until 6 AM. It is getting harder and harder to call the STR hotline.

Steve Hillsman, is a property owner building a house, which will displace wildlife. He said he was impressed with the amount of thought and discussion that went into this. The main thing they were looking at was the neighborhood. They are doing their due diligence. The plan is not 100% final but will be soon. He feels this is a good use and will be the buffer between Blue Star and the neighborhood.

Doug Nickerson said negatives are obvious. He lives across the street from a rental with a pool. The noise is bad. In this case we are talking about 25 families. The noise will be incredible within 100 yds of the pool. The bylaws are not set yet. Will the bylaws be part of the contract, or can the members change the bylaws tomorrow? Will it be required they go through the Casco Board to change the bylaws? There are 70 or 80 houses in Miami Park and the community is growing. Noise and traffic congestion will be a problem, but it will only benefit 25 members. Not the majority of Miami Park.

Massey said the property was publicly for sale. Twenty-five people could have bought it and built a house with a pool and all use it. This was the right way to go about this. The contract form does not ask for the bylaws. Casco has a noise ordinance. They are being transparent. If sold, the use of that specific pool would have to be followed. If the membership was 100 families, it would have been too many. It is like a private golf course.

Valerie Baas said (in reference to Massey's statement that 25 people could have built a house with a pool and all used it) the lot is 100 x 100. With a 50 x 100 buffer zone, a pool house,

parking, various setbacks around the pool, there is no way you can fit a house and pool. Miami Park is for private residences and does not allow a commercial pool club.

Lois Schwartz said she has a lot in common with residents of Miami Park platted in 1920 and based on lots of record. The expectation was that it would be for residential use. Miami Park residents should enjoy that same expectation. A community can get together and build a pool. A private association getting a commercial bypass is dangerous. There are Bed & Breakfasts on Blue Star, but they are not built on platted subdivisions. She said she agrees with the others that the zoning change should not be allowed.

Sarah Clark of Sunset Shores said they are all part of these old plats that do not allow commercial use. It was decided in the Sunset Shores lawsuit.

Larry Massey of Atlantic Avenue said he wanted to put a face on what a pool could do. He pointed to Frank Sisson and said he should be able to enjoy his remaining years and be left to enjoy his property without the nuisance of a commercial pool.

Lena Bell said a community as old as Miami Park should do things in a community way. She is disappointed that it is a private commercial project in a residential neighborhood. It is not for the whole community.

Close Public Hearing – No further public comment: A motion by Litts, supported by Weaver to close the public hearing. All in favor. Public meeting closed at 7:00.

Adamson asked if the minimum setback is 50'.

Smalley said yes.

Knisley added from the right-of-way.

Smalley said 100' from the center of the road is the right-of-way.

Adamson asked about a building permit.

Smalley said this is not a site plan approval, just rezoning. She added she did not look at 3.33 regarding additional buffer and meeting setbacks in general

Bultje said a site plan review would still be required later. Conditional zoning must be a voluntary application by the landowner. They would make a written offer to the township. The township can say because certain things are missing, we cannot make a decision unless and until.... The bylaws are separate from the township contract. Whatever conditions Casco wants, as far as landscaping, noise buffering, number of members, who can use it, hours, etc. must be included in the contract.

Bultje recommended, if you are interested in moving forward with this, make a list of things you would like included in the contract.

Smalley asked if the fence was a privacy fence. It says a 48"- fence with a self-closing gate.

Items commissioners would like on the list for the contract are site plan, parking, street parking, buffer zone, and lighting. Commissioners would like to see the bylaws and read 3.33 and Michigan commercial pool regulations.

Commissioners discussed postponing a decision pending on more information.

Bultje said you cannot say "you need to provide...". You can say "If we are going to review this and give you a chance for approval, give us this information".

Section 3.33B 1. Says there must be a greenbelt strip of at least 20' in width around the property between neighbors.

Hecker asked if we are looking at 2 fronts and 2 sides?

Commissioners question referral to Wildlife Corridor by a citizen. Smalley will check into it to see what Wildlife Corridor is.

6. New Business:

a. Discuss / decision to or not to recommend CRZ approval to Township.

A motion to postpone was made by Weaver, supported by Litts, all in favor. MSC.

b. Any other business that may come before the Commission: none

7. Old Business:

- a. Discuss / decision special land use group daycare:** Adamson said he saw no reason not to approve the daycare. The current owner, Andrew Scholfield, submitted the application in his name and acknowledged he is aware of the court case Bauckman vs Skarin, as requested. The applicant has met what was requested.

Sara Clark, from Sunset Shores Property Owners Association, asked the commission to deny the daycare because the deed says no commercial. She stated there are over 50 homeowners objecting, this is one home. They went to court in the past to enforce the deed and were successful. She stated it makes no sense to move forward and leading to a legal mess. Sunset Shores will fight to keep commercial out. Once this happens it opens the door for other commercial use. Decisions of zoning commission run with the property, even if sold the use could continue. We will be fighting this. She acknowledged that it is not Casco's responsibility to enforce their deed restrictions but asked that Casco step forward and deny the use.

Fleming said he understands Clark's logic, but at our level we cannot make our decision based on Sunset Shores need to enforce their deeds. The daycare meets requirements of Casco's standards. It is up to Sunset Shores to enforce theirs.

A motion by Litts, supported by Craig, to approve the daycare based on Mr. Scholfield's letter and the conditions of Casco Zoning Ordinance being met. Roll call vote: Weaver – yes; Hecker-yes; Knisley – yes; Adamson – yes; Litts – yes; Fleming – yes. All in favor. MSC.

Hecker added she was reading part of lawsuit Sunset Shores is referring to, item 15 states daycare in family homes are not commercial. This is incongruent from what I am hearing.

b. **Status text amendments; continue review:**

Smalley suggested a special meeting to work on some of the zoning amendments. Commissioners agreed to meet at 5:00 PM on November 17th to work on amendments. Followed by the regular meeting at 6:00.

c. **Any other business that may come before the commission:** none

8. **Administrative Reports**

• **Zoning Administrator:** Report (Attachment 29)

- Litts questioned an item in the report about a campground on 67th & 109th. Smalley said the property is for sale and people want to know what it can be used for.
- Knisley questioned a well that has been drilled in a water and sewer district. Adamson said water hookup is not mandated. Only sewer hookup is required.
- Litts asked about a cell tower in the report. Smalley said they are upgrading the antennas on the tower at 111th & 68th and were enquiring whether they needed anything from the township for that.
- Hecker asked about Valerie Sanchez's inquiry. Smalley said she was asking about property for sale on 67th and whether it could be used as an event venue. Hecker said the property has recently bought and they are already doing many weddings.
- Knisley asked about property on Pershing. Smalley said Mike Workema has divided the property in half for two lots.

- **Township Board representative:** Fleming said Casco has a new deputy. Other topics discussed included pool construction for residents; possibly changing the requirement of a home on property in order to build a barn.

- **Report from ZBA representative:** Nothing to report

• **Water / Sewer representative:**

They had two appeals that were both denied should. One was a property owner that did not want to pay the previous owner's bill, which is required. Another who thought because he paid taxes he should not be charged to have a lead put in.

They discussed P foss in Lake Michigan being a concern in addition to lead. Removal is mandated by the state, but we are not getting financial help from the state. The state is covering the cost of lead removal for Benton Harbor. Capital improvement money will be used. Customer bills will probably go up 10%.

9. **General Public Comment (2 minutes each):** None

10. **Adjourn:** The meeting was adjourned at 8 PM.

Attachment #1: Notice of Public Hearing

Attachment #2: Draft of Contract Zoning Agreement Rezone to C-2

Attachment #3: Survey for Rezone request

Attachment #4: Draft of Site Plan

Attachment #5: Articles of Incorporation – Leeward Pool Association

Attachment #6: Copy of Warranty Deed

Attachment #7: Sue Muller, October 20, 2021, opposed to zoning change

Attachment #8: Daren Massey, October 20, 2021, in support of zoning change

Attachment #9: Robinn Williams, 521 A Ave., October 19, 2021, opposed to zoning change

Attachment #10: Nancy Zirlin, 7247 B Street, October 19, 2021, opposed to zoning change

Attachment #11: Jacquelyn Bopp, 7242 Lakeview Ave., opposed to zoning change

Attachment #12: Valerie Baas, opposed to zoning change

Attachment #13: Douglas & Anne Nickerson, 7266 Pacific Ave., opposed to zoning change

Attachment #14: Jim & Jean Bolotin, 7203 Lakeview, in support of zoning change

Attachment #15: Kelley & Matt Kaleta, 7232 Beach Dr., in support of zoning change

Attachment #16: Kathy Eckler, 635 Lakeview Dr., in support of zoning change

Attachment #17: Julie & Robert Goldberg, Orchard Road, in support of zoning change

Attachment #18: Karyn & Tom Szurgot, 7240 Lakeview Ave., in support of zoning change

Attachment #19: Lois & Carl Schwartz, 7275 B Street., opposed to zoning change

Attachment #20: Shelley Coulter, 7210 Lakeview Ave., opposed to zoning change

Attachment #21: Sue Muller, 7217 Lakeview Ave., opposed to zoning change

Attachment #22: Franklin & Sarah Sisson, 7203 Lakeview Ave., opposed to zoning change

Attachment #23: Robert Handelsman, 7266 Lincoln, opposed to zoning change

Attachment #24: John Barkley, Boardwalk Homeowners Association Board Member, opposed to zoning change

Attachment #25: John & Sandra Fallon, in support of zoning change

Attachment #26: Kathleen & Hugh McBride, 7221 Lakeview Ave., in support of zoning change

Attachment #27: Cary & Lisa Claver, 7266 Atlantic, in support of zoning change

Attachment #28: Douglas & Anne Nickerson, 7266 Pacific Ave., opposed to zoning change

Attachment #29: Valarie Baas, opposed to zoning change

Attachment #30: Bill & Gail Jackson, opposed to zoning change

Attachment #25: Application by Schofield, 09/30/2021, acknowledging conflicts with commercial use in Sunset Shores, in support of Navarro’s daycare

Attachment #26: Kara & Evan Getman, October 13, 2021, in support of Navarro’s daycare

Attachment #27: Corey & Jodie Cole, in support of Navarro’s daycare

Attachment #28: Sunset Shores POA Board, October 20, 2021, in opposition to Navarro’s daycare

Attachment #28: Letter to Andrew Schofield from Sunset Shores Property Owners Association, opposed to Navarro’s daycare

Attachment #29: Zoning Administrator Report

Minutes prepared by Janet Chambers, Recording Secretary



Cheryl Brenner <cascoclerk@gmail.com>

Leeward Pool

1 message

Julie Werkema <juliewerkema@gmail.com>

Mon, Oct 25, 2021 at 4:34 PM

To: Cheryl Brenner <cascoclerk@gmail.com>

Cc: "deputyclerk@cascotownship.org" <deputyclerk@cascotownship.org>

Cheri and Kathy,

In regard to some of the questions and statements on the subject of the Leeward Pool at the October 20, 2021 Planning Commission Meeting I wanted to share the following:

1. Noise – The group of 25 who has formed the Leeward Pool Group is no more or less noisy than homeowners in Boardwalk or Highfield. Both of those neighborhoods have pools on either side of our neighborhood. Boardwalk has 36 home sites. Highfield has 52. We will abide by the Casco Ordinance regarding noise just as they are required to do.
2. Traffic/Speeding/Turning off Blue Star – All 25 members are coming from WITHIN Miami Park, not from Blue Star Highway. Most live on Lakeview and Beach. Neighbors here walk to the beach access so walking to the pool is no different.
3. Parking – The site plan shows 1 spot for handicap access. 1 spot for pick up and drop off which will also be used for pool service and landscaping companies. Golf carts and bikes can be parked onsite. We will have rules to ensure our members are not parking on the road in any more egregious manner than the rest of the neighborhood.
4. Membership – Although the # of members is not relevant to zoning, 36 additional neighbors were asked to join including 3 of those who expressed their concerns re: noise and parking. Seven of the Miami Park neighbors who stated their disapproval have a history of conflicts with neighbors and were disingenuous in their disappointment at not being asked to join. In addition, 6 neighbors have pools or plans for pools, some are rentals and would not be interested. At least 6 houses did not exist when we began the process. We originally thought the number would be 20 but had several others interested so we raised it to 25. I'm certain there would be a different set of complaints regardless of the number.
5. Renters – From the first day we discussed the idea of a pool the decision was made that it would only be for owners. This was a pivotal point for both those who joined and many who declined to join.
6. Nature – No private property has been condemned for a wildlife path. There is an interesting phenomenon of people who buy a lot, clear it, build a house and immediately oppose anyone else doing the same. I think it would do some neighbors good to actually drive to the far corners of Casco Township and see that it is not entirely in the area between Blue Star and Lake Michigan.
7. Boardwalk- These people are our neighbors but are not neighborly for the most part. It is unfortunate. We aren't allowed to enter their domain but they certainly have the ability to walk and to ride their Gem cars on the public roads of Miami Park. The old days are gone when the neighbors would get together and socialize and in it's place

is misinformation and vilification. My husband asked one of the neighbors why they would oppose a pool so far away from their homes. He replied "noise" but really had no explanation. It would do them well to meet a few neighbors in Miami Park instead of sending threats (Fallon) and erecting signs. I don't know if they realize that we can hear the noise from their pool and their parties (particularly in the 2nd row and from the pool after hours) and their fireworks.

8. Mt. Pleasant Lakeshore Subdivision/Workmen's Circle/Mt. Pleasant Manor: It is quite a stretch to claim a pool which is almost a mile from your home would be a problem. It would likely have the same impact on them as their recreation center (clubhouse, playground and ball diamond) has on us.
9. Pool Specifics/State of Michigan – All commercial pool construction is under the rules and regulations of EGLE. EGLE will dictate the capacity of swimmers based on a specific formula. EGLE will also dictate all required safety measures, fencing, mechanicals and maintenance. The pool will be subject to the same rules and reporting as every other pool. Rob Pirsein is familiar with the process and will submit the site plans and ensure all requirements are met.
10. Miami Park – When we came to Miami Park it was a blighted, underdeveloped subdivision. We built our house surrounded by junk cars, boats and old furnaces. The Township couldn't help us with sewer to make our lots buildable because the costs were too high and based on **Zero growth**. Over the years we have persisted and along with the help of the Township and we have managed to install sewer and water and gas and even pavement on Lakeview. The neighborhood that was imagined in 1926 is finally becoming a reality. For 95 years people tried to accomplish what we have done. An article in the South Haven Daily Tribune June 23, 1948 was titled, "Hadesman Recalls Dream Which Never Materialized". We never got the airstrip and we don't have a baseball team, a bus station or bottled water for sale. We do have a nice neighborhood now and some of us simply want something nice for our families.

Thank you for taking the time to read this lengthy email. If you could also forward to the Planning Commissioners I would appreciate it very much.

Sincerely,

Julie Werkema

7256 Lakeview Ave

Miami Park

RE: Rezoning 7203 Lakeview Ave

From: Shelley Coulter (shelleycoulter@gmail.com)

To: clerk@cascotownship.org; mtsallegan@frontier.com

Date: Friday, October 29, 2021, 02:23 PM EDT

I just wanted to add a few points on the Rezoning for the Private Pool.

First off, I want to say that I am not against a pool going up in Miami Park for private use. My problem is the location of the pool and needing to make the lot Commercial in order to build it due to the lot size. Also, adhering to the setbacks and Greenbelt Buffer necessary (per Section 3.33 of the Casco Zoning Ordinance) to shelter the neighborhood from the irregularity of having a Restricted Club Pool or Swim Club (which is only allowed on a C-2 lot.)

I know Mr Darren Massey said that the Bylaws had nothing to with the rezoning but I would disagree with him. Some of my biggest concerns, that will affect the neighborhood, are as follows:

- 1- Who is going to maintain the pool and the surrounding area?
- 2- What are the hours going to be?
- 3- Who is going to make sure the pool is secure at night? Will there be security?
- 4- Who will be responsible for making sure the Bylaws are adhered to? And will someone be available if there are problems? (Example: a broken gate or fencing, late night partying, etc.)

I would hope that once you get the documents that were requested at the last meeting, you will have another public meeting or make the information available to the public.

Thank you,

Shelley Coulter
7210 Lakeview Ave

KREIS ENDERLE

KREIS, ENDERLE, HUDGINS & BORSOS, P.C.

Kay E. Kossen

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Battle Creek, MI 49017
269-966-3000
Fax 269-966-3022
www.KreisEnderle.com

November 10, 2021

VIA EMAIL

Casco Township
Planning Commission
Attn: Tasha Smalley
7104 107th Avenue
South Haven, MI 49090

Re: Rezoning Application – 7203 Lakeview Ave., South Haven (“Property”)
03-02-542-053-00

Dear Ms. Smalley and Planning Commission:

On behalf of the Leeward Pool Association (the “Association”), I am writing to provide a revised Contract Zoning Agreement (the “Agreement”) based on the discussion at the October 20, 2021 meeting of the Planning Commission. A revised Agreement is attached for your review. The revisions since the last meeting are in Section 2 – Conditions of Rezoning, and Section 3 – Township Findings.

Also, we would like to address other areas of interest and concern that were raised at the meeting.

Bylaws of the Association

The Bylaws are internal governance of Association business. They contain information about how the board of directors are elected, officers, indemnification, voting, and membership. The Bylaws are not to be confused with typical restrictions or covenants that are recorded in the chain of title of a particular property, or properties. Based on the discussion at the last Planning Commission meeting, I have included a summary below of relevant sections related to membership in the Association:

- Membership is limited to 25 members, who must be owners with the Miami Park Subdivision. A member must be a person or only those individuals who own a lot. A corporation may not be a member. Fractional ownership is not allowed, and shared ownership with more than one lot is prohibited.

November 10, 2021

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- A membership may be sold or transferred, subject to approval of the Board of Directors.
- A member may allow a tenant to use the membership only if the member has a long term lease with a tenant (meaning a lease for 90 days or more). During any such long term lease, the member may not also use the pool.
- All members will abide by rules and regulations adopted by the Board of Directors of the Association. (The Rules and Regulations are not contained within the Bylaws. They are separate and in draft form).

Public Swimming Pool Laws

The EGLE publication that contains the Michigan statutes and administrative rules for public pools are attached to this letter.

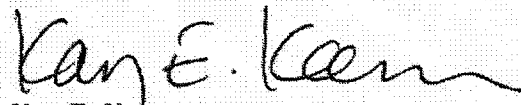
Casco Township Ordinance 3.33

I have reviewed Section 3.33 regarding Greenbelts, buffers and landscaping. This section only applies to provide standards for the design, installation, and maintenance of landscaping as greenbelt buffer zones between "potentially incompatible uses and residential dwellings."

The conditional rezoning to C-2 in this case is based on the proposed Contract Zoning Agreement which provides that the parcel will be constructed in accordance with the public pool statutes and rules, in accordance with the Township's site plan approval process. With those protections in place, it is not necessary to further mandate a greenbelt or buffer. A seasonal pool and pool house is not inconsistent with uses of other properties within the Miami Park Subdivision.

Very truly yours,

KREIS, ENDERLE,
HUDGINS & BORSOS, P.C.



Kay E. Kossen

KEK/

Copy: Leeward Pool Association Board of Directors
Enclosure as stated

CONTRACT ZONING AGREEMENT

This Contract Zoning Agreement (“Agreement”) is between **Casco Township**, a Michigan general law township, at 7104 107th Avenue, South Haven, Michigan 49090 (the “Township”) and the **Leeward Pool Association**, a Michigan non-profit corporation (the “Owner”).

This Agreement is based upon the following facts.

A. The Township has adopted the Casco Township Zoning Ordinance (the “Zoning Ordinance”), which includes the Casco Township Zoning Map (the “Zoning Map”).

B. The Owner owns the property commonly known as 7203 Lakeview Drive in the Township, Parcel Number 03-02-542-053-00, the legal description of which is attached as Exhibit A.

C. The Parcel is included in the Low Density Residential District (LDR) of the Zoning Map.

D. The Parcel is approximately 105’ X 101’, or approximately 10,605 square feet in area. It is a non-conforming lot of record pursuant to Section 3.28 B. of the Zoning Ordinance.

E. The Owner has asked that the Parcel be rezoned to the C-2, General Commercial District of the Zoning Map.

F. Under Public Act 110 of the Public Acts of 2006, a landowner may voluntarily offer in writing, and a township may approve, certain conditions which attach to a rezoning of property in that township.

G. The Owner has submitted a voluntary offer, September 15, 2021, to engage in contract zoning under Act 110.

THEREFORE, the parties agree as follows.

Section 1. Rezoning of the Property. The Township has adopted a Zoning Map Amendment Ordinance (the “Amendment Ordinance”), rezoning the Parcel from the LDR Zoning District to the C-2 Zoning District, contingent on this Agreement taking effect. This Agreement is contingent upon the Amendment Ordinance taking effect and remaining valid.

Revised Draft Date
11/9/2021

Section 2. Conditions of Rezoning. Rezoning the Parcel to the C-2 Zoning District shall be conditioned upon the Owner, and any subsequent owners of the Parcel, only being permitted to use the Parcel for uses in the C-2 Zoning District, specifically, under the category of health and physical fitness as a permitted use. The property will be used for a seasonal, limited membership pool association, for the health and fitness of its members. Conditional rezoning shall be permitted provided that the following requirements are initially met and maintained:

2.1 The construction of the pool and improvements on the Parcel will be pursuant to the Public Health Code Rules in Public Act 368 of 1978 and the accompanying Administrative Rules.

2.2 Members of Owner will comply with Casco Township Good Neighbor Policy and the Noise Control Ordinance.

2.3 Only one vehicular parking space on the Parcel will be allowed for handicap use only. Other parking for bicycles and golf carts will be on the Parcel only.

2.4 Direct lighting will be confined to the Parcel.

2.5 The pool will be open during the months of May through October, and daily hours of operation will be established by the Owner that will be consistent with the Noise Control Ordinance.

Section 3. Township Findings. The Township finds that as long as the conditions in Section 2 are satisfied, rezoning the Parcel to the C-2 Zoning District is appropriate. Specifically, the Township finds that the Parcel as it will be used is not inconsistent with surrounding property; the Parcel is suitable to being used as proposed by the Owner; rezoning the Parcel should not negatively affect surrounding property; the Parcel as it will be used would be consistent with a health and physical fitness facility as a membership pool association; and the Parcel as it will be used will be consistent with the purposes of the Casco Township Master Plan.

Section 4. Compliance. The usage of the Parcel pursuant to this Agreement shall be subject to compliance with all Federal, State, County, and Township laws and ordinances.

Section 5. Binding Nature of This Agreement. The Owner acknowledges that this Agreement will run with the Parcel and will be binding upon successor owners of the Parcel.

Section 6. Recording of This Agreement. The Township and the Owner acknowledge that this Agreement shall be recorded by the Township with the Allegan County Register of Deeds.

Section 7. Violation of This Agreement by the Owner. If the Owner violates any provision of this Agreement, that violation shall constitute a violation of the Zoning Ordinance and shall be subject to legal enforcement action and judicial abatement action as provided by law.

Section 8. Acknowledgment by the Owner. The Owner acknowledges that no permit or approval shall be granted under the Zoning Ordinance for any use or development that is contrary to this Agreement.

Section 9. Reversion of Zoning. In the event there is any use of the Parcel in violation of Section 2, the Township shall send written notice of the violation to the Owner. In such case, the Owner shall have 30 days from receipt of the notice to cure the violation. If the Owner does not cure the violation within this 30 day period (i.e., cease the violating use), the Township may reconsider rezoning the Parcel back to the LDR Zoning District. The reconsideration of rezoning shall be initiated by the Township Board, which shall request that the Planning Commission hold a public hearing on the rezoning of the Parcel and make a recommendation to the Township Board. The procedure for considering and accomplishing this rezoning shall be the same as applies to all other rezoning requests.

Section 10. Subsequent Rezoning of the Parcel. If all or any portion of the Parcel is subsequently rezoned to a different zoning classification or to the C-2 Zoning District but subject to the terms of a different agreement or no agreement at all, the terms of this Agreement shall cease to be in effect for that portion of the Parcel. Upon the request of the owners of the Parcel at the time, the Township shall record with the Allegan County Register of Deeds a notice that this Agreement is no longer in effect.

Section 11. Amendment of this Agreement. This Agreement may be amended in the same manner that the Parcel is rezoned to the C-2 Zoning District pursuant to the terms of this Agreement.

Section 12. Township's Right to Rezone. Nothing in this Agreement shall prohibit the Township from rezoning all or any portion of the Parcel to another zoning classification. Any such rezoning shall be conducted in compliance with the Zoning Ordinance and applicable law.

Section 13. Miscellaneous. This Agreement shall inure to the benefit of and be binding upon the parties and their respective heirs, personal representatives, members, assigns, and successors. All notices and other documents to be served or transmitted shall be in writing and addressed to the respective parties at the addresses stated on Page 1 of this Agreement or such other address or addresses as shall be specified by the parties from time to time, and may be served or transmitted in person or by ordinary or certified mail properly addressed with sufficient postage. This Agreement has been executed in the State of Michigan and shall be governed by Michigan law. The waiver by any party of a breach or violation of any provision of this Agreement shall not be a waiver of any subsequent breach or violation of the same or any other provision of this Agreement. If any section or provision of this Agreement is unenforceable for any reason, the unenforceability shall not impair the remainder of this Agreement, which shall remain in full force and effect. This Agreement represents the entire understanding and agreement between parties, and all prior understandings and agreements are specifically merged in this Agreement. The captions in this Agreement are for convenience only and shall not be considered as part of this Agreement or in any way amplifying or modifying its terms and provisions.

IN WITNESS WHEREOF, the parties have executed this Agreement as of the dates indicated below.

Michigan Township Services Allegan

111 Grand

Invoice

Date	Invoice #
11/5/2021	3734

Bill To
Casco Township 7104 107th Ave South Haven MI 49090

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
8	Zoning October 2021 office hours	48.00	384.00
0.5	Sally Hanson 002-001-12 Unity Lane regs	48.00	24.00
1.5	public hearing packet 10-20	48.00	72.00
0.5	Lisa Stern 1162 Edgewater min dwell regs, setbacks	48.00	24.00
0.25	LeAnne Johnson lot area definition, chart LDR	48.00	12.00
0.25	Lori Hannon 063-001-00 div question, parents passed and inherit property	48.00	12.00
0.25	Kent, short term rental quest 283 Blue Star, 7206 Lakeview	48.00	12.00
0.25	Mervy Elliot min dwell width regs	48.00	12.00
2	planning commisison packet	48.00	96.00
0.25	Miller lot combo approval 025-016-00/015-40	48.00	12.00
0.5	public notice ZBA 10-25 meeting	48.00	24.00
0.5	Sarah Clark, rep for Sunset Shores, deed restricts commerical, re: group daycare app SLU	48.00	24.00
0.25	Elaine Troller, Appraiser, 180-040-00, zoning of property	48.00	12.00
2	Planning Commission meeting	48.00	96.00
0.25	Nadine Navarro, daycare at a church questions	48.00	12.00
0.25	Kim Gallegar 8551 62nd Ave, land div questions	48.00	12.00
		Total	

Michigan Township Services Allegan

111 Grand

Invoice

Date	Invoice #
11/5/2021	3734

Bill To
Casco Township 7104 107th Ave South Haven MI 49090

P.O. No.	Terms	Project

Quantity	Description	Rate	Amount
0.25	Troy McKenny 656-032-00 fence, div and height regs	48.00	12.00
0.25	Michelle, Shores of South Haven, 86 Euclid, question easement to south (county drain easement)	48.00	12.00
0.75	zba meeting	48.00	36.00
0.5	vio letters Whiteford 46 68th, illegal assembly use; Cisco 68th illegal sand mine	48.00	24.00
0.25	Jamie, Nederveld, 495-001-00 setback verification	48.00	12.00
0.25	Anna 64th & 111th 02-002-010-00 cabin? campground?	48.00	12.00
0.25	Jim Frogner 74th & Beachview, site plan for ZBA	48.00	12.00
		Total	\$960.00