

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A REGULAR MEETING HELD FEBRUARY 22, 2007

AGENDA

**SUNSET VALLEY - SITE PLAN REVIEW - STEP 1 - NORTH OFF KL AVENUE,
WEST OF 8TH STREET - (PARCEL NO. 3905-22-276-012)**

**MENARDS - SPECIAL EXCEPTION USE AMENDMENT EXTENSION - 6800 WEST
MAIN STREET (PARCEL NOS. 3905-14-105-052 AND 3905-14-155-027)**

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A regular meeting was conducted by the Oshtemo Charter Township Planning Commission on Thursday, February 22, 2007, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Terry Schley, Chairman
Lee Larson
Deborah L. Everett
Mike Smith
Fred Gould
Robert Anderson
Carl Benson

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Brian VanDenBrand, Township Associate Planner; James W. Porter, Township Attorney; and approximately 15 other interested persons.

Call to Order

The Chairman called the meeting to order at approximately 7:00 p.m.

Agenda

The Chairman announced that the next item for consideration was the approval of the Agenda. The Chairman asked if there were any amendments to the Agenda, and hearing none, asked for a motion. Mr. Smith made a motion, which was seconded by Mr. Larson to approve the Agenda as submitted. The Chairman called for a vote on the motion, and the motion passed unanimously.

Minutes

The Chairman stated that the next item for consideration was approval of the minutes of February 8, 2007. The Chairman asked if there was a motion for approval or correction. Mr. Larson made a motion to approve the minutes as submitted. The motion was seconded by Mr. Smith. The Chairman called for a vote on the motion, and the motion passed unanimously.

The Chairman took the opportunity to ask those in attendance to please follow the procedure for public comment on the back of their Agendas. The Chairman also noted that if those in attendance wished to address the Planning Commission on non-agenda items they could do so under Item #7 of the Agenda.

SUNSET VALLEY - SITE PLAN REVIEW - STEP 1 - NORTH OFF KL AVENUE, WEST OF 8TH STREET - (PARCEL NO. 3905-22-276-012)

The Chairman said the first action item up for consideration was a site plan review for Sunset Valley. The Chairman noted that the applicant was requesting Step 1, Site Plan Review of a proposed residential development with 31 single-family home sites on 25 acres. He said the property was located north off KL Avenue, west of 8th Street, Parcel No. 3905-22-276-012. The Chairman called for a report from the Planning Department. Mr. Brian VanDenBrand submitted his report to the Planning Commission dated February 22, 2007, and the same is incorporated herein by reference.

Mr. VanDeBrand reminded the Commission that this property had recently been rezoned, and the property owner was now proposing to develop it as a residential site condominium. Mr. VanDenBrand then took the Planning Commission through a review of Section V of the Subdivision/Site Condominium Ordinance, as more fully set forth in his report dated February 22, 2007, and the same is incorporated herein by reference. The Chairman asked if there were any questions of Mr. VanDenBrand.

Mr. Benson asked if the proposed north-south road actually encroached into the wetland area. Mr. VanDenBrand indicated it appeared that it did. Mr. VanDenBrand said that would be an issue which would have to be reviewed by the MDEQ. The Chairman also indicated that this was a Step 1 Conceptual Plan Review, and a full engineering review would not be considered until Step 2, at which time the DEQ would comment. Mr. VanDenBrand indicated that was correct.

Mr. Anderson asked whether there had to be a temporary cul-de-sac at the first cross street to the west. Mr. VanDenBrand said that was not required. He said there would be a temporary cul-de-sac at the north end of Sunset Valley Drive. The Chairman asked if Mr. VanDenBrand had asked the applicant whether they would agree to install their portion of the bike path along 8th Street at the time the remainder was installed. Mr. VanDenBrand said he had not had a chance to discuss that with the applicant, but had discussed it with Township Counsel, and that Attorney Porter said a bike path or other non-motorized

pathway could be incorporated into the condominium documents to be installed at such time that the rest of the non-motorized facility was installed along 8th Street.

The Chairman asked if there were further questions, and hearing none, asked to hear from the applicant. Mr. Roger Stephenson introduced himself on behalf of his client, Tony Koshar. He said he was the surveyor who had developed the conceptual plan. He explained to the Planning Commission that the site was quite challenging, with steep grades and a great deal of tree cover. He said it would be a challenge to construct, but thought they could address all the issues in a fashion which would result in a well designed project.

Mr. Stephenson noted that there would be a cul-de-sac at the north end of Sunset Valley Drive, but that it would only be temporary and when the road developed further to the west, the temporary cul-de-sac ~~could~~ would be abandoned. Mr. Stephenson also said that they did have plans in the northeast to use a couple of the low-lying areas that straddle the property boundaries on adjoining property, but that if the adjoining landowners did not agree to that, they had set aside a lot they could use for stormwater retention.

Mr. Stephenson also noted that the land to the south would require encroachment on the existing wetlands, but that it would be mitigated by developing additional wetlands on site.

The Chairman asked if there were any questions of the applicant. Mr. Larson asked what they would be doing to encourage maintaining the natural character. Mr. Stephenson said they would place restrictions in the Master Deed to spell out exactly what trees had to be maintained and which trees could be cut down. Mr. Larson asked how that would preserve the character of the site. Mr. Stephenson said by limiting the building area to a specified location and prohibiting cutting trees in other areas, he thought it would maintain the overall integrity of the site. Ms. Stefforia asked if they would provide a drawing as part of the Master Deed which would show the area which could be cleared. Mr. Stephenson said they could do that, as well as showing areas that would be allowed for development of septic areas. He said, due to the steep slopes, that certain portions of the lots probably would have to be prepared for construction which would mean a certain amount of tree removal and leveling of the building site. Mr. Larson said that would require moving a great deal of dirt. Mr. Stephenson admitted that on some lots that would be true.

The Chairman asked if there were public comments on the proposed development. Mr. Vern Fox introduced himself to the Planning Commission. He said he lived on 8th Street and that his property was located east of the proposed development. He raised questions regarding water discharge and the quality of the water runoff from the roads. He also asked which lot would be used for a retention pond if the developer could not obtain water discharge easements to adjoining properties. He also inquired as to what the applicant would do with regard to the power line passing through the development.

Mr. VanDenBrand said that if they could not obtain easements with the property

owners to the east, and had to put in a retention pond, it would require the cutting of more trees. With regard to the power line, Mr. Koshar said that he was told by Consumers Energy representatives that they should be able to restrict the location of the buildings in such a fashion as to allow the use of the lot, or they would simply have to redraw the lots eliminating one or possibly two lots from the proposed development. Mr. VanDenBrand said, with regard to the septic location, that would be up to the Health Department.

Ms. Julie Fox introduced herself to the Commission. She said that traffic was a concern and she thought 50 to 60 additional cars coming to and from the area would create a traffic problem. She also raised a concern about the speed limit in the area.

Ms. ~~Machinski~~ Matchinski introduced herself to the Planning Commission. She said she had lived in the area 50 years and she thought they should look at the impact that the proposed development would have on adjoining property owners. She stated the development should not be called Sunset Aeres Valley; it should be called Sunset Swamp.

The Chairman asked if there were any further comments, and hearing none, closed the public portion of the meeting. The Chairman said that dealing with speed limits in the area was not an easy issue. He said the Township had limited control, to which the Township Attorney concurred. The Chairman asked if there was a recognized number of cars that would result as part of the residential development. Ms. Stefforia said there was a general standard that 10 car trips per household per day was the norm. She said, however, there is no way to know if these residents will use 8th Street or KL Avenue and which direction they would travel. Mr. Smith said he did not think that all of the traffic would be coming out to 8th Street and that much of it would be traveling east and west on KL Avenue.

The Chairman asked if there were any insights that could be obtained at this point regarding the water levels in the wetlands. Mr. VanDenBrand said there was a wetland study identifying the areas, but that there were not specific figures showing what the water runoff would do.

The Chairman said he thought there needed to be more information regarding the wetlands, but that could be handled at the next stage of the review process. He said certainly until the retention requirements could be determined, the impact on the wetland areas could not yet be determined.

The Chairman asked the applicant what effect the power lines would have on Lots 7, 25 and 26. Mr. Stephenson reiterated what Mr. Koshar had said regarding the possible setbacks. He said if those could not be met, they would have to delete one or two of the lots from their proposed development at the time of the Step 2 review process.

Mr. Larson asked what the treatment cells would be for the open ponds wetland sites. Mr. Stephenson said they would be providing treatment cells for water discharge to

the open ponds. Mr. Stephenson said they would be using retention basins which would allow for settlement and then allow for gradual release of the water into the open ponds.

The Chairman asked if there were any further questions of the applicant, and hearing none, called for Planning Commission deliberations. The Chairman reminded Planning Commission members that this was a Step 1 Site Plan Review. He said the concern over the wetland issue would really not be addressed until Step 2 consideration. Mr. Larson said he was quite concerned about addressing the wetland issue, but, more importantly, was concerned about the preservation of the character of the property. He said he hoped that the applicant would take into account the comments made regarding loss of trees and grading the property. Mr. Gould said he shared Mr. Larson's concerns and asked, if they approved this Step 1, whether they would review this matter again. Ms. Stefforia pointed out that Step 2 would be considered by the Township Board, and the matter would not return again to the Planning Commission. Ms. Stefforia pointed out that there was no Tree Preservation Ordinance currently enacted by the Township and, therefore, they could encourage the developer to preserve trees but could not mandate it.

Attorney Porter pointed out that there were no Ordinance requirements regarding preservation of trees or change in grade or topography. He said that they could encourage the developer to take those issues into account, but that there was nothing within the Township Ordinance to prevent the developer from taking whatever steps it felt were necessary to develop the site.

Mr. Gould asked what would happen if they could not build on Lots 7, 25 and 26. The developer said they would simply increase their lot sizes.

Mr. Smith said he liked the compliance with the sidewalk requirements. He also encouraged the developer to preserve as much of the natural terrain as possible. The Chairman did note that he would like to encourage the developer to preserve as much of the natural features, but that there were certainly no Ordinance requirements that would mandate it. However, the Chairman did note that the lots were very good size. Mr. Koshar said they had chosen the site because of its beauty and that they would do everything they could to preserve as much of the natural features of the site as possible. He stated he thought maintaining the natural features would allow them to not only maximize the saleability of the lots, but allow development in harmony with the surrounding properties.

The Chairman asked Mr. VanDen Brand about the non-motorized pathway along KL Avenue. Mr. VanDenBrand noted that, as discussed with counsel, the Planning Department was recommending the pathway not be made a requirement at this time but, if possible, it be incorporated into the Master Deed. This would allow the non-motorized pathway to be constructed at such time as the remainder of the pathway was developed along KL Avenue, especially since the type of facility has not yet been determined by the Township. Attorney Porter noted that this could be provided for in the documents and they would be looking for it at the time the Master Deed was reviewed. The Chairman asked if there was any further discussion, and hearing none, called for a motion. Mr. Smith made a motion to recommend Step 1 approval to the Township Board with the following conditions:

1. Street review and approval by the Kalamazoo County Road Commission.
2. A variance being granted by the Township Board to allow a dead-end street greater than 660 feet in length.
3. Approval of the septic system design by the Health Department .
4. Applicant obtaining easements from adjacent property owners to permit the discharge of stormwater into the wetlands on the northeast corner of the site, per Section 78.550.
5. Review and approval by Consumers Energy of the buildability of lots near the overhead power line.
6. Preservation of natural features insofar as possible is strongly encouraged.
7. Review and approval by the Township of the Master Deed, including a requirement that a non-motorized pathway on KL Avenue frontage be constructed simultaneously with the rest of the KL Avenue pathway construction and Bylaws of the Condominium.

The motion was seconded by Mr. Gould. The Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed 7 to 0.

MENARDS - SPECIAL EXCEPTION USE AMENDMENT EXTENSION - 6800 WEST MAIN STREET (PARCEL NOS. 3905-14-105-052 AND 3905-14-155-027)

The Chairman said the next item on the agenda was consideration of a special exception use amendment extension for Menards. He said that the Planning Commission was asked to consider an 18-month extension on a previously granted special exception use approval for outdoor sales and display area. He said the subject property was located at 6800 West Main Street, Parcel Nos. 3905-14-105-052 and 3905-14-155-027. The

Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her report dated February 22, 2007, and the same is incorporated herein by reference.

Ms. Stefforia explained, under Section 60.205 of the Township Zoning Ordinance, that a special use permit must be used within one year of its issuance unless the Planning Commission grants an extension to the special use permit. Ms. Stefforia explained that under Section 60.205, subsections (b) and (c) were most directly on point in that the project has been fully engineered, and there was cause for delay, based on the complexity and size of the project. Therefore, additional time for commencement and completion is very feasible and probable, if permitted. She added that it appears from the application that they need a 22-month extension, not 18 months. The Chairman asked is there were any questions of Ms. Stefforia, and hearing none, the Chairman asked to hear from the applicant's representative.

Mr. Todd Batts introduced himself to the Planning Commission. He explained that they were asking for an extension due to the fact that complying with all of the conditions of the special exception use caused a significant delay in preparing the project. He also noted that the time for seeking bids was poor and said, if they had the appropriate extension, they would be able to proceed in accordance with the previously granted special use permit, with the conditions imposed.

The Chairman asked if there were any public comments and, hearing none, called for Planning Commission discussion. After a brief discussion, it was the consensus of the Planning Commission that giving the applicant 22 months would give them until the end of 2008. Mr. Larson asked why they needed such a long extension period. Mr. Larson said if they were going to give them that type of extension, he thought they should at least have a phased schedule which would hold them accountable over that period of time. The Chairman asked if that was a motion. Mr. Larson then made a motion to approve the special exception use extension to the end of 2008, provided that the applicant provided a phase schedule with benchmarks which was to be reviewed and approved by Staff. Mr. Benson seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

DISCUSSION ITEM: CUL-DE-SACS

The Chairman said the next item up for discussion was the issue of cul-de-sacs. The Chairman began by stating that all Commission members had independent points of view on the issue, but given the discussion which occurs every time a cul-de-sac was reviewed, he felt the Planning Commission needed to work out some of these issues in advance and establish a policy for review of cul-de-sacs.

Ms. Stefforia then submitted her report to the Planning Commission dated February 22, 2007. Ms. Stefforia indicated she had compiled comments the members had made in June of last year, along with a couple of articles, and she thought with the comments that would be submitted at the present meeting, she would be able to come up with a stated

policy.

The Chairman said he went back and reviewed the Road Commission's position in their letter of September 26, 2006. He felt it was clear that cul-de-sacs would be approved provided they were endorsed by the Planning Commission and the Township Board without any further conditions. He said he understood some did not like cul-de-sacs because of their impact on connectivity. He said, however, that some of the concerns regarding connectivity could be overcome and that he felt cul-de-sacs did provide a positive appearance, and he would support their development.

The Chairman asked if the Planning Commission thought Staff should go forward and prepare a policy statement on this issue. Mr. Larson said he thought they should. Ms. Everett encouraged the Planning Department to do that. Mr. Larson noted that the articles in Ms. Stefforia's report demonstrated that most planners are trying to do away with cul-de-sacs in order to promote a walkable community. He said he did not object to having cul-de-sacs, but thought they were a design tool which needed a reasonable basis for their installation.

Mr. Smith said he thought the article showing the walking path between cul-de-sacs was a good idea. Mr. Larson said he certainly understood that there were cost advantages in developing cul-de-sacs because they require less roadway and utilities and said perhaps where there were cul-de-sacs, the Planning Commission needed to add walking paths or make some other arrangement for connectivity.

The Chairman said, if the Planning Commission came up with criteria, he wanted to make sure they were not merely allowing cul-de-sacs as an exception to the rule. He said he wanted it to be the rule. Mr. Larson said he agreed, but he thought there had to be consideration for approving cul-de-sacs. The Chairman suggested the Planning Department work on the criteria and policy statement as discussed by the Planning Commission. Ms. Stefforia suggested coming up with two different policy statements; one regarding internal cul-de-sacs and one, perhaps, more stringent to justify not providing connectivity to adjoining property. The Planning Commission members concurred.

Mr. Benson asked if the goal was to limit cul-de-sacs or allow cul-de-sacs. He said he did not want a policy which would ban cul-de-sacs. The Chairman said that limiting cul-de-sacs would not be consistent with the track record of the Township Board or Planning Commission. Mr. Larson said, while that was true, he thought that there should be a basis for allowing those cul-de-sacs, such as saving natural features.

Public Comment on Non-Agenda Items

There was no public comment.

Other Business

None.

Planning Commission Comments

Mr. Larson brought the Planning Commission members' attention to a forum to be held locally on Form-Based Zoning. Mr. Anderson noted that he had spent the day with Mr. Benson at a seminar put on by the Michigan Association of Planners.

Adjournment

There being no other business, the meeting adjourned at approximately 8:45 p.m.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

By:

Minutes prepared:
March 1, 2007

Minutes approved:
_____, 2007