

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD FEBRUARY 23, 2006

Agenda

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

DE VRIES - SPECIAL EXCEPTION USE - 7494 WEST KL AVENUE - (PARCEL NO. 3905-22-255-030)

BUCKHAM WOODS (NORTH PEAK DEVELOPMENT, LLC) - SITE PLAN REVIEW - EAST OF THE BUCKHAM HIGHLANDS SITE CONDOMINIUM - (PARCEL NO. 3905-23-210-010)

OSHTEMO WOODS #2 (NORTH PEAK DEVELOPMENT, LLC) - SITE PLAN REVIEW - NORTH OF OSHTEMO WOODS PLAT - (PARCEL NO. 3905-24-355-021)

A meeting was conducted by the Oshtemo Charter Township Planning Commission on Thursday, February 23, 2006, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: James Turcott
Deborah L. Everett
Terry Schley
Mike Smith
Lee Larson
Kathleen Garland-Rike
Fred Gould

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner, and James W. Porter, Township Attorney; and approximately 70 other interested persons.

CALL TO ORDER

The meeting was called to order at 7:00 p.m.

AGENDA

The Chairman asked if there were any revisions to the Agenda. Hearing none, Mr. Schley made a motion to approve the Agenda, as submitted, and the motion was seconded by Mr. Larson. The Chairman called for a vote on the motion, and the motion passed unanimously.

MINUTES

The Chairman said the next item on the Agenda was the minutes of February 9, 2006. Mr. Gould 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.

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

The Chairman indicated that Item #4 was a special exception use amendment and site plan review for Menards. He said the Planning Commission was being asked to conduct a special exception use and site plan review for the proposed expansion to the outdoor sales and display area. The Chairman stated that the subject property was located at 6800 West Main Street, Parcel Nos. 3905-14-105-052 and 3905-14-155-027. The Chairman asked for a report from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated February 23, 2006, and the same is incorporated herein by reference.

Ms. Stefforia reminded the Commission that the matter was tabled at its January 12, 2006 meeting when it was discovered the existing outdoor sales and display area violated the setback provisions of Section 31.403(d). She said, as a result, the applicant sought and received a variance from the Zoning Board of Appeals to allow an outdoor sales area within 20 feet of the property line in the northwest corner of the property where an 85-foot supplemental setback would otherwise be required. She said the Zoning Board of Appeals also granted a variance to allow a lumber warehouse building to be set back 20 feet or the height of the structure at its highest point, rather than the 85-foot supplemental setback. However, the variance for a reduced setback along 9th Street was denied. She said now that the property could be considered for site plan review.

Ms. Stefforia explained that the original special exception use and site plan was approved in 1999, and now Menards was proposing to expand the outdoor display and sales area within the portion of the property zoned "C" Local Business District. She said the expansion would occur on three sides, north, west and southwest. She then provided the Commission with an overview of the proposed site plan for its review. Ms. Stefforia then took the Commission through a review of Section 60.100 concerning the special exception use and Section 82.800 dealing with site plan review as set forth in her report.

The Chairman asked if the revised ingress and egress easement in the southwest would be part of the motion. Ms. Stefforia said it would, and that she would recommend it be reviewed by the Township Attorney.

Mr. Tom O'Neil introduced himself on behalf of Menard, Inc. He asked for approval to the special exception use and to the site plan as well. He said he thought that the Planning Department had covered their proposal quite well, and he said he was there to answer any questions.

Mr. Schley asked Mr. O'Neil to confirm how far the covered area would extend to the east in the garden center. Mr. O'Neil said approximately 72 feet to the roof line, which would allow them to construct a covered walk area in which to place display items. Mr. Schley asked if there would be striping along the driveway to the west in order to provide adequate ingress and egress. Mr. O'Neil confirmed that there would be striping and that there would be sufficient distance to allow a normal car width to exit along the west and provide for sufficient turning radius for those vehicles coming from the east, traveling north. Menards' engineer, Mr. Batts, confirmed that would be done.

The Chairman asked if there were any other questions, noting the considerable discussion that occurred in January.

Mr. Smith asked if there would be a customer access to the building from the west side. Mr. O'Neil indicated there would not.

The Chairman hearing no further questions, called for public comments. Hearing no public comment, called for Planning Commission deliberations. The Chairman asked for discussion on the special exception use.

Mr. Schley said, based on the Zoning Board of Appeals' decision, he thought it was appropriate to move on the special exception use permit. Mr. Schley then made a motion to approve the special exception use permit based upon the Staff's report and the record. Mr. Smith seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

The Chairman said the next item for consideration was site plan approval. He said he thought the first issue that needed to be addressed was the non-motorized facility along 9th Street. The Chairman asked the applicant if their major concern regarding the installation of the non-motorized path along 9th Street was the topography of the area. Mr. O'Neil said the topography was one factor. He said he also thought, for consistency sake, they should wait until other properties develop in the area so that a larger portion of the non-motorized path can be built at one time, in a uniform manner. Mr. O'Neil said he was not sure what the standards were regarding construction of the non-motorized pathway. The Chairman said he thought that was addressed in the Ordinance. Ms. Stefforia pointed out that the Township was currently relying on MDOT standards.

Ms. Garland-Rike asked if the applicant was requesting a variance for more parking. Ms. Stefforia said no, they had received a variance to allow them to have less parking.

After further discussion, Ms. Garland-Rike made a motion to approve the site plan as submitted, subject to the following conditions:

- (1) The two parcels must be combined by a recorded instrument before a building permit may be issued.
- (2) A driveway permit from the Kalamazoo County Road Commission must be secured for the new fire access drive.
- (3) The site plan must delineate driving lanes into and out of the outdoor display area.
- (4) Design of the emergency vehicle access is subject to review and approval of the Fire Department and shall be appropriately signed so as to prevent non-emergency vehicles from inadvertently using it.
- (5) A revised ingress and egress easement must be prepared to reflect the location of the cross access with the parcel to the west.
- (6) The applicant shall install a sidewalk in accordance with Township Ordinance along the portion of the property abutting West Main Street. The applicant shall further install a bike path along 9th Street, subject to the review and approval of the Township Planning Department.
- (7) A Type C greenspace must be maintained along the north property line at all times; any landscaping lost due to excavation of the retention pond or

construction of a drive in the easement area must be replaced as appropriate to maintain a Type C greenspace.

- (8) Required landscaping shall be installed before occupancy of the expansion area will be permitted. A performance guarantee as described in Section 82.950 may be accepted if this cannot be accomplished.
- (9) All new or modified exterior lighting shall comply with the requirements of Section 78.700 of the Zoning Ordinance.
- (10) Site plan review shall be subject to review and approval of the Fire Department pursuant to adopted codes.
- (11) Site plan review is subject to review and a finding by the Township Engineer that proposed site engineering is adequate.

Mr. Gould seconded the motion. The Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed unanimously.

DE VRIES - SPECIAL EXCEPTION USE - 7494 WEST KL AVENUE - (PARCEL NO. 3905-22-255-030)

The Chairman indicated that the next item for consideration was the special exception use review of a proposed group daycare for up to 12 children in a residence located at 7494 West KL Avenue, (Parcel No. 3905-22-255-030). The Chairman asked to hear from the Planning Department. Ms. Bugge submitted her report dated February 23, 2006, to the Planning Commission for its review, and the same is incorporated herein by reference.

Ms. Bugge explained that the applicant currently operated a family daycare for six children, which was a permitted use under State law. She said that the applicant is seeking to expand to a group daycare home for 12 children. Ms. Bugge also explained that, under the Township Zoning Act, a licensed group daycare home received special protection, provided the activity took place in the full-time residence of the operator and met certain standards as set forth in Section 19.402 of the Township Ordinance. Ms. Bugge then reviewed the provisions of the special exception use with the Planning Commission, as well as a brief review of the site plan.

The Chairman asked if there were any questions of Ms. Bugge. Hearing none, the Chairman asked to hear from the applicant.

Ms. Tina DeVries introduced herself to the Planning Commission. She explained that she was proposing to expand her daycare to a group daycare home, and asked the Planning Commission if they had any questions.

Mr. Schley asked how large the addition was going to be. Ms. DeVries said it would be a 24' x 30' addition to the home.

Ms. Garland-Rike asked what the age of the children would be. Ms. DeVries said six weeks to six years old. Ms. Garland-Rike asked Ms. DeVries if she had an employee. Ms. DeVries said she would have one employee.

Ms. Garland-Rike asked what time the children would arrive and what time they would be picked up in the afternoon. Ms. DeVries said approximately 7 a.m. for drop-off and pick-up at approximately 5:30 p.m.

Mr. Smith asked if they would be adding any children older than six years old to the group. Ms. DeVries indicated they would not.

Mr. Schley asked if the addition would extend any further to the rear lot line than the existing garage. Ms. DeVries said it would not.

Mr. Gould asked about the distance from the drop-off point to the entrance of the home and whether a walkway would be provided. Ms. DeVries said there would be a cement walkway directly to the door entering the new addition. Mr. Gould asked if they would be adding any additional rest rooms. Ms. DeVries said that they would not and that the children would be using the existing rest rooms within the home.

Ms. Bugge asked about the fence that needed to be installed. Ms. DeVries said it would be a four-foot fence, chainlink in design and would enclose a portion of the back yard for the children's play area. She said that the fence would be installed in accordance with State guidelines.

Mr. Schley asked if everyone within 300 feet of the residence had received the appropriate notice. Ms. Stefforia indicated that they had.

Ms. Everett made a motion to approve the special exception use as submitted. The motion was seconded by Mr. Larson. The Chairman called for a vote on the motion, and the motion passed unanimously.

Mr. Schley then made a motion to approve the site plan as submitted subject to no signs being provided, the group daycare be properly licensed by the State of Michigan, and that the approval be subject to the discussions as set forth in the record.

The motion was seconded by Mr. Smith. The Chairman called for a vote on the motion, and the motion passed unanimously.

BUCKHAM WOODS (NORTH PEAK DEVELOPMENT, LLC) - SITE PLAN REVIEW - EAST OF THE BUCKHAM HIGHLANDS SITE CONDOMINIUM - (PARCEL NO. 3905-23-210-010)

The Chairman indicated that the next item on the Agenda was the site plan review for a proposed 73-unit residential site condominium on 30 acres. He said the property was immediately east of Buckham Highlands site condominium on Parcel No. 3905-23-210-010. The Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated February 23, 2006, and the same is incorporated herein by reference.

~~Ms. Bugge~~ Ms. Stefforia told the Planning Commission that the subject property was a 30-acre parcel immediately east of the Buckham Highlands site. She said the applicant was proposing to create a 73-unit site condominium. She explained that the property was zoned "R-2" Residential, which would be served by public streets, as well as public sewer and water. Ms. Stefforia said the Road Commission had indicated that it would consider allowing the proposed cul-de-sac located in the interior of the development, if it was acceptable to the Township Planning Department. The Planning Department asked that the matter be discussed by the Commission and that a recommendation be provided by the Planning Commission.

Ms. Stefforia then took the Planning Commission through the provisions of Section 82.800 with recommended conditions to the site plan review, if approved.

The Chairman asked if there were any questions of Ms. Stefforia. Hearing none, he asked to hear from the applicant.

Mr. Scott Sanderson, on behalf of Allen Edwin Homes, introduced himself to the Planning Commission. Also, he introduced their Engineer, Pat Flanagan from Ingersoll, Watson & McMachen, Inc. Mr. Sanderson said that he thought the presentation by the Planning Department was quite clear, and he asked the Planning Commissioners if they had questions.

Mr. Schley asked if a single point of entry for 121-unit development would cause any violation of Township Ordinances. Ms. Stefforia said that she did not believe that it would result in any violation of Township Ordinances. She said the only question which was raised is whether the cul-de-sac located in the middle of the proposed development should be approved. She stated that the Kalamazoo County Road Commission had agreed to leave that matter up to the Township.

The Chairman asked what the turning radius of the cul-de-sac would be. Mr. Flanagan said it would be a 50-foot turning radius in compliance with Kalamazoo County Road Commission requirements. The Chairman said he had some concern regarding access by emergency vehicles. Mr. Flanagan said that the 50-foot turning radius met all of the Road Commission standards, as well as the Township's standards for emergency vehicles. Mr. Flanagan indicated that the right-of-way was actually a 70-foot radius, but that only 50 feet of the radius was paved; the remaining 20 feet would be a green area.

Mr. Larson said he thought it looked like a 30-foot cut across the site. Mr. Flanagan said that the north part of the subject property is quite a bit higher than the south or southwest portion of the property. He said there was quite a bit of relief in the overall parcel, from elevations approximately 970 feet to 906 feet. He said it was quite easy to design the roads on the property except to the east and to the southeast where the property is sloped. However, he said they had submitted plans to the Road Commission, showing the road grades, which he thought they would approve. Mr. Larson asked if the installation of the roads would result in a 30-foot cut. Mr. Flanagan said there would not be a 30-foot cut, given the fact that the road from the south to the southeast would be running along the ridge, which would likely result in cuts in excess of five feet, but not in excess of ten feet. He said, in general, most of the roads will be one or two feet below grade, but that they would try to minimize cutting into the property as much as possible.

Mr. Larson asked what trees would be preserved on the property. Mr. Sanderson said it was their plan to maintain as much natural vegetation on site as possible. He said they wanted to save as many trees as possible and keep the grade as natural as possible. Mr. Flanagan said that the developer had developed Applegate in Texas Charter Township and that a number of large trees were actually added to that site. While that was no guarantee of what would happen at this site, he thought it was an indication of the developer's overall planning process.

Ms. Stefforia pointed out that, if water wells and septic systems were needed in this area, they would have to clear virtually all of the trees on the lots, but because there were public sewer and water services, they should be able to preserve more trees on the individual lots.

Mr. Schley said he had reviewed the proposed plans in advance, and while there was only a single point of access, this proposed development was not much different from the Country Club Village development. He said he also understood a natural opposition to linking developments, and it appeared that the applicant in this case had designed the proposed development in such a way as to allow development to occur

without using the access points to the north or to the east. Mr. Sanderson said they had no intention to connect this development to the northeast property whatsoever.

Hearing no further questions, the Chairman indicated that he would entertain comments from the public. He asked those in attendance to limit their comments to approximately two minutes in duration and avoid as much repetition as possible. He asked that all comments be civil.

Mr. Gordon Stocking said he was amazed to see the proposed site plans, because when he was asked for a storm water easement, the original proposal only had 35 lots in the plat.

Ms. Denise Simenauer introduced herself to the Planning Commission. She said she owned land in the northeast, as well as directly east of the subject property. She said she would be directly affected, and she strongly objected to the intrusive nature of the proposed development. She stated that she thought it was the duty of the Planning Commission to protect the Township residents, as well as the environment. Ms. Simenauer said she was not sure whether an environmental impact study was required by the Township. However, she noted that there was wildlife in the area, prairie grasses, trillium, wild turkey, deer, wolves and bobcats, and she asked that an environmental impact study be done. She expressed concerns with regard to the proposed density of the development and said she thought that the proposed homes could be considered low-income, and asked that the Planning Commission consider the impact it would have on police needs and noise in the area. She also asked for clarification on the right for street extension to the northeast. Ms. Stefforia explained that the subject property had no direct access to the northeast, and currently there were no plans to direct any of the traffic across Ms. Simenauer's property to the northeast.

The Chairman asked for clarification as to whether an environmental impact study could be required. Attorney Porter indicated that such a requirement was not provided in the Township Ordinance, nor was he aware of any State law or Federal law which would require an environmental impact study for purposes of this residential development.

Mr. Henry Ziolkowski introduced himself to the Planning Commission. He said he thought the proposed plan was to allow as many units as were permissible. He said he did not care that it was site condominium; he just was concerned about the quality of the development. He said he did not think there would be any trees left, and given the postage-stamp size of the lots and the low quality of the buildings proposed, the development would be nothing but clutter. He said it was nothing more than carpetbagging riding the Kalamazoo Promise all the way to the bank.

Mr. Jared Martin introduced himself to the Planning Commission. He said this might be the same developer as had developed Buckham Highlands, but he did not

think they asked the people in Buckham Highlands what they thought. He said he had concerns about the temporary road proposed. He said he did not know what it was or why it was there. Ms. Stefforia pointed out that was an outlot in Country Club Village, and it had nothing to do with the proposed development or this developer.

Mr. Peter Simenauer said he thought they owned the outlot and that is was for their use. Ms. Stefforia said she understood his position, but that the outlot in Country Club Village was not being proposed to be used as this time at all.

Several people shouted questions to the developer's representatives. Mr. Schley asked the Chairman to request those in attendance to direct their comments to the podium. The Chairman said point well taken, and he asked that all public comments be directed to the podium, not to the applicants directly.

Mr. Dan Thompson introduced himself to the Planning Commission. He asked if the outlot in the Country Club Village could be used to develop the property to the west. Ms. Stefforia said it could be used for the property to the west. Attorney Porter pointed out that is not what the applicant was requesting at this time, and that it was really not an issue to be addressed by the Planning Commission at this point.

Mr. Jackson introduced himself to the Commission. He said he thought the Planning Commission should take into account the environmental impact on the property. He said he also thought the Commission should address the safety concerns and the increased need in law enforcement if this development proceeds forward. He asked that the Planning Commission protect the residents of the Township.

Mr. Fred Douglas introduced himself to the Planning Commission. He said he and his wife had purchased a vacant lot on some neighboring property, and he was very concerned about the density proposed. He stated that he certainly would not want to live in the development due to the size of the lots, as well as the limited access. He asked if there was any way for the Planning Commission to deny the proposal, to please deny it.

The Chairman said the Commission had heard the concerns of the public regarding density and the environment. He stated that he thought many of the concerns were similar, and if people could please focus their comments to any new additional concerns, it would be appreciated.

Don Halstead introduced himself to the Planning Commission. He said he was disappointed that he and his neighbors had never had an opportunity to discuss the development and obtain any assurances or agreement as to how the property should be developed. He said he understood the Township's desire to see its tax base increase, but he had concerns regarding the proposed development. He said, while he did not

disagree with the developer's right to make a profit, he did not believe that the development showed any continuity with Country Club Village whatsoever.

Mr. Halstead said he was very concerned about the environment. He stated that the Kalamazoo Gazette had put the horror story on the front page of its newspaper. He inquired as to what the population growth was going to be and how this fit into the Master Plan. He said he did not think that the Master Plan could have envisioned site condos because they had not crossed anyone's mind at the time the Master Land Use Plan was developed. Mr. Halstead pointed out that the Road Commission was developing new guidelines which would not be adopted until March. He said perhaps the Planning Commission had not considered those new guidelines and should wait to consider development until the guidelines were complete.

Mr. Halstead said there were a lot of questions, and he suggested that the Planning Commission not make a decision tonight because it did not think it behooved anyone to get into a range war. He said perhaps there was a resolution to the issue, and that they would like to meet with the developer to see if the matter could be resolved. He said it took a lot of time to do things the other way, and he was asking that the Township table the matter for 60 to 90 days.

Mr. Paul Houtman introduced himself to the Planning Commission. He said he was very concerned about traffic, as well as the appearance of the development. He said he believed that this development was to serve the Kalamazoo Promise people with low-income housing. He said they could put half as many houses in if they did not build cracker boxes.

Mr. David Brown introduced himself to the Planning Commission. He said to be consistent with development in the area, they would have to change the density. He said the proposed development was much too dense.

Mr. Jeff Brennan introduced himself to the Planning Commission and said he was at the meeting on behalf of himself and Dr. Talanda to oppose the development. He said he had two questions – first, had the Planning Commission studied the devaluation which would result from the proposed development, and second, had the Planning Commission studied the future of Oshtemo?

The Chairman said he would like to close the public portion of the hearing, and begin Planning Commission deliberations.

Steven Duisterhoff introduced himself to the Planning Commission. He said he did not want to be adversarial, and he understood the rule of law. He questioned whether this proposed development was within the law. He said he did not believe the citizens wanted to stop development, but simply wanted similar quality of development

to preserve their quality of life. He said that this proposed development was not compatible to what was currently in Oshtemo Township, and he asked that the Planning Commission listen to the residents.

Mr. David Riker asked if any of the property was covered by a Rental Ordinance. Attorney Porter indicated that all the homes were proposed to be single-family residences and whether they were rental units was not an issue at this point.

Mr. Richard Mahoney introduced himself to the Planning Commission. He said he had driven through Sky King and saw some signs advertising rent to own, and he said with that kind of marketing, what kind of residents were going to be brought into the Township?

The Chairman called for Planning Commission deliberations and asked for an overview from Attorney Porter on how they should address this issue. Attorney Porter said he understood the concerns of the residents, and while he was sympathetic, many of the things they were asking the Planning Commission to consider were items that should have been raised during the time that the Land Use Plan was developed. Attorney Porter indicated that he believed that the Master Land Use Plan and Township Ordinance were developed in accordance with State law and that the Township Planning Commission had to follow its Ordinance. Mr. Schley asked if that was because the Township's Ordinance and this proposed development were following the Land Use Plan. Attorney Porter indicated that was correct.

Mr. Sanderson pointed out to the Planning Commission that they could have developed this property with all duplexes, but they did not. He said, if they had, while they would have had to have larger lots, they could have created a greater density than what was currently proposed. He said they could have done that with 750 square foot duplexes, but that was not their intention. He also pointed out that the prior plan that somebody had referenced was a plan prepared by their predecessors in 2003, and that the plan had not been changed by them, but that plan had simply been abandoned.

The meeting was interrupted by a number of loud voices, at which point, Mr. Schley again called for a point of order and asked that the Chairman quiet the audience. The Chairman asked that the meeting come to order and asked that the citizens refrain from talking during Commission deliberations.

The Chairman said it appeared to him that their charge was to determine whether the proposed site plan met the Township's Ordinance. Attorney Porter concurred with that statement.

Mr. Halstead said he understood their job, but he had not had an opportunity to review the Ordinance.

The Chairman again asked that deliberations be limited to Planning Commission members. Attorney Porter pointed out that he saw no valid basis to table the proposal. He said there were no clear, cogent legal arguments raised at the meeting, showing that any violation of State or Federal law had taken place. He stated that there was nothing but anecdotal evidence regarding environmental matters, and that, in his opinion, that was not a sufficient basis to table the matter. Mr. Schley asked if the applicant wanted to request tabling the matter. Mr. Sanderson said he would respectfully decline that request.

The Chairman asked to hear comments from the Commissioners regarding the cul-de-sac. Ms. Stefforia said that she was aware of the draft regulations by the Road Commission and understood that the Road Commission would now consider allowing cul-de-sacs with Township approval.

Mr. Schley asked what the history of the County had been with regard to cul-de-sacs. Attorney Porter noted that cul-de-sacs had always been provided for in the County regulations, but they simply were not approved. He said he thought a lot of that had to do with the cost of plowing. Ms. Stefforia said it also had to do with connectivity. Mr. Schley said he thought it was considered an attractive amenity to a residential development. Mr. Smith said he agreed that many people liked to live on a cul-de-sac.

Mr. Larson said he was concerned about the long dead-end street being about 600 feet long. He said he thought it could be a problem for emergency vehicles. Ms. Garland-Rike said she did not like the cul-de-sac either from a safety standpoint. She said she also thought that the large paved portions of cul-de-sacs were pretty ugly. She said she currently lives on a cul-de-sac and did not think they were attractive. Mr. Smith said he would agree with that if he thought connectivity was an issue, but he did not think it was an issue here. Mr. Larson said he thought it was a matter of perspective. He said he thought he would like to see the street come all the way through so as to provide a more open neighborhood.

The Chairman said it appeared that there was some reservation about allowing the cul-de-sac. He said, while he was not opposed to the cul-de-sac himself, he would entertain further discussion on that point. Mr. Larson said he thought putting the road through would encourage a more open neighborhood environment than if a cul-de-sac were put in place. Mr. Flanagan told the Planning Commission that the Road Commission had previously provided for cul-de-sacs in their regulations but not permitted them for about 15 years. He said, starting in March, the Road Commission planned on deferring to the local planning commission on such issues. He said that they had looked at the proposed layout and even had an alternate plan, taking the road to the west. However, he said to go to the south when you have a 10 to 12 degree grade, and the maximum grade allowed for a road was seven percent, would require the

movement of a tremendous amount of earth. He said, if they were required to have the road come out near Lot 48 or 49, they would have to go back and further reduce the overall grade of the road to the north, thereby requiring much more excavation on the lots along that road, which would cost a tremendous loss of trees, as well as a complete re-contouring of the property. He said he thought the cul-de-sac would break up the development, create relief in the overall development and allow them to maintain the site and much of its natural topography.

Mr. Gould asked if the topography change would result in a change to the height of the homes. Mr. Flanagan said if a street came out along Lots 50 or 51, they would have to excavate the lots back much further, which would greatly change the overall grade of the individual lots. Ms. Bugge asked if that would require steeper drives. Mr. Flanagan said he did not think that would happen. He said it is just a matter of the additional excavation which would be needed to install the street to the south. Mr. Flanagan said they had a preliminary design showing that it could be done, but the cuts to the individual lots to build the road would be in excess of 15 feet. He said they would lose many more trees, and therefore respectfully encouraged the Planning Commission to approve the cul-de-sac as designed.

The Chairman asked to hear further input from the Planning Commission.

Mr. Gould said he was initially in favor of extending the road, but after hearing what Mr. Flanagan said, thought the site plan should remain as submitted. Ms. Garland-Rike said she understood the impact it would have on the topography, but she was looking at it from a safety standpoint. She said perhaps there would be more green space if the street went through. Mr. Flanagan said putting the road straight through would only cost them a single lot, and therefore it would not substantially increase greenspace. He also said the design currently proposed uses the existing topography to minimize the change in grade. Mr. Sanderson said, as a developer, he was somewhat selfish in that he liked to see more trees preserved because it created a higher value for each of the individual lots. He said, if the street were required to go all the way through, the re-grading to the entire property would be so extensive that it would cost them many more trees than if they were allowed to develop with a cul-de-sac.

Ms. Garland-Rike asked if the applicant was going to flatten the parcel. Mr. Sanderson said they would not do that, but there would be a lot more flattening if the road went all the way through than if it did not. Mr. Larson said he questioned that, and he had a different vision of the development. Mr. Schley asked if they had a plan to flatten, wouldn't they be required to put in retention walls or put in some type of retention device to deal with the change in grades. Mr. Flanagan indicated that was correct, and that was not shown on the plan. Ms. Stefforia pointed out, however, that the plan is not shown for the property as developed. Mr. Schley said he understood

that, but he thought he was getting a commitment from the developer that they would not require such extensive re-grading of the property as to require any type of retention or retaining walls. Mr. Flanagan said that was correct. Mr. Sanderson said they had never done that to any of their properties and did not plan on doing it with this property.

Mr. Larson said he was still concerned about the cul-de-sac because it created a long dead-end road. He said it appeared they intended to take advantage of the Kalamazoo Promise and construct a neighbor for kids, and he thought having a road go through was better for a neighborhood than a road with the cul-de-sac. He said that cul-de-sacs isolate the properties and children from other residents within the community.

Mr. Schley asked if the Planning Commission had not just approved Tuscany Plat with a 1,100 foot cul-de-sac. Ms. Bugge indicated that they had, but that it did provide for an extension to the west. However, Mr. Schley pointed out that the cul-de-sac at Tuscany Plat would be there for a very long period of time. He asked how that was different from the one currently being proposed by the applicant. He asked that the Planning Commission be consistent in its decisions. Mr. Larson said he would agree, but that safety was only one of several different concerns that he had raised. He said unlike Tuscany Plat, this cul-de-sac is in the middle of the development and would be permanent, and he simply thought it was the wrong type of design for this development.

Mr. Schley said that the concern about the grade was also a safety issue to him. He said putting the road through to the south would require much more excavation, but it would also create a much steeper road, which would impact upon safety.

Mr. Smith said that he liked the cul-de-sac and thought it was more family friendly and would actually improve the overall neighborhood.

The Chairman said he agreed with Mr. Schley and thought that he put the cul-de-sac to rest early on in the discussion. He said he did see this as any different than the Country Club Plat from an access point and did not have a problem with the proposed cul-de-sac.

Ms. Everett asked if the Road Commission raised any concern about having a single access point. Ms. Stefforia said that it did not; she said their only concern was access to a future property which was provided for within the proposed site plan.

Ms. Simenauer threatened the Commission with litigation because it had failed to address the Endangered Species Act. Attorney Porter pointed out there were no actual "facts in the record" showing need for an environmental impact study, and the Commission had heard nothing but antidotal evidence, and therefore, they should proceed.

The Chairman said he thought there had been ample discussion, and said, at this point in time, he would entertain a motion. Mr. Larson made a motion to approve the site plan as submitted with the following conditions:

- (1) Approval is subject to approval of the street layout by the Kalamazoo County Road Commission.
- (2) The Planning Commission recommends that the Kalamazoo County Road Commission deny the proposed cul-de-sac.
- (3) Approval is subject to the applicant providing the Township with an escrow for completion of the sidewalks along the temporary cul-de-sac when the street is extended in the future.
- (4) Sidewalks meeting Township requirements shall be installed within three years or prior to the issuance of a Certificate of Occupancy for an adjacent site, whichever comes first. Construction plans shall be submitted for review.
- (5) Street lights must comply with the outdoor lighting provisions of Section 78.700.
- (6) Approval shall be subject to Township review of the Master Deed and Bylaws and finding them acceptable prior to their recording.
- (7) Design of the storm water management system is subject to review and approval of the Township Engineer.
- (8) Easement(s) addressing the storm water retention basin and current and future users and maintenance are subject to Township review and approval before recording and/or amending.
- (9) All necessary approvals from other agencies must be secured before earth-moving activities commence.

Ms. Garland-Rike seconded the motion. Mr. Schley asked if their disapproval of the cul-de-sac would be addressed by the Township Board. Ms. Stefforia pointed out the Township only looked at the site condominium documents, not the site plan itself. Mr. Schley suggested perhaps an alternative to simply denying the cul-de-sac, would be to allow the road to be extended to the east as well as possibly to the south. Ms. Stefforia asked that the motion be amended to allow the applicant to extend the cul-de-sac road to any of the other roads within the Plat. Mr. Larson agreed to amend his motion. Ms. Garland-Rike approved the amendment to that motion.

Ms. Everett asked to make a comment. She said this was certainly a very difficult issue. She told those in attendance, whether they believed it or not, that she would not necessarily want this type of development going in next to her home. However, she noted that the property owner had the right to develop the property, and it had to be developed in accordance with the Township requirements. She encouraged them to be more involved with the Planning Commission and the Zoning Board of Appeals in the future.

The Chairman again called for point of order and asked for quiet. Hearing no further discussion, he called for a vote on the motion, and the motion passed 4 to 3, with Ms. Everett, Mr. Gould and Mr. Turcott in opposition.

**OSHTEMO WOODS #2 (NORTH PEAK DEVELOPMENT, LLC) - SITE PLAN REVIEW
- NORTH OF OSHTEMO WOODS PLAT - (PARCEL NO. 3905-24-355-021)**

The Chairman indicated the next item to consider was the site plan for a proposed 45-unit residential site condominium on approximately 19 acres. He said the subject property was located immediately north of Oshtemo Woods Plat, Parcel No. 3905-24-355-021. The Chairman called for a report from the Planning Department, and Ms. Bugge submitted her report dated February 23, 2006, and the same is incorporated herein by reference.

Ms. Bugge indicated that the applicant was proposing to develop Phase 1 of a single-family residential site condominium, consisting of 45 units on approximately 19 acres. She said that the development was tentatively called Oshtemo Woods #2, but the name was subject to change.

Ms. Bugge said that the two yet unnamed public roads would serve the development, using outlots from Coddington Lane to access the vacant property. She said that municipal sewer and water would be provided. Storm water retention would be private, and its maintenance would be the responsibility of the condominium association. She noted that there were some very steep slopes, as well as some small building envelopes, and that the project engineer had been advised that setback relief would not likely be granted.

Ms. Bugge then took the Planning Commission through the provisions of Section 82.800 dealing with site plan review, as set forth in her report.

Mr. Sanderson, on behalf of the applicant, introduced himself to the Planning Commission. He said he understood the Planning Department's concerns and said

they would not be asking for any type of variance for setback relief due to topography or lot size.

Ms. Bugge asked if the individual lots would be designed in such a way as to minimize the adverse impact of any steep driveways. Mr. Sanderson said that would be addressed. He said that they planned the entire neighborhood, not just individual lots, and that they would make sure that was not a problem for future lot owners.

The Chairman asked for public comment.

Mr. John Hazel said he was concerned that, during the previous application, the Commission had not addressed the comments regarding the drainage area. He said he was concerned about the applicant having been accused of providing a different plan, rather than the plan which was agreed to when the Drainage Agreement was put in place. Mr. Schley said he thought that applied to a different property. Attorney Porter said he thought it had been addressed by the fact that the previous plan was from a prior developer, not the current developer. Mr. Sanderson said, when Mr. Stocking signed the Drainage Agreement, it was an agreement between the three neighbors. He said each of the three neighbors were all allowed to benefit from that easement for any water discharge which they had, and the fact that they had purchased the property and proposed a different development did not affect Mr. Stocking in any way. He said Mr. Stocking's land clearly benefitted from the drainage easement agreed to by all the parties.

The Chairman asked if there were any other public comments. Hearing none, he closed the public portion of the meeting.

Mr. Larson asked who owned the land north of the proposed property. Mr. Sanderson said that was owned by Consumers Energy. Mr. Larson raised a question as to whether a DEQ permit would be required because of the proximity to wetlands. Mr. Flanagan said, if a DEQ permit was necessary, it would be secured.

Mr. Schley made a motion to approve Phase 1 of Oshtemo Woods #2, subject to the following conditions:

- (1) Any approval shall be subject to review and approval by the Township and other appropriate agencies of fully-engineered construction plans.
- (2) All roads shall be subject to the approval of the Kalamazoo County Road Commission.
- (3) Driveway Permits must be obtained from the Kalamazoo County Road Commission.

- (4) Sidewalks meeting Township requirements shall be constructed on both sides of the roads and shall extend to Coddington Lane. All sidewalks shall be installed within three years or prior to the issuance of a Certificate of Occupancy for an adjacent site, whichever comes first. Construction plans shall be submitted for review.
- (5) Street names are subject to approval by the Kalamazoo County Planning Department.
- (6) Approval shall be subject to all sites meeting the Township dimensional requirements for single-family sites served by public sewer and water.
- (7) Placement of individual buildings shall conform to all setback requirements; request for any setback relief shall be strongly discouraged.
- (8) Signs shall be reviewed through the sign-permitting process, and a permit shall be issued prior to the installation of any sign.
- (9) Approval shall be subject to the Township Attorney reviewing the Master Deed and Bylaws and any necessary easements and agreements and finding them acceptable prior to them being recorded.
- (10) Approval shall be subject to the provision of street lights in compliance with Section 78.700.
- (11) Site plan approval shall be subject to the applicant complying with the requirements of the Fire Department.
- (12) Site plan approval shall be subject to Township Engineer review of construction plans and a finding the storm water management is adequate.
- (13) Approval shall be subject to the Township Engineer and other reviewing agencies finding utility engineering satisfactory.
- (14) An Earth Change Permit from the office of the Drain Commissioner is required.

Mr. Smith supported the motion. The Chairman called for further discussion, and hearing none, called for a vote on the motion. The motion passed unanimously.

Other Business

None.

Planning Commissioner Comments

Mr. Gould said he talked to a couple of representatives from Allen Edwin Homes at the break, and apparently they had been threatened during the meeting. Mr. Gould wanted the comments made to the Allen Edwin Homes representatives put in the record. The Planning Commission, not able to identify the gentleman, could only identify him as a large, muscular gentleman in a black trench coat. Allen Edwin representatives indicated that the man had indicated he was "going to smash their faces in," and at one point, told them to "keep smiling because they were going to get what was coming to them." Mr. Schley said he noted that there was a very large male who kept moving back and forth toward the front of the audience. Mr. Schley stated that the person seemed very agitated and was mumbling to himself, and he made a note to keep an eye on him. Mr. Schley said he understood that the citizens' concerns, but he was saddened to hear that they would result to threats and intimidation.

Mr. Gould said he had voted no on the proposed application because he thought it would be better to have a cul-de-sac than a road passing through the center of the proposed development.

Mr. Gould then asked what the Township could do to help the citizens better understand the duties and responsibilities and even limitations that were on the Planning Commissioners, depending upon what issue was presently before the Commission. Ms. Everett indicated that they use the newsletter on occasion, but perhaps there could be additional steps taken to fully apprise people as to the scope of duties and responsibilities of the various boards.

Adjournment

There being no further comment, the meeting was adjourned at approximately 10:30 p.m.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

By:

Kathleen Garland-Rike

Minutes prepared:
March 2, 2006

Minutes approved:
_____, 2006