

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD APRIL 14, 2011

Agenda

WEST POINT CONDOMINIUMS – SPECIAL EXCEPTION USE AND SITE PLAN APPROVAL EXTENSION FOR PHASE ONE OF WEST POINT CONDOMINIUMS – NORTH 10TH STREET – (PARCEL NOS. 3905-13-125-001 TO -066)

BRUCE, NANCY - WHITE VELVET FROZEN YOGURT - REQUESTING CONDITIONAL REZONING OF SW CORNER OF EXISTING BUILDING FROM I-1, INDUSTRIAL TO RR RURAL RESIDENTIAL TO ALLOW A RESIDENCE WITH REMAINING PORTION OF BUILDING TO BE USED BY RESIDENT TO OPERATE HER BUSINESS - 7190 WEST KL AVENUE - (PARCEL NO. 3905-22-285-047)

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, April 14, 2011, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Kitty Gelling, Acting Chairperson
 Carl Benson
 Dave Bushouse (7:03 p.m.)
 Fred Gould
 Millard Loy
 Richard Skalski

MEMBER ABSENT: Bob Anderson

Also present were Jodi Stefforia, Planning Director; Attorney Porter and about seven other interested persons.

Call to Order and Pledge of Allegiance

Acting Chairperson, Ms. Gelling, called the meeting to order at about 7:00 p.m. in the absence of Chairman, Bob Anderson, followed by reciting the “Pledge of Allegiance.”

Agenda

Mr. Benson made a motion to accept the Agenda as submitted. Mr. Skalski seconded the motion. Upon vote, the motion carried unanimously.

Public Comment on Non-Agenda Items

The Acting Chairperson asked if there was any public comment. Hearing none, she asked the Planning Commission to proceed.

Minutes

The Acting Chairperson asked if there were any questions or amendments to the February 24, 2011 minutes, noting that on page 3 the last name of the First National Bank representative was spelled incorrectly and should be "Betke." There being no further revisions, Mr. Skalski made a motion to approve the minutes, as amended. Mr. Loy seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

WEST POINT CONDOMINIUMS – SPECIAL EXCEPTION USE AND SITE PLAN APPROVAL EXTENSION FOR PHASE ONE OF WEST POINT CONDOMINIUMS – NORTH 10TH STREET – (PARCEL NOS. 3905-13-125-001 TO -066)

The Acting Chairperson said the next item on the Agenda was a request for the special exception use and site plan approval extension for the West Point Condominiums. She noted that the parcel had received special exception use and site plan approval in 2000 for the West Point Condominiums on 10th Street. The Acting Chairperson then called for a report from the Planning Department.

Ms. Stefforia submitted her report to the Planning Commission dated April 14, 2011, which is incorporated herein by reference. She explained that the applicants' development had failed to proceed and that the original permits which were granted had lapsed due to lack of progress. However, she advised the applicants they could request an extension on Phase One of the application, but that Phase Two approval, if sought by the applicant in the future, would have to be fully reviewed under whatever special exception use and site plan review criteria was in place at time of application.

Ms. Stefforia went through the review process in Section 60.205 of the Zoning Ordinance, laying out the reasons upon which the Commission could grant an extension of Phase One of the development.

The Acting Chairperson asked if there were any questions of Ms. Stefforia.

Mr. Skalski asked about the storm water situation on 10th Street and whether there was a pretreatment program for the retention pond. Ms. Stefforia said she did not

believe there was a pretreatment program, but the developer was preparing to implement a new storm water retention practice to address flooding issues by moving excess storm water to the south portion of the property.

The Acting Chairperson asked to hear from the spokesperson of the proposed development. Mr. Greg Markvalor Markvlower on behalf of Gary Granger of West Point Condominium, LLC, said that he understood that the original development had no specific deadlines for development. However, they had proposed to complete this development within ten years.

He noted that some of the limitations of lenders had hampered their development. He stated it was their intent to try to always have a model to show, and at times, some lenders were not willing to finance the models, but he thought they currently were on track. He said sales had slowed down significantly about three years ago, and they did have some excess inventories. However, they did put a unit in the Parade of Homes, and they had some increased activity in this area and wanted to be able to add two existing models for sale, once the existing unfinished units were completed.

He said they were requesting an extension, with the understanding that the developer had a new plan for the pond on site and that they were doing everything they could to answer to questions raised by Township Engineers, Prein & Newhof. He said he thought most of those were technical questions which would be resolved very shortly.

The Acting Chairperson asked if Mr. Markvalor Markvlower had those plans with him. Mr. Markvalor said that Excel Engineering had the plans but that a copy had been given to Prein & Newhof. Ms. Stefforia confirmed that the plans had been received by Prein & Newhof, which had agreed to the plan, in concept, but were asking some specific engineering questions regarding the design of the pumps and other items.

The Acting Chairperson opened the meeting for public comment.

James Vermeulen introduced himself to the Planning Commission, and he said he lived on 10th Street. He then provided a video to the Commission showing severe flooding problems with the pond on 10th Street, which had affected his home on the west side of the road. He strongly suggested that nothing further be done to the development until such time as the flooding problems originating from the pond on 10th Street are taken care of.

Mr. Loy asked Mr. Vermeulen if the pond drained into his yard. Mr. Vermeulen said that the water came from a drain put under the road by the Township. Attorney Porter noted that the Township does not install drains and that the drain was most likely installed by the Road Commission, not by the Township.

Mr. Loy asked who put in the pond, and Ms. Stefforia said it was a natural low area, but that the pond was enlarged at the time the development was built, but was not

draining properly. Ms. Stefforia said there was a proposal to take the water out of that pond by the means of a pump to remedy that problem in the future.

The Acting Chairperson called for other public comments.

Janice Lang introduced herself to the Planning Commission and said she also lived on 10th Street. She said she was very concerned about the flooding in the area and did not want to see any further development until the water problem had been solved. She also expressed concerns about possible increase of traffic due to the proposed development.

Al Coleman introduced himself to the Planning Commission. He said he lived in the West Point Condominium development. He stated, as an owner, he wanted to see the extension granted. He said they were a very small community, and he believed they kept their facilities well maintained, and he wanted to see the development continue. He stated with the additional building and tenants they would be able to better maintain their grounds including improvement to the water retention pond on 10th Street.

The Acting Chairperson asked if there were any other questions of the applicant by the Commission. Hearing none, she called for Planning Commission deliberations.

Mr. Gould said he was concerned about traffic on M-43 and 10th Street and wondered what the traffic loads were in the area. Ms. Stefforia said in 2000 when the development was given approval, it was determined that 10th Street had the capacity to handle the traffic. She noted that 10th Street has been studied twice in the ensuing years for other issues, and the only deficiency at that light was the left turn lane at the peak times.

She also noted that the pond was in the process of being corrected and that the Township Engineer, Marc Elliott, was comfortable with the design parameters. Attorney Porter noted that Engineer Elliott was quite conservative, and if he believed that the solution would fix the problem, he thought the problem would be remedied.

Mr. Gould said he did not want to see early spring rains create a problem in this area, and the water problem needed to be fixed as soon as possible. Mr. Loy said he wanted to see the project go forward, but he was not a real fan of pumps. Mr. Loy said whatever solution was provided, he did not want to see a repeat of what he saw in Mr. Vermeulen's video. Mr. Skalski said he agreed, and his preference would be some kind of gravity system because pumps do fail, but if the Engineer was satisfied, he was ready to approve the project. Mr. Bushouse said he **was** very concerned about the water retention pond and the fact it did not seem to recede. He said that it had to be solved immediately so that storm water cannot cross the road or come up through an overflow pipe on the other side of the road. Mr. Benson said he could support the proposal if the applicant could demonstrate that the water retention problem was fixed. He also

expressed some concerns about pumps versus a gravity system. Mr. Gould expressed his opinion in favor of the project provided the water problems stopped.

The Acting Chairperson asked what time limit, if any, the Commission would want to impose on the extension. Ms. Stefforia said she would be happy if they showed slow continuous progress. Mr. Gould said he had no opinion. Mr. Loy said he wanted to give them a time frame which would fit with the current economy, but again expressed that they need to fix the water problem first. Mr. Skalski said he agreed with Mr. Loy about fixing the water problem, but he did not want to tie them down to any fixed time frame because of the economy. He said he thought as long as they made reasonable progress they should be allowed to continue. Mr. Bushouse said he would like to leave it open-ended because no one can see how things are going to develop in this type of economy. As long as the work was progressing, he thought they should be allowed to continue.

Mr. Benson made a motion to approve the special exception and site plan use extension for West Point Condominiums for at least one year or as long as there was reasonable continuous progress, provided a solution to the water problem on 10th Street be completed before any new buildings were constructed, and that all past conditions placed upon the development remain in place. Mr. Skalski seconded the motion. The Acting Chairperson called for discussion. Mr. Bushouse suggested that the applicant work out the pump issues with their engineer as soon as possible. **Mr. Gould inquired of Mr. Markvlower if he was guaranteed delivery of the pump so that he could have it installed in the next 60 days. He wondered whether the applicant was setting himself up for failure if there was a backorder problem. Mr. Markvlower said he would use his best efforts.** The Acting Chairperson called for a vote on the motion. The motion passed unanimously.

**BRUCE, NANCY - WHITE VELVET FROZEN YOGURT - REQUESTING
CONDITIONAL REZONING OF SW CORNER OF EXISTING BUILDING FROM I-1,
INDUSTRIAL TO RR RURAL RESIDENTIAL TO ALLOW A RESIDENCE WITH
REMAINING PORTION OF BUILDING TO BE USED BY RESIDENT TO OPERATE
HER BUSINESS - 7190 WEST KL AVENUE - (PARCEL NO. 3905-22-285-047)**

The Acting Chairperson introduced the next item on the Agenda, which was a conditional rezoning for 7190 West KL Avenue, Parcel No. 3905-22-285-047. She said the applicant, Nancy Bruce, was requesting the rezoning from “I-1” Industrial to “RR” Rural Residential for a portion of her property to allow her residence to be established within a portion of a building where she intends to operate her business, White Velvet Frozen Yogurt.

The Acting Chairperson asked to hear from Ms. Stefforia. Ms. Stefforia submitted her report to the Planning Commission dated April 14, 2011, which is incorporated herein by reference. She noted that the applicant was proposing to have about 2,500 square feet of approximately 7,600 square foot building changed from “I-1” Industrial to “RR” Rural Residential. She said the applicant had suggested conditional rezoning pursuant

to Section 53 of the Zoning Ordinance with the following conditions: The living space would be occupied by the applicant, never used as a rental property and never sold separately from the balance of the property. Ms. Stefforia said, given the zoning in the area, she thought it was appropriate to consider conditional rezoning in this case. She said, even though it would constitute a spot zone, she thought it was appropriate because the amount of industrial land in the Township is limited, residential is plentiful and that the proposed conditional rezoning would not be creating a use inconsistent with the future Master Land Use Plan. She said this proposal ~~and~~ was cleaner and easier than considering other options such as allowing live-work arrangements in the "I-1" District which might create problems in the future.

Ms. Stefforia then took the Commission through a review of Section 53 of the Zoning Ordinance which provides for conditional rezoning. At the conclusion of Ms. Stefforia's report, the Acting Chairperson asked if there were any questions for Ms. Stefforia. Hearing none, she asked to hear from the applicant.

Ms. Bruce introduced herself to the Planning Commission. She said she currently runs a store at Woodbridge Village and was now selling prepackaged frozen yogurt, but she needed a larger location from which to produce the yogurt. She said the subject building has the cold storage which she needs, as well as room to grow some of the ingredients on site. She said she wanted to be financially prudent about starting a business and thought the conditional rezoning would serve everyone's interests best.

Ms. Stefforia noted that she had also asked Ms. Bruce if she would consider, as an additional condition, having the "RR" Rural Residential rezoning revert to "I-1" Industrial District once she ceased her occupancy. Ms. Bruce agreed to that condition and said she would likely sell the property purely for industrial purposes in the future.

The Acting Chairperson asked if there were any health regulations that presented a problem. Ms. Bruce said that her residence would be totally separated from the production facility and should not present any kind of problem. She said the production facility, itself, would have to meet all Health Department regulations, particularly with regard to the test kitchen. The Acting Chairperson asked if there were any further questions. Hearing none, she called for Planning Commission discussion.

Mr. Loy said he thought it was a great idea and thought having an owner on site would benefit security and would help put this building back into production. Mr. Gould said he had no concerns about the request. Mr. Skalski said he thought that the proposal with the restrictions provided a good opportunity for all concerned. Mr. Bushouse said he liked the idea very much but had a question about screening to the west. Ms. Stefforia said that the property to the west had their driveway along the east side of their property and did not think there would be a problem in the future for that neighbor. Mr. Benson said he thought it was a very positive and unique approach to using the property. The Acting Chairperson said she felt the same way and called for a

motion. Mr. Skalski made a motion to approve the proposed conditional rezoning from "I-1" Industrial to "RR" Rural Residential with the following conditions:

- (1) The living space would be occupied by the applicant;
- (2) The living space would never be used as a rental property;
- (3) The living space would never be sold from the balance of the property; and
- (4) Once the applicant ceased to occupy the property, the "RR" Rural Residential zoning would return to "I-1" Industrial zoning.

Mr. Loy seconded the motion. The Acting Chairperson called for a vote on the motion, and the motion passed unanimously.

Other Business

Ms. Stefforia mentioned that the text amendments which had been submitted to the Township Board had been approved. However, they would be returning to the Board with one revision based upon concerns raised by the Township Supervisor over sign quantity on commercial properties with significant frontages.

Ms. Stefforia also mentioned that information would be submitted to them in advance of considering the medical marihuana proposals which were going to be heard by the Planning Commission on May 26, 2011. She wanted to give them a heads-up and let them know that the recommending body would likely submit these to them well in advance for their review.

Planning Commissioner Comments

The Acting Chairperson asked that all those who were not currently recycling their mailing packets do so if at all possible.

Adjournment

The Acting Chairperson asked if there were any further comments, and hearing none, the meeting was adjourned at approximately 8:30 p.m.

Minutes Prepared:
April 19, 2011

Minutes Approved:
_____, 2011