

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A REGULAR MEETING HELD APRIL 26, 2007

AGENDA

**THE FLOOR TRADER - SPECIAL EXCEPTION USE - 6619 WEST MAIN STREET -
(PARCEL NO. 3905-14-332-004)**

**SMT LAND DEVELOPMENT - STEP I SITE CONDOMINIUM REVIEW - SOUTHEAST
CORNER OF 8TH STREET AND KL AVENUE (PARCEL NO. 3905-23-305-022 AND
3905-23-305-025)**

**SILVER GRASS PUD - CONCEPTUAL REVIEW - NORTH OF MEIJER ON EAST
SIDE OF NORTH 9TH STREET - (PARCEL NO. 3905-14-130-015 AND 3905-14-130-
017)**

A regular meeting was conducted by the Oshtemo Charter Township Planning Commission on Thursday, April 26, 2007, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Terry Schley, Chairman
Lee Larson
Deborah L. Everett
Fred Gould
Bob Anderson
Carl Benson
Kitty Gelling

MEMBERS ABSENT: None

Also present were Jodi Stefforia, Planning Director; Brian VanDenBrand, Township Associate Planner; James Porter, Township Attorney, and 12 other interested persons.

CALL TO ORDER

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

AGENDA

The Chairman asked if there were any changes to the Agenda. Ms. Stefforia said she wanted to add two items to Item #8, including a discussion on the new land use in the "I-1" area and a discussion regarding the May 10, 2007, Planning Commission meeting.

Mr. Anderson made a motion to approve the Agenda as amended. Mr. Benson seconded the motion. 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 approval of the Minutes of April 12, 2007. The Chairman began by noting that on page 3 the reference to the height of 42 inches should be "42 inches above ground." With that correction, the Chairman asked if there was a motion to approve the Minutes. Mr. Larson made a motion to approve the Minutes as corrected. Mr. Benson seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

The Chairman reminded those in attendance that on the back of their Agenda were the rules regarding public comment. He asked that they adhere to the same, including the four-minute limitation for public comment.

THE FLOOR TRADER - SPECIAL EXCEPTION USE - 6619 WEST MAIN STREET - (PARCEL NO. 3905-14-332-004)

The Chairman said the next item on the Agenda was the consideration of a special exception use permit submitted by The Floor Trader for a tent sale in the parking lot of 6619 West Main Street, Parcel No. 3905-14-332-004. The Chairman asked to hear from the Planning Department. Mr. Brian VanDenBrand submitted his report to the Planning Commission, and the same is incorporated herein by reference.

Mr. VanDenBrand informed the Planning Commission that the applicant was requesting to place a 40' x 60' tent in the parking lot for an eight-day outdoor sales event. He said the tent would be located in front of the building on the eastern third of the existing parking lot. The proposed sale was to be held May 4 through May 12, 2007. He added that the tent was to be erected a day or two before the sale and disassembled on or before May 14, 2007. Mr. VanDenBrand then proceeded to take the Commission through a review of Section 31.403, as more fully set forth in his report.

Ms. Stefforia noted that the Commission also needed to consider the special exception use criteria set forth in Section 60.100 and reviewed those with the Planning Commission.

The Chairman asked if there were any questions. Ms. Gelling asked whether or not the tent would interfere with the handicapped parking. Mr. VanDenBrand said he did not believe that it would. The Chairman asked if there would be sides to the tent. Mr. VanDenBrand said he was not sure, but they could ask the applicant.

The Chairman then asked to hear from the applicant. Ms. Lori Ruimveld introduced herself to the Planning Commission. She said that the tent did have sides. Ms. Ruimveld also noted that the parking would be adequate and she did not believe it would interfere with the handicapped parking. Mr. Benson said he had visited the site and that the existing barrier-free parking facilities were located west of the tent and would not be obstructed.

The Chairman called for public comment, and hearing none, closed the public portion of the meeting. The Chairman asked if there were any questions or concerns of the Commission. Mr. Benson said he thought the proposed use was consistent with the businesses operating in the area. Ms. Gelling said the use was consistent with other temporary uses in the area, such as the seasonal sales at Meijer's. Ms. Everett then made a motion to approve the applicant's special exception use permit and site plan approval to allow the placement of a 40' x 60' tent in the parking lot for a sale from May 4 through May 12, 2007, the same to be erected a day or two before the sale and disassembled on May 14, 2007. Mr. Larson then seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

SMT LAND DEVELOPMENT - STEP I SITE CONDOMINIUM REVIEW - SOUTHEAST CORNER OF 8TH STREET AND KL AVENUE (PARCEL NO. 3905-23-305-022 AND 3905-23-305-025)

The Chairman said the next item for consideration was Step I Site Condominium Review for SMT Land Development. He said the Planning Commission was being asked to review a Step I Site Plan Review for a site condominium for industrial land use. He said the subject property was located at the southeast corner of 8th Street and KL Avenue, parcels 3905-23-305-022 and 23-305-025. The Chairman then asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission and the same is incorporated herein by reference.

Ms. Stefforia explained to the Planning Commission that the applicant was requesting a site plan review for a 7-unit site condominium development to be named Contractor's Corner. Ms. Stefforia said the proposed site met or exceeded the minimum dimensional criteria for the "I-1" Industrial District. She noted that Units 4 - 7 would be served by public water and septic systems and that units 1-3 would be served with wells and septic systems. She said that the use and development for each site would be subject to Township review and approval.

Ms. Stefforia noted that the Kalamazoo County Road Commission determined that the driveways, as proposed, were feasible for the sites. However, in reviewing the criteria for Step I approval, Ms. Stefforia did indicate that the Planning Commission needed to address the issue of access to KL Avenue. She directed the Commission to Section V (E) (3)(a)(4), noting that the Ordinance prohibited direct access to a county primary road or major thoroughfare as defined in the Land Use Plan for a building site abutting the same. She asked that the Planning Commission determine whether or not the shared drives, as proposed for the KL sites, would satisfy the spirit and intent of the Ordinance. She also suggested that the units along 8th Street be reconfigured to provide for a single drive and recommended that the applicant and the Commission discuss that issue.

The Chairman asked if there were any questions of Ms. Stefforia. Mr. Larson asked if an inventory of the trees was taken before they were cut. Ms. Stefforia said she did not believe so. Mr. Larson asked if the applicants had received an Erosion Control Permit before cutting the trees. Ms. Stefforia said she would have to check the file, or Mr. Larson could ask the applicants.

Ms. Gelling asked whether the house at the corner would be affected by the development. Ms. Stefforia said it was not part of the proposed development. Mr. Anderson asked how a single drive could be configured to serve parcels 1, 2 and 3. Ms. Stefforia said the frontage for parcel 1 could be located between lots 2 and 3, a single drive put through at that point, which could then service all three of the lots.

The Chairman then asked to hear from the applicant. Mr. Scott Soorus introduced himself on behalf of SMT Land Development, LLC. Mr. Soorus said they were gearing the development toward small contractors within the "I-1" Industrial zone. He said they had submitted their soil erosion permit and were not sure why the Township had not received a copy of the same. Mr. Soorus noted that he preferred to have two drives on 8th Street versus one, and would like to have the two shared drives on KL Avenue.

Ms. Stefforia asked when Mr. Soorus applied for the soil erosion permit. Mr. Soorus indicated that it would have been approximately two weeks ago.

Mr. Larson asked whether there were trees on the site in excess of 12 inches and asked why the land had been cleared before site plan approval. Mr. Soorus said they needed to balance the land because of the undulating hills on the property. He said that many of the trees had to be removed because they could not be left there and properly balance the site. Mr. Larson stated that sites are usually inventoried to locate and try to preserve the larger trees on a site. Mr. Soorus said perhaps they had jumped the gun. Attorney Porter reminded the Planning Commission there were no ordinances currently in place which would require a developer to inventory a site or require permits from the Township in order to cut existing trees.

The Chairman said he thought the next step was to consider the landscaping that the developer will put in place at the time the property is being developed. He asked the applicant if they were considering any type of landscaping improvements. Mr. Soorus said they would have each of the individual property owners, once they purchase the property, install the appropriate landscaping to meet all of the Township requirements. He said they would seed and stabilize the site but that the individual sites would be developed by the property owners.

Ms. Gelling asked what the applicant had done with the trees that were damaged. Mr. Soorus said they had trimmed the trees and sealed them as requested by the Kalamazoo County Road Commission.

Ms. Stefforia said she realized putting a single drive on 8th Street, between lots 2 and 3, might create a longer drive, but thought it would create more visibility for lot 1. The applicant questioned whether or not there would be sufficient room to install a drive between lots 2 and 3 and maintain adequate frontage along 8th Street. Mr. Anderson asked what would happen to the nonmotorized path along KL Avenue. Mr. Soorus said he thought it would stop close enough to the intersection to allow the riders to take advantage of the wide shoulder at the intersection of 8th Street and KL Avenue. Ms. Stefforia indicated that when the Road Commission rebuilt roads or intersections they often put in a 4-foot shoulder along the side of the road and that there was probably a four-foot wide shoulder in this area.

The Chairman asked if there was any public comment. Mr. Jeff Phillips introduced himself to the Planning Commission. He said he lived across the street from the proposed project and had several concerns. He said he was concerned about whether there was going to be a deceleration lane installed and whether the size of the buildings were consistent with the size of the buildings in the area. He also expressed concern regarding traffic, lights shining in from people entering and exiting the property, soil erosion, lack of landscaping until the lots were developed, as well as the burning of the trees which took place on site. The Chairman thanked Mr. Phillips for his comments.

The Chairman asked if there were any further public comment and, hearing none, closed the public portion and called for Planning Commission deliberations. The Chairman began by asking the Planning Department if a deceleration lane would be necessary and whether or not there were traffic concerns. Ms. Stefforia said that the need for deceleration lanes would be determined at the time the sites were actually developed. She did note that the area of 9th and KL had less than 10,000 cars per day and it was her understanding that the road would have adequate capacity to handle the additional traffic.

The Chairman asked if there provisions within the Ordinance to require that the site be stabilized until the buildings could be built. Ms. Stefforia indicated that any inactive site would be required to be stabilized, even if it was winter time and, therefore,

the applicant's proposal to seed and stabilize the site was certainly consistent with Township Ordinance requirements.

Mr. Anderson asked about storm water and whether it could be handled onsite. The Chairman said that really was not an item to be considered at this point in time. The Chairman said they were looking at simply the division of the site at this time. Ms. Gelling said she was not comfortable with lot 1 being so far back from the road right-of-way. The Chairman said that the Planning Commission needed to be focused on the issues pertinent to Step I approval and that the boundary, shape and design was up to the developer. Attorney Porter noted that he thought such a concern was a non-issue since the lots met all the dimensional requirements of the Ordinance.

The Chairman asked whether or not the Township Planning Commission had control with regard to the road issue. Attorney Porter said he thought it was an issue that the Planning Commission could address under the Ordinance and make its own determination whether it believed that what was being proposed constituted a direct access to a county primary road or not. He asked the Planning Commission to keep in mind that even if the Planning Commission rejected this proposal, the applicant could turn around, using the Land Division Act, and have two access drives on KL Avenue anyway.

Mr. Larson said he thought the provisions in Section V were a restriction on the way the property should be developed. He said he did not think the industrial buildings should be facing KL Avenue. He said he thought that would have a negative impact on surrounding properties. He explained that he thought there should be a single access with the buildings focused toward the interior of the property. Mr. Gould said he agreed with Mr. Larson's comments and that the project would negatively impact the surrounding neighbors.

The Chairman asked why the property across the street was zoned commercial. Ms. Stefforia said she thought it dated back to a time when there was a farm stand located on the site. The Chairman said he thought it sounded as if the Planning Commission was building a consensus toward asking for a reconfiguration of the proposed property. Mr. Larson said he would like to see some protections built in for the property at the corner of KL and 8th Street. Attorney Porter noted that there were no requirements in the Ordinance to protect that property, since it was zoned light industrial. Ms. Stefforia concurred.

The Chairman said he understood that the Planning Commission was used to seeing industrial sites with internal roads or drives, but that he did not see a problem with how this small site was proposed to be developed. Attorney Porter emphasized that if the Planning Commission was not prepared to recommend approval of the proposed site condominium project that it be able to articulate its reasons, under the Ordinance, why it would not recommend such approval.

Ms. Everett said she was not sure what could be developed along KL Avenue under the current Ordinance. Ms. Stefforia said they could create at least two parcels with two drives and develop any of the permitted uses within the "I-1" zone.

Mr. Larson said he did not think the proposal was consistent with the Ordinance because it did not provide for internal circulation of traffic. The Chairman asked what their options were at this point. Attorney Porter said that technically the Planning Commission did not have to accept the drives on KL Avenue and as the Chairman had indicated, they basically had three options: table the matter and ask the applicant to change the proposed design, recommend approval, or recommend denial. The Chairman then asked the applicant if they wanted to have the matter tabled. The applicant said they did not want to see it tabled, that it was a very small property and they did not believe that internal roads were necessary, and would be cost prohibitive. The Chairman said he did not see why a change in the drives would be necessary and that he did not think it would necessarily benefit the overall design. Mr. Larson said he thought it was necessary and thought an alternative layout should be considered. The Chairman again asked the applicant if he wanted to table the matter. The applicant said he thought they should move ahead.

Ms. Stefforia noted that the Commission should only be addressing the issue of the access drives since the lots currently met the Ordinance. The Chairman asked for counsel's input on the issue as well. Attorney Porter agreed with Ms. Stefforia and said that the only issue that the Planning Commission should address is the issue of access to KL Avenue since the lot layout was not within the purview of the Planning Commission to design.

Mr. Larson said he thought the reason for the provision in the Ordinance prohibiting direct access to a county primary road was to require the properties to face an internal road system. The Chairman said he disagreed and thought the focus of the provision prohibiting direct access to a county primary road had to do with traffic safety. Attorney Porter noted that even if an access drive was installed, it would not necessarily require reconfiguration of the lots away from KL Avenue.

The Chairman suggested the Commission get off dead center and asked for a motion to recommend approval or denial of the proposed development with reference to the specific provisions of the Ordinance upon which the Planning Commission was to rely in support of the motion. He again cautioned the Planning Commission against trying to modify the site since it was not within their authority to do so. Mr. Benson said he certainly would like to look at alternatives because, if that was not an option, he would make a recommendation to reject approval.

Mr. Larson then made a motion to recommend denial of Step I approval because the applicant was not in compliance with Section V (E)(3)(a)(4) of the Site Condominium Ordinance because it was ~~their~~ his belief the shared drives allowed direct access to a county primary road in contravention of the stated Ordinance provision. Mr. Benson

seconded the motion. The Chairman called for further discussion and, hearing none, called for a roll-call vote on the motion. The following voted "Yes": Larson, Gelling, Benson and Gould; "No" Everett, Anderson and Schley.

SILVER GRASS PUD - CONCEPTUAL REVIEW - NORTH OF MEIJER ON EAST SIDE OF NORTH 9TH STREET - (PARCEL NO. 3905-14-130-015 AND 3905-14-130-017)

The Chairman said the next item for consideration was a conceptual plan review for Silver Grass PUD. He said the Planning Commission was being asked to conduct a conceptual review of a mixed-use Planned Unit Development for two family homes with a nonresidential component along 9th Street. He said the subject property was north of Meijer's on the east side of 9th Street located on parcels 3905-14-130-015 and 14-130-017. The Chairman asked to hear from the Planning Department. Mr. Brian VanDenBrand submitted his report dated April 26, 2007, and the same is incorporated herein by reference.

Mr. VanDenBrand explained to the Planning Commission and the developer that the conceptual plan met current Ordinance criteria; however, he said he needed to bring to the Planning Commission's attention the fact that on May 10, there were text amendments being considered which would have an impact upon the proposed development, particularly the dimension requirements for the lots. He said he thought the Planning Commission could consider the general concept in reviewing the proposed plan. He said if the new text amendments were put in place, it would likely reduce the number of available lots to the developer, but would not necessarily change the overall plan concept.

Mr. VanDenBrand then proceeded to take the Commission through a review of the conceptual plan for a PUD, as more fully set forth in his report.

The Chairman asked if there were any questions of Mr. VanDenBrand. Mr. Larson asked if the aerial photograph showed an encroachment of the Meijer retention pond on the subject property. Mr. VanDenBrand said that it appeared that there was an encroachment, but he was not sure of the size of the pond nor the extent of the encroachment. Ms. Stefforia said there was certainly a concern raised at least with regard to lot 5 that would be immediately impacted. Attorney Porter noted that if Meijer's was wrongfully encroaching on the subject property, they would have to correct their drainage facility.

The Chairman asked if there were any further questions of Mr. VanDenBrand and, hearing none, asked to hear from the applicant. Mr. Mike Schwartz introduced himself on behalf of Allen Edwin Homes. He explained that the storm water issue had been addressed with Meijer's. He said the pond crossing onto the subject property was permitted pursuant to an easement which had been granted to Meijer's. He said they would not require Meijer's to redesign the drainage facility, but they would check the calculations carefully and address the impact the water might have on lot 5.

Mr. Schwartz introduced the applicant, Troy Stahl, who had prepared a drawing for the Planning Commission's review. Troy introduced himself on behalf of Allen Edwin Homes. He said they had put together a landscape plan which he thought addressed both the issue of how they would develop the overall parcel, but particularly the proposed open space. He said in addition they proposed trees along the interior roads, as well as within the interior open-space area. Ms. Gelling asked how they were going to maintain the pond along 9th Street. Troy indicated they would clean it out and keep it free of debris and maintain it as an active wetland.

The Chairman reminded the Planning Commission that this was simply a conceptual review and to maintain the focus of their inquiries along those lines.

Ms. Everett asked how they were going to deal with the encroachment of the retention pond onto the subject property. Mr. Schwartz said they would address that likely by raising the affected lots and setting the first floor elevation high enough that any water run-off would not interfere with the development of the homes on the property. Mr. Larson asked how they would deal with the proposed open space on the southside of the subject property. Mr. Schwartz said it would remain and perhaps they would have to develop the open space around the water, if it encroached on the properties, but that it would not be severely impacted.

Mr. Larson asked about lots 3, 4 and 5, and expressed a concern about their steep grade. Mr. Schwartz said that, given the limitations on road grade, these lots would likely have to be filled in order to be developed. Mr. Larson asked whether they would negatively affect the adjacent lots to the east. Mr. Schwartz said he did not think there would be any negative impact since the neighboring lots were much higher. He said even though they filled a portion of lots 3, 4, and 5, they would still be lower than the abutting property and, therefore, there would not be any water run-off or negative impact on the adjacent properties.

The Chairman asked if there was any public input. Mrs. Marjorie Wendt introduced herself to the Planning Commission. She said she and her husband owned lot 18 in the Bela Sera Plat. She said she was concerned about traffic, as well as the proximity of the new residences to her home. She asked why she had received a notice referencing a 300 foot limitation. The Chairman explained, because the proposal was a Planned Unit Development, that all property owners within 300 feet of the boundaries of the proposed PUD had to be noticed pursuant to State law.

The Chairman asked if there was further public comment and, hearing none, called for Planning Commission deliberations.

The Chairman said he wanted to make a specific point, both for the Commission and for the applicant. He reminded the Board that there would be a public hearing on May 10 which could result in changes to the Ordinance which could possibly affect the

proposed development. The Chairman asked Attorney Porter whether or not the changes would, in fact, affect the proposed development. Attorney Porter noted, that under Michigan law, until there is substantial improvement made to a property, no property owner has any vested right in existing zoning. He said that the fact that this was only a conceptual plan review and would require an additional hearing before the Planning Commission, as well as the Township Board, that it was more probable than not that the proposed text change would be enacted before final approval of the proposed PUD. Therefore, he concluded the text changes would likely be applicable to the proposed PUD at the time it came in for final approval. With that, he suggested the Commission follow the Planner's recommendation and look at it from a conceptual review standpoint, provide the developer with appropriate feedback, but remind them that changes were coming which would have to be taken into consideration when they returned with an updated design plan.

The Chairman asked if there were other comments from the Planning Commission members. Mr. Benson said that, according to his calculations, lot 5 did not meet current Township standards. Ms. Everett said she thought the plan was quite linear. The Chairman said that in the big picture he is aware that Allen Edwin Homes has built some beautiful developments throughout the community and he would appreciate seeing such a development in Oshtemo Township. However, he added that the particular property is quite rectangular in shape and, given that, it was quite difficult to develop the property in any other type of configuration. He said he could not hold it against this site because the applicant was picking up a site with limited development potential and thought this proposal was not that badly designed, given the limitations.

Mr. Gould said he had to agree with the Chairman. He said he had viewed the Bela Sera Plat and thought this development was very similar to that plat. He said he did not have a problem with what was being proposed. He did add that if this were a larger development elsewhere, he might have some difficulty, but given the location and limited amount of property available to develop, he thought the proposal was adequate.

Ms. Gelling said she thought the proposal was boring but acceptable and she was glad to see the wetland preserved. Mr. Gould did add that he liked the open-space in the center of the development and thought it would receive a great deal of use.

The Chairman asked about the path and what the Commission would like to see in design and construction. Mr. Larson said he wanted to see it paved in order to make sure it remained open to all the members of the plat and not incorporated into the adjacent property owner's property. Ms. Everett agreed. Mr. Benson asked if Mr. Larson was asking that the bike path be paved all the way through the open space. Mr. Larson said no, that it only be paved to the open space within the interior of the development. Mr. Larson thanked Mr. Benson for that clarification.

The Chairman asked if the Planning Commission was generally bothered by the proposed PUD or thought it was adequate. Mr. Larson said he was not bothered by the

proposed development, but was concerned about lots, 3, 4, and 5. He also asked about how the tree planting would take place on site. Ms. Everett asked if the existing trees on the east side of the property, as well as the interior open space, would remain. Mr. Schwartz said they would. Ms. Gelling suggested, perhaps, a tree line to the north similar to the buffer which was located on the south side of the property. The applicant said they would consider the same.

Ms. Stefforia suggested the next time they consider this, they put appropriate limitations on the non-residential portion of the PUD. The Chairman explained to the applicant that historically some developers were trying to use the PUD provisions as a means to expand commercial development into residential areas. He said while non-residential development was allowed, the Planning Commission was of the opinion that it had to be consistent with the limitations applicable to the particular residential zone as set forth in the Zoning Ordinance and Land Use Plan.

The Chairman asked if there was anything further and, hearing nothing, he thanked the applicants for their submittal and said he hoped the comments of the Commission were helpful during the conceptual plan review process.

Public Comment on Non-agenda items

The Chairman asked if there was any public comment on non-agenda items. Hearing none, the Chairman asked the Planning Commission members move on.

Planning Commission Comments

The Planning Commission held a brief discussion regarding the proposed work plan and the upcoming meetings on May 10. In addition, they discussed a request by a potential developer to develop some "I-1" property into an upscale kennel resort. After a fairly lengthy discussion, it was the consensus of the Commission to not change the "I-1" District to accommodate such a use.

ADJOURNMENT

There being no other business, the meeting adjourned at approximately 9:30 p.m.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

By:

Minutes prepared:
April 30, 2007

Minutes approved:
_____, 2007