

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A REGULAR MEETING HELD MAY 24, 2007

AGENDA

CHERRY RIDGE PUD - SPECIAL EXCEPTION USE/SITE PLAN REVIEW AND STEP I SITE CONDOMINIUM REVIEW - SOUTH SIDE OF WEST MAIN STREET, WEST OF LODGE LANE - (PARCEL NOS. 3905-14-405-050, 3905-14-430-060 AND 3905-14-430-071)

A regular meeting was conducted by the Oshtemo Charter Township Planning Commission on Thursday, May 24, 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; Mary Lynn Bugge, Township Senior Planner; James Porter, Township Attorney, and 11 other interested persons.

Call to Order

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

Agenda

The Chairman said the first item for consideration was the approval of the Agenda. Mr. Larson made a motion to approve the Agenda as submitted. The motion was seconded by Ms. Gelling. The Chairman called for a vote on the motion, and the motion passed unanimously.

Minutes

The Chairman asked if there were any corrections to the Minutes of May 10, 2007, and hearing none, he asked for a motion. Mr. Anderson made a motion to approve the Minutes as submitted, and the motion was seconded by Mr. Larson. The Chairman called for comment, and hearing none, called for a vote on the motion. The motion passed unanimously.

The Chairman asked those persons in attendance to please take note of the comment procedure on the back of the Planning Commission Agenda.

CHERRY RIDGE PUD - SPECIAL EXCEPTION USE/SITE PLAN REVIEW AND STEP I SITE CONDOMINIUM REVIEW - SOUTH SIDE OF WEST MAIN STREET, WEST OF LODGE LANE - (PARCEL NOS. 3905-14-405-050, 3905-14-430-060 AND 3905-14-430-071)

The Chairman said the next item for consideration was a review of a special exception use/site plan review and Step I Site Condominium Review for the Cherry Ridge PUD. He said the property was located on the south side of West Main Street, West of Lodge Lane, Parcel Nos. 3905-14-405-050, 3905-14-430-060 and 3905-14-430-071. He said the Planning Commission was being asked to conduct a special exception use and site plan review for a proposed planned unit development containing both residential and nonresidential areas. The Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated May 24, 2007, and the same is incorporated herein by reference.

Ms. Stefforia took the Commission through a background review of the proposed developmental property and analyzed the residential portion of the development in relationship to density of a standard development and then provided an overview of the proposed nonresidential areas and how they would be developed. She reviewed Section 60.450 of the PUD review criteria, as well as Section 64.470 D and the site plan review criteria of Section 82.800 and concluded by analyzing Section 60.100 of the special exception use criteria with the Commission, as more fully set forth in her report.

The Chairman asked if there were any questions of Ms. Stefforia. Mr. Larson asked about the application of Subsection E 3, Subsection (a)4, to the proposed noncommercial area of the development. Ms. Stefforia pointed out that those provisions were part of the Subdivision/Site Condominium Ordinance and, therefore, would not

necessarily apply to nonresidential development, but there were other restrictions which would prohibit direct access to West Main Street.

The Chairman asked about signage for the residential development. He noted that people often find his subdivision simply by being aware of the public street upon which he lives. He asked if there was any indication of what the developer wanted to do along West Main, if anything, to identify the proposed development. Ms. Stefforia said she was not aware of any proposals at this time.

Mr. Benson said that the proposed open space was substantial. He noted that, even taking out the water retention area, the proposed residential portion of the development would have more than twice the required open space, which he was pleased to see.

Mr. Anderson asked about comments on page 6 of the report regarding two-family residential buildings not being in keeping with the residential character of the land to the south and east. Ms. Stefforia said she put that in her report because some individuals might argue that duplexes are not compatible with single-family residential. Mr. Anderson asked if that was not a permitted use under the Ordinance, and Ms. Stefforia indicated that it certainly was.

The Chairman then asked to hear from the applicant. Mr. Gary Hahn on behalf of Wightman Ward introduced himself and the representative of Seelye-Wright Homes, Butch Vliek. Mr. Hahn thanked the Planning Department for such a thorough review and said he would like to comment on a couple of issues. He noted the stormwater retention ponds shown on the plan would only be used to service the residential portion of the development. He said any nonresidential development would have to develop its own on-site water retention system. He also wanted the Planning Commission to be aware that the path currently shown along the southern border of the property would be moved further north to accommodate the neighbors to the south.

The Chairman asked if the engineer could explain what the character of the retention basin would be. Mr. Hahn said it would be an infiltration basin not designed to hold stormwater for any period of time.

Mr. Larson asked about the slope of the retention pond and said he thought it appeared quite steep on the proposed drawings. Mr. Hahn said that those were not engineer^{ed} drawings but simply lines designed to show the location of the pond. Mr. Hahn said he expected to develop the pond according to the County Drain Commissioner's standards with a one-on-five slope, which would not require any fencing.

Ms. Stefforia asked if the Condo Association or the Drain Commissioner would be maintaining the drainage basin. Mr. Vliek said that issue had not yet been determined.

Mr. Benson asked why there were no sidewalks on both sides of the road on the loop road area. Mr. Hahn said that given the developer's desire to maintain trees in the area, and the fact there was going to be a rear path around those homes on the loop road, the developer was asking for relief from the two-sidewalk requirement.

Ms. Gelling asked what the applicant was going to do to prevent water fowl from polluting the drainage basin. Mr. Hahn said, since the proposed stormwater facility was not intended to hold water but was, in fact, an infiltration pond, he did not expect that the geese would be a problem.

The Chairman asked if there were any further questions. Hearing none, he said he would open up discussion for public comment. He asked those in attendance to adhere to the comment guidelines as provided on the back of their Agendas. He also explained to those in attendance that this was the time to make comments, not necessarily a question and answer session.

Ms. Sue Mellinger introduced herself to the Planning Commission. She thanked the developer for moving the walking path on the south part of the development further north. She understood that there would be no access along Outlot E until the road was fully complete out to West Main Street and hoped for some confirmation of that understanding.

Mr. Rush Koshier introduced himself to the Commission. He asked whether a sidewalk would be required as part of the installation of the road on Outlot E. He also wondered whether there would be a speed bump on Outlot E to separate the two developments.

Ms. Margaret Hughey introduced herself to the Planning Commission. She said she was very concerned about the proposed sewer in the area. She stated that she lived on Lodge Lane and that both her and her husband, as well as adjoining property owners, had signed a deed restriction to not allow development on the property which they had purchased just behind their lots. Attorney Porter interjected that he had reviewed the deed restrictions and thought they were very well drafted, quite comprehensive. He indicated that both he and the Township Engineer had agreed that they would not pursue development of sewer through the Hugheys' lots or any of their adjoining neighbors. He said it would likely go along with the rear portion of the property currently held by DeKornes.

Ms. Cynthia Shower introduced herself to the Planning Commission. She said she would like to see additional follow-up done to the traffic study. She wondered whether there were going to be any changes to address the increased traffic, such as additional stop signs, etc.

The Chairman asked if there was any further public comment, and hearing none, closed the public portion of the meeting. The Chairman said that there were basically two paths of discussion which the Planning Commission could pursue, the first being to proceed with the application as submitted, or propose a modification to the PUD. He suggested that the Commission stay with the plan as submitted. The general consensus was to look at the plan as submitted. The Chairman suggested that they look first at the issue of whether to grant the special exception use for the planned unit development. The Chairman referred the Commission to the Planner's comments on pages 5 through 7, as well as pages 11 through 13 of her report.

Mr. Larson said he did not believe he could support the proposal because it did not have any internal connection, particularly to the northeast portion of the proposed PUD. He said he also could not support a separate access point on West Main Street for that portion of the development.

Mr. Gould said he agreed with Mr. Larson, and he was quite disappointed with the proposal which was submitted, especially after the comments raised at the time of conceptual review.

The Chairman said he was also troubled by the application. While he thought the residential portion of the development was done quite well, he did not believe that the spirit or intent of the PUD provisions were met by the proposed location. He specifically pointed to the second paragraph under Section 60.100. He also noted that the provisions of Section 60.410 dealing specifically with PUD's had not been met in that it did not provide for a harmonious variety of housing choices, and it did not ensure compatibility of design and use between neighboring properties. He explained, while a larger site would have made it easier, that there were certainly steps the developer could have taken to better comply with the Township Ordinances. He said he thought the site access issue was a serious problem. In addition, he said he was not very receptive to looking at deviations, particularly in light of recent changes in the Zoning Ordinance. He also said he had difficulty with the applicant's refusal to recognize the Overlay Zone and develop its nonresidential property in a manner consistent with the Overlay Zone.

Ms. Gelling said she thought the proposal was very disjointed and dysfunctional and did not meet the spirit and intent of the planned unit development provisions. Ms. Everett agreed.

Mr. Benson said he was curious as to what Mr. Bertolissi's proposal was for the nonresidential portion of the development. Mr. Bertolissi said he was not sure what they would develop on that portion of the property, but they did want to have the flexibility to develop something on the nonresidential portion other than offices. He said he had purchased the northeast portion of the property, and for the last 12 to 15 years, he had tried to change its zoning and was told to propose a PUD. He thought it was unfair that the Township Planning Commission did not want to include it as part of the PUD development, since it was the only viable way to develop the property.

Mr. Larson said he did not think it was their intent to remove that portion of the property if the developers, as a whole, had complied with the requirements of the Township Ordinance and developed the appropriate internal connective drives and that he did not feel a walking path was sufficient to meet the Ordinance.

The Chairman said he did not recall that the Planning Commission ever advising the applicant to develop a PUD for the specific parcels. Perhaps that matter was discussed with Staff, but he did not remember it coming before the Planning Commission. Ms. Stefforia said that the applicant had twice proposed rezoning and had been told by previous Planning Commission members to develop the property as a PUD. The Chairman said, while that was true, he doubted that there was any promise that a PUD in this configuration would be approved. He said he thought the previous Commissions had likely proposed a PUD as a planning tool. Ms. Stefforia said quite a few of the parcels in addition to those that are represented in this planned unit development had come in for rezoning. Ms. Everett said that was true, but she said there was no implied promise that, if a PUD was presented, that the PUD would automatically be approved.

Ms. Stefforia asked for clarification on why the Commission felt this application did not meet the PUD provisions. The Chairman said he did not necessarily want to create a dialog on how to fix the proposal, but certainly the members could express their opinions as to why the proposal failed to meet the PUD provisions. He began by saying that the northeast parcel was disconnected from the rest of the property, that there was no internal access, and he was not happy with the deviations which were being requested.

Mr. Larson said he did not think that the northeast portion of the property was an integral part of the development or that PUD's were designed to access off other than

internal streets. He said that the request for an access on West Main Street made it totally disconnected from the entire concept of a planned unit development, and without the internal connection within the development itself, it simply was not a PUD.

The Chairman said he was not in favor of the proposed deviations, given that some of the changes in the Zoning Ordinance were so recent. Mr. Larson said he was not so concerned about the deviations as he was the fact that the concept did not meet the purpose and intent of a planned unit development.

Mr. Benson said he appreciated the amount of open space for the residential area, but that the northeast portion of the property made the proposed PUD look like a camel designed by a committee.

Ms. Everett said she appreciated the buffer provided for in the residential development but thought that the lack of an integrated development outweighed the benefit, which was part of the residential development.

The Chairman said he understood that the proposal did benefit the neighbors and that there was some risk involved in rejecting the PUD, but it simply did not satisfy the spirit or intent of the Ordinance. Ms. Everett and Mr. Larson agreed.

Mr. Vliek asked if he could propose an alternative. The Chairman asked the Planning Commission if that would be appropriate, and the Planning Commission concurred. Mr. Vliek said perhaps placing a limitation on the development of the northeast parcel until a service road along West Main Street was developed would alleviate the fears of the Planning Commission.

The Chairman said he was not only concerned about the overall design, but he was also concerned about the applicant's desire to develop the property in contravention of the 9th Street Overlay Zone. Mr. Vliek admitted that they wanted to have some degree of leeway to develop beyond that provided for in the 9th Street Overlay Zone. Otherwise, there would be no purpose in developing a PUD; they would simply develop under the Overlay Zone.

Ms. Bugge pointed out, if the remaining property were combined, it was not large enough to develop as a PUD and questioned whether they could provide the room for an access road. Attorney Porter pointed out that they could if they were augmented to the proposed PUD. Ms. Bugge agreed that was true.

Ms. Everett asked if they could limit the development of the northeast portion until the installation of a service road. Attorney Porter said that they could, but questioned whether or not such a condition was practical.

The Chairman said that he thought they should look at the PUD as presented and not attempt to modify it or approve it with various conditions in order to obtain approval. The Planning Commission agreed.

Mr. Larson then made a motion to deny the special exception use permit for the planned unit development based upon the discussions of the record, being that it did not meet the spirit and intent of the PUD provisions. The motion was seconded by Fred Gould. The Chairman called for a vote on the motion, and the motion passed 6-to-1 with Mr. Anderson voting in opposition to the motion.

Mr. Benson asked if it was appropriate to make a suggestion to the applicant. The Chairman said that he could do so. Mr. Benson suggested that the applicant approach the adjacent owners to assist in the overall development of the subject area.

Public Comment on Non-Agenda Items

The Chairman asked if there was any public comment on non-agenda items. Hearing none, he closed that portion of the meeting.

Other Business

The Chairman asked if there was any further business. Hearing none, he closed that portion of the meeting and moved on to Planning Commission Comments.

Planning Commissioner Comments

Several Planning Commissioners commented as to the quality of the residential portion of the development of Cherry Ridge PUD, but again, restated their position that the rest of the development did not meet the overall design criteria or intent for a planned unit development.

Adjournment

There being no other business, the regular meeting was adjourned at approximately 8:40 p.m.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

By:

Fred Gould, Secretary

Minutes prepared:

June 1, 2007

Minutes approved:

_____, 2007