

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A REGULAR MEETING HELD JULY 27, 2006

AGENDA

HAMACHER - SITE PLAN AMENDMENT FOR A SPECIAL EXCEPTION USE - 8089/8095 STADIUM DRIVE (PARCEL NOS. 3905-33-402-077 AND 3905-33-402-079)

NULTY - REZONING REQUEST VACANT PROPERTY ON SOUTH 8TH STREET (PARCEL NO. 3905-34-230-070)

UNCLE BOB'S - SPECIAL EXCEPTION USE AND SITE PLAN AMENDMENT - 1515 SOUTH 11TH STREET (PARCEL NOS. 3905-24-452-010 AND 3905-24-452-020)

KILLINGTON ACRES - SITE PLAN REVIEW - 6300 KILLINGTON DRIVE - (PARCEL NO. 3905-11-455-017)

VALUE PLACE CONDOMINIUM - PRELIMINARY REVIEW OF PRIVATE STREET - 1647 SOUTH 11TH STREET (PARCEL NO. 3905-25-205-010)

A regular meeting was conducted by the Oshtemo Charter Township Planning Commission on Thursday, July 27, 2006, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Lee Larson, Acting Chairman
Deborah L. Everett
Mike Smith
Kathleen Garland-Rike

MEMBERS ABSENT: Terry Schley
Fred Gould
James Grace

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Township Planner; James W. Porter, Township Attorney; and approximately 15 other interested persons.

CALL TO ORDER

The Acting Chairman, Lee Larson, called the meeting to order at approximately 7:00 p.m.

AGENDA

The Acting Chairman asked for approval or revision of the Agenda. Mr. Smith made a motion to approve the Agenda as submitted. The motion was seconded by Ms. Garland-Rike. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

MINUTES

The Acting Chairman said the next item up for consideration was the minutes of June 28 and July 13. Ms. Garland-Rike pointed out that the minutes of June 28 had a typo on page 4, second full paragraph, second to last line, the word "concensus" needed to be corrected. Mr. Smith then made a motion to approve the minutes as corrected. The motion was seconded by Ms. Everett. The Acting Chairman called for a vote on the motion, and the motion passed unanimously.

HAMACHER - SITE PLAN AMENDMENT FOR A SPECIAL EXCEPTION USE - 8089/8095 STADIUM DRIVE (PARCEL NOS. 3905-33-402-077 AND 3905-33-402-079)

The Acting Chairman said the next item was consideration of Site Plan Amendment for proposed revisions for parcel boundaries of a previously approved office building in the "R-3" Residence District. He said the property was located at 8089 Stadium Drive. The Acting Chairman called for a report from the Planning Department. Ms. Bugge submitted her report to the Planning Commission dated July 27, 2006, and the same is incorporated herein.

Ms. Bugge explained that the applicant had received special exception use and site plan approval on August 11, 2005, which involved the construction of a 3,360 square foot office building on a 1.5 acre parcel. She said the applicant was now requesting reducing the size of the property to .85 acres so that the rear portion of the property could be incorporated with the property to the west, 8095 Stadium Drive.

Ms. Bugge explained to the Commission that if the division was made it would bring both properties into compliance with the Township depth-to-width ratio requirements. Ms. Bugge then proceeded to take the Commission through a review of the conditions and limitations for the special use as set forth in Section 23.404 of the Ordinance. Ms. Bugge then took the Commission through Section 82, Site Plan Review, as more fully set forth in her report.

The Acting Chairman asked if there were any questions of Ms. Bugge. Ms. Garland-Rike asked if the Township had received the lighting details for the site plan yet. Ms. Bugge said they had not and the lighting details would have to be submitted and reviewed by the Township Planning Department.

The Acting Chairman asked to hear from the applicant. Mr. Hamacher said he thought the Planning Department had covered their proposal quite well and he had no further comment unless there were questions for him. Ms. Garland-Rike asked if he had any detail regarding the lighting. Mr. Hamacher said he was not aware that the lighting plans had not been submitted and that he would be contacting his engineer to make sure that the plans were submitted as soon as possible.

Mr. Smith asked how far back Mr. Hamacher was clearing the property. Mr. Hamacher said that they had cleared the property to the top of the hill. Mr. Smith asked if he was only clearing what was necessary for the installation of the building. Mr. Hamacher said that was correct. Mr. Hamacher said he had hoped to save more trees, but when they actually began site development they noticed there was a large depression which had to be filled in order to accommodate the construction of the proposed building.

The Acting Chairman called for public comment and hearing none, closed the public portion of the meeting, and called for Planning Commission discussion.

Mr. Smith said that he thought the proposal was fine. With that, the Acting Chairman said he would entertain a motion. Mr. Smith made a motion to approve the site plan amendment subject to the following conditions:

1. A driveway permit from KCRC has been obtained.
2. Provision of an eight-foot wide bike path in conformance with MDOT standards in the Stadium Drive right-of-way is indicated on the plan. Placement of the bike path shall be one-foot north of the right-of-way.
3. All parking shall conform to Section 68.000 and Section 23.404.
4. Setbacks shall comply with Section 64.000 and Section 23.404.
5. All lighting shall comply with Section 78.700. Outside building mounted and freestanding fixture location and details shall be submitted to the Township for review and approval. A photometric plan may be required.
6. Approval shall be subject to the submission of sign details for review and approval through the sign permitting process. All signs shall comply with Section 76.000.
7. Landscaping in accordance with Section 75 shall be provided. A landscaping plan in accordance with Section 75 shall be submitted for Township review and approval. Landscaping shall be installed before a Certificate of Occupancy will be granted or a Performance Guarantee, consistent with the provisions of Section 82.950, must be provided.

8. Site plan approval shall be subject to the applicant satisfying Fire Department requirements pursuant to the adopted codes.
9. Site engineering and stormwater management are subject to review and a finding by the Township Engineer that they are adequate.
10. All utilities shall be underground.
11. Approval shall be subject to all the conditions and limits of approval granted by the Planning Commission on August 11, 2005, remaining in effect unless specifically modified by Planning Commission action.

The Acting Chairman asked for a second to the motion. Ms. Garland-Rike seconded the motion. The Acting Chairman asked if there was further discussion on the motion and hearing none, called for a vote on the motion. The motion passed unanimously.

NULTY - REZONING REQUEST VACANT PROPERTY ON SOUTH 8TH STREET (PARCEL NO. 3905-34-230-070)

The Acting Chairman said the next item up for consideration was a public hearing on a request to rezone property from "C" Local Business District to "R-2" Residential District. He said the subject property was located behind Emberly Acres condominium development on South 8th Street. The Acting Chairman asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated July 27, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained that the applicant was requesting that the rear six acres of a ten acre parcel currently zoned "C" Local Business District be rezoned to "R-2" Residential. She noted that at the time the Planning Commission considered this for public hearing, the Commission had determined that the Master Land Use Plan did not need to be amended to consider residential rezoning. Ms. Stefforia then went through a review of the surrounding properties, noting that the primary consideration for the Planning Commission was whether or not a rezoning from "C" Local Business District to "R-2" Residential District was appropriate given adjacent land uses. Ms. Stefforia then proceeded to go through the considerations for the rezoning request as more fully set forth in her report.

The Acting Chairman asked if there were any questions of Ms. Stefforia. Mr. Smith asked whether the only access would be off Bell Chase Road. Ms. Stefforia said that Glendora Lane was always intended to be public and it would be connected at some point to this property when it developed.

The Acting Chairman asked to hear from the applicant. Nicole Nulty Vale introduced herself on behalf of the property owners. She said their clients were proposing to continue the LaSalle Plat. She said they wanted to develop similar lots with similar homes and thought it would be more in keeping with the area to have it rezoned to residential rather than remain commercial.

The Acting Chairman called for public comment and there being none closed the

public portion of the meeting and called for Planning Commission deliberations.

Mr. Smith said he thought the proposal made sense and was consistent with the zoning in the area. Ms. Garland-Rike then made a motion to recommend the rezoning of the subject property from "C" Local Business District to "R-2" Residential District, based upon the findings presented in the Staff report. Mr. Smith seconded the motion. The Acting Chairman called for further discussion and hearing none called for a vote on the motion. The motion passed unanimously.

UNCLE BOB'S - SPECIAL EXCEPTION USE AND SITE PLAN AMENDMENT - 1515 SOUTH 11TH STREET (PARCEL NOS. 3905-24-452-010 AND 3905-24-452-020)

The Acting Chairman said the next item on the agenda was consideration of a special exception use and site plan amendment for a storage facility on South 11th Street. The Acting Chairman, however, noted that the applicant was requesting there be a postponement until August 24, 2006. Ms. Stefforia suggested that if there was anyone who wanted to make public comment they be allowed to proceed. The Acting Chairman asked if there was any public comment and, hearing none, called for a motion postponing consideration of the request. Mr. Smith made a motion to postpone consideration of the special exception use and site plan amendment for Uncle Bob's until August 24, 2006. The motion was seconded by Ms. Everett. The called for a vote on the motion, and the motion passed unanimously.

KILLINGTON ACRES - SITE PLAN REVIEW - 6300 KILLINGTON DRIVE - (PARCEL NO. 3905-11-455-017)

The Acting Chairman said the next item on the agenda was consideration of site plan review of a proposed two-unit, single-family residential site condominium located at 6300 Killington Drive. The Acting Chairman called for a report from the Planning Commission. Ms. Bugge submitted her report to the Planning Commission dated July 27, 2006, and the same is incorporated herein by reference.

Ms. Bugge explained to the Commission and those in attendance that there were three primary ways of dividing land. The first being a simple land division, the second platting, and the third, site condominizing property. Ms. Bugge explained that the subject property was unplatted land, approximately 1.99 acres in size, and the applicant was requesting that it be divided into two units as a site condominium. She said the applicant had previously requested a variance to allow a nonconforming parcel split but that was denied because there were other means of dividing the property, such as platting or condominizing the property.

Ms. Bugge explained that the applicant was requesting division of the property into two units, Unit One consisting of 42,042 square feet, or .96 acres in size, with a width at building setback of 149 feet and Unit Two which would have an area of 44,934 square feet, or 1+ acres in size, with a width at the building setback of 134 feet. She said that the two sites

complied in all respects with the Township dimensional requirements. Ms. Bugge proceeded to take the Commission through a site plan review under Section 82.800, as more fully set forth in her report.

The Acting Chairman asked if there were any questions. Ms. Garland-Rike asked how the property would have been platted if it had not been purchased prior to the platting process. Ms. Stefforia said she did not recall exactly, but thought it would be very similar to the proposed condominium units being presented. Ms. Bugge said there was actually enough property to divide it into three lots or three condominium units.

The Acting Chairman asked if there was going to be a sidewalk. Ms. Bugge said that due to the limited development the Planning Department would be more comfortable in not requiring a sidewalk at this time and letting the sidewalk develop at such time as the entire area was incorporated into a special assessment district.

The Acting Chairman asked to hear from the applicant. Mr. Todd Batts introduced himself to the Planning Commission. He explained that he was an engineer with Driesenga & Associates and he was representing Peterson Custom Homes. He said that what his client was proposing was entirely consistent with Michigan law and met all of the Township requirements for a development. He asked if there were any questions.

The Acting Chairman opened the meeting for public comment. Mr. Bob Brink introduced himself to the Planning Commission. He said that he owned property right next door to the proposed site. He said he was very concerned that the property was not being platted. He said he thought one of the reasons they were not platting was because there was a large depression in the middle of the property which he thought would be better addressed with platting. He said he thought the Condominium Act was primarily designed to address division of buildings and was not well suited for dividing land. He said he thought the Condominium Act was a way of circumventing the platting process. He asked that the Planning Commission require platting because it would allow for a more careful review and analysis of the proposed improvement.

Mr. Brink also asked for a survey. He said he was very concerned about the developer encroaching on his property and wanted to put them on notice that if any damage was done to any of the trees on his property he would hold the developer accountable. Mr. Brink said he was also concerned about water run-off again because of topography and he thought the Planning Commission needed to have an engineer look at the property to determine how water was going to be handled in the future. He again said he thought there would be better review and analysis of this proposal if, in fact, it was platted.

Mr. Ed Wilbur introduced himself to the Planning Commission. He said he lived behind the property. Mr. Wilbur said there were two nice homes on either side of the property and he did not want to see this turned into condominiums or duplexes and that the property should stay residential.

Mr. Rick Scheffers introduced himself to the Planning Commission. He said he had similar concerns as those expressed by Mr. Brink. He said that the developer had already infringed onto his lot and that he certainly did not appreciate it. He echoed Mr. Brink's statement regarding the slope of the lot and the water run-off issue as being issues of significant concerns.

Mr. Kevin Lalone introduced himself to the Planning Commission and expressed his opposition to the development.

Ms. Bugge said she also wanted to note for the record that they had received a letter from a James Schaper. He expressed concern about construction of a condominium on the property and asked the Planning Commission not to approve the site plan.

Ms. Bugge said she thought some clarification was necessary regarding the proposed project. The Acting Chairman said he agreed. Ms. Bugge explained that this was a site condominium, not a traditional condominium development. She said all they were doing was using the Condominium Act to divide the land and it was not to create any type of multi-family residential. Attorney Porter concurred with Ms. Bugge and explained to those in attendance that this was simply a different method to divide the property and that it would appear like platted property in all other respects.

Ms. Everett asked what would have been done to the property regarding water run-off if it had been platted. Attorney Porter noted that even in a platted development the water run-off is only handled conceptually and not planned specifically until the construction plans are developed. Ms. Bugge said this would be treated just like a plat, they would have to accommodate their own water and not create additional run-off onto other properties.

Mr. Batts asked if he could comment. The Acting Chairman indicated that he could. Mr. Batts explained that in most plats when the drainage basins are shown on a plat, they are to handle water retention from either a private or public road. He said one does not typically see site specific designs (i.e., lot specific) for water run-off. He said the developer does not know what is going to be necessary on each individual lot or condominium unit until the time of construction of the particular residence. He said when the home is built then the homeowner and the building developer have to design a means of accommodating storm water run-off without negatively impacting the neighbors. However, he said that is never done in advance with a plat and that this proposal was no different.

The Acting Chairman asked if there would be provisions within the condominium documents to address this issue. Mr. Batts assured the Planning Commission that this would be addressed in the condominium documents.

The Acting Chairman asked how the depression on this proposed property would be handled. Mr. Batts said it would be handled like any other individual homeowner development. If there is a problem with accommodating water run-off, they would likely install some type of leaching basin, but that the individual unit owners, either together or individually, would be the ones to address that issue. The Acting Chairman said then that two units could agree to a common drainage area if they chose to. Mr. Batts indicated that

was correct. The Acting Chairman confirmed that the unit owner would not be allowed to discharge any water off-site, to which Mr. Batts indicated that the Acting Chairman was correct.

The Chairman asked if the property had been surveyed. Mr. Batts said the property had been surveyed and all of the corners of the lot had been marked.

Ms. Everett said she was a bit unclear as to how the two units could be developed if they could not discharge water onto the neighboring property. Ms. Stefforia said that the Township regulations prohibited increased discharge of water run off when a home was constructed, but if there was a natural water flow from one property to the other that it could not be interrupted. She said the water run-off simply could not increase from one property to the other. She said what currently flows to that property would be allowed to continue.

The acting Chairman said that after reviewing the information provided this was being treated the same as any other platted lot. Ms. Bugge indicated that was correct.

Ms. Garland-Rike said she thought everything was being done in compliance with State law and Township Ordinances. She said she found nothing upon which to base a denial under their site plan criteria. Ms. Everett again asked for clarification that there was nothing about this proposal that was being treated differently from any other property, particularly with regard to water run-off. Ms. Bugge indicated that was correct and noted that the condominium documents would have specific reference to storm water run-off addressed in a manner consistent with Township ordinances. Ms. Everett noted that the property could not have been divided except under the plat or condominium act because of necessary road frontage and area.

Mr. Brink asked if he could address that issue. The Acting Chairman agreed. Mr. Brink said that what he was trying to do was to convey to the Planning Commission the makeup of the land. He said that while it appeared to meet all of the requirements of the Ordinance he thought there would be a severe water problem given the topography of the land.

Mr. Wayne Nylan said he lived to the rear of this property and given the depression water, perhaps septic water, goes to the property. Ms. Bugge asked if Mr. Nylan was saying there was a problem with water pooling on the site. Mr. Nylan said no, that water goes to the site and "disappears," and he was concerned about the water going to the site. Mr. Nylan said he was concerned that if they filled in the property what would happen to water currently going to that parcel. Ms. Bugge again assured Mr. Nylan that the owners would not be allowed to increase any water discharge from their property.

The Acting Chairman noted that it was not the role of the Planning Commission to figure out how to accommodate storm water on the subject properties. He said that was up to the owner of the property, the builder and the engineer. He also noted that the Building Department would be reviewing any proposals and would be taking into consideration drainage issues. One of the neighbors commented there was no posted building permit for the home currently being constructed on one unit. Ms. Stefforia said she would note that

and raise that issue with the Building Department.

The Acting Chairman asked if there was any further discussion and, if not, he would entertain a motion. Ms. Garland-Rike made a motion to recommend approval of the site plan for the proposed site condominium, subject to the following conditions.

1. Any approval shall be subject to Kalamazoo County Road Commission review and approval of the site condominium and obtaining driveway permits.
2. Approval shall be subject to the Kalamazoo County Environmental Health Department finding the development suitable for septic systems.
3. Approval shall be subject to Township review of the Master Deed and Bylaws and finding them acceptable prior to their recording.
4. All utilities shall be placed underground.
5. Storm water will be managed on each site.

The Acting Chairman asked for a second to the motion and Mr. Smith seconded the motion. The Acting Chairman called for further discussion and hearing none called for a vote on the motion. The motion passed unanimously.

VALUE PLACE CONDOMINIUM - PRELIMINARY REVIEW OF PRIVATE STREET - 1647 SOUTH 11TH STREET (PARCEL NO. 3905-25-205-010)

The Acting Chairman said the next item on the agenda was consideration of a preliminary review for a private street for Value Place Condominiums. He said the subject property is located at 1647 South 11th Street. The Acting Chairman called for a report from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated July 27, 2006, and the same is incorporated herein by reference.

Ms. Stefforia explained that the request was being considered pursuant to Section 60.830 for preliminary review and took the Planning Commission through her report as more fully set forth therein.

The Acting Chairman asked to hear from the applicant. Mr. Todd Batts with Driesenga & Associates introduced himself to the Planning Commission. He said he was there on behalf of the developer to explain the proposal. Mr. Batts told the Planning Commission that the location of the private road was based on topography. He said they could not locate the road any further north because of a drop-off in elevation. He also said that he had discussed the matter with the Road Commission and thought this location, being the highest point on the property, was the safest to locate the road. He said there was some concerns regarding the road across the street, but that was sufficiently off-set as to not cause turning conflicts. Mr. Batts also added that the developer was open to allowing access to the south in order to accommodate the needs of the adjoining landowner.

The Acting Chairman asked if there were any questions. Ms. Garland-Rike asked if he had any more specific information regarding the tree species or the soil. Mr. Batts said they did not have all of that information currently but would be able to provide all that information to the Township at the time of final approval. Ms. Garland-Rike asked if Mr. Batts could give them some general information about the trees to the south. Mr. Batts said that they were mostly volunteer trees, but as you progressed further to the east, there was a good stand of white pine.

The Acting Chairman asked if they would be leaving the trees. Mr. Batts said they would do what they could to preserve the trees and he thought the closer they could place the road to the south, the better off they would be. Mr. Batts said that to the extent they had to cut trees they would be replacing them in a manner consistent with the Township's landscape requirements. Ms. Garland-Rike asked to what extent they would be able to save the trees on the site. Mr. Batts said he hated to comment on any specifics since they were not in the design phase but they would do what they could to save as many trees as possible because it would be a cost savings to the company developing the property. Ms. Everett said she thought the proposed location for the private drive made sense. The Acting chairman agreed. Ms. Stefforia said she would contact Tender Care to discuss possible cross-access with the proposed private road.

Mr. Batts then went into some more particulars regarding the road, particularly with regard to the turn around. He said they did not anticipate installing a cul-de-sac and thought they would either provide a turn around on the property located to the west, in their parking area, or with some type of hammerhead configuration. Ms. Everett said given that the flow of the traffic would go right into the parking lot, she thought that Mr. Batts' proposal made sense. The Acting Chairman noted that the turn around would have to be provided for in the condominium documents. Mr. Batts agreed. Mr. Batts then thanked the Planning Commission for their input and said he looked forward to returning with the final proposed plan.

Other Business

The Acting Chairman asked if there was any other business and hearing none, he moved on to the next item.

Planning Commissioner Comments

Ms. Garland-Rike suggested the Planning Commission consider looking at some options within their Ordinance that would allow a greater degree of flexibility to allow preservation of trees and the existing topography. The Acting Chairman said perhaps that could be accommodated through form-based zoning.

The Acting Chairman inquired as to what was happening on KL Avenue and 8th Street.

Ms. Everett reminded everyone to get out and vote on August 8.

Adjournment

There being no further comment, the meeting was adjourned at approximately 8:30 p.m.

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

By:

Minutes prepared:
July 31, 2006

Minutes approved:
_____, 2006