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NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

Thursday,
June 11, 2015

AGENDA
7:00 P.M.

1. Call to Order
2. Pledge of Allegiance
3. Approve Agenda
4. Public Comment on Non-Agenda Items
5. Approve Minutes of the May 28, 2015 Regular Meeting
6. Discussion of Zoning Ordinance Issues and Potential Future Amendments
7. Old Business
8. Any Other Business
9. Planning Commissioner Comments
10. Adjournment

Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be board discussion prior to call for a motion.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment or Citizen Comment on Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 5/9/2000)
(revised 5/14/2013)

Policy for Public Comment
6:00 p.m. "Public Comment"/Portion of Township Board Meetings

At the commencement of the meeting, the Supervisor shall poll the members of the public who are present to determine how many persons wish to make comments. The Supervisor shall allocate maximum comment time among persons so identified based upon the total number of persons indicating their wish to make public comments, but no longer than ten (10) minutes per person. Special permission to extend the maximum comment time may be granted in advance by the Supervisor based upon the topic of discussion.

While this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official to respond at a later date.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name; it is not required unless the speaker wishes to have their comment recorded in the minutes.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor shall terminate any public comment which is in contravention of any of the principles and procedures set forth herein.

(adopted 2/27/2001)
(revised 5/14/2013)

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD MAY 28, 2015

Agenda

PUBLIC HEARING: PLANNING COMMISSION TO REVIEW APPLICATION OF TIM WOODHAMS, ON BEHALF OF VAN KAL PARTNERSHIP, LLC, FOR TENTATIVE APPROVAL OF A PRELIMINARY SITE CONDOMINIUM PLAN (STEP 1) FOR A 40-UNIT RESIDENTIAL SITE CONDOMINIUM DEVELOPMENT NAMED MYSTIC HEIGHTS. THE SUBJECT PROPERTY IS LOCATED AT 3839 SOUTH VAN KAL AVENUE IN THE RR RURAL RESIDENTIAL DISTRICT. (PARCEL #3905-31-155-030).

PUBLIC HEARING: PLANNING COMMISSION TO CONDUCT PUBLIC HEARING TO REVIEW THE APPLICATION FROM KEN AND JONI SLUYS FOR REZONING OF THE SOUTHERN PORTION OF A 2.58 ACRE PARCEL LOCATED AT 5527 PARKVIEW. REQUEST IS TO REZONE PROPERTY FROM RR RURAL RESIDENTIAL TO R-2 RESIDENCE DISTRICT (PARCEL #3905-36-130-094).

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 28, 2015, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Terry Schley, Chairperson
Fred Antosz
Wiley Boulding, Sr.
Dusty Farmer
Pam Jackson
Millard Loy
Mary Smith

MEMBERS ABSENT: None

Also present were Greg Milliken, Planning Director; James Porter, Attorney; and Martha Coash, Meeting Transcriptionist. Approximately 35 other persons were in attendance.

CALL TO ORDER AND PLEDGE OF ALLEGIANCE

The meeting was called to order by Chairperson Schley at approximately 7:00 p.m. and the "Pledge of Allegiance" was recited.

AGENDA

The Chairperson asked for a motion to approve the agenda.

Mr. Loy made a motion to accept the agenda as presented. Mr. Antosz seconded the motion. The motion passed unanimously.

PUBLIC COMMENT ON NON-AGENDA ITEMS

Chairperson Schley asked if anyone in attendance wished to comment on non-agenda items.

There were no public comments on non-agenda items. Chairperson Schley moved to the next item on the agenda.

APPROVAL OF THE MINUTES OF MAY 14, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the Meeting of May 14, 2015. Hearing none, he asked for a motion to approve the minutes as presented.

Mr. Boulding, Sr. made a motion to approve the minutes of the May 14, 2015 meeting. Ms. Farmer seconded the motion. The motion was approved unanimously.

Chairperson Schley moved to the next item on the agenda.

PUBLIC HEARING: PLANNING COMMISSION TO REVIEW APPLICATION OF TIM WOODHAMS, ON BEHALF OF VAN KAL PARTNERSHIP, LLC, FOR TENTATIVE APPROVAL OF A PRELIMINARY SITE CONDOMINIUM PLAN (STEP 1) FOR A 40-UNIT RESIDENTIAL SITE CONDOMINIUM DEVELOPMENT NAMED MYSTIC HEIGHTS. THE SUBJECT PROPERTY IS LOCATED AT 3839 SOUTH VAN KAL AVENUE IN THE RR RURAL RESIDENTIAL DISTRICT. (PARCEL #3905-31-155-030).

Chairperson Schley said the next item on the agenda was a review of the application for tentative approval of a preliminary site condominium plan (step 1) for a 40-unit residential site condominium development named Mystic Heights, located at 3839 South VanKal Avenue in the RR Rural Residential District. He noted it first came before the Board on April 9, was rescheduled for May 14, and was tabled to the May 28 agenda at the request of the applicant.

Attorney Porter indicated he had provided the Planning Commission with oversight and direction as to what they need to address as a Planning Commission in a memo previously distributed.

Attorney Porter indicated that at the end of the last meeting, the Chairperson requested some direction as to which issues the Planning Commission should address among the myriad of issues raised regarding Mystic Heights. First of all, keep in mind that this is a preliminary review under Section V of the Ordinance.

Therefore, the Planning Commission should consider the following items included in Section V. 3 of the Ordinance:

a. The street requirements of the Ordinance;
b. Building site requirements, size and lot dimensions;
c. Are there non-motorized facilities provided;
d. Did the applicant address the general provisions which are as follows:
    1. No reserve strips;
    2. Preservation of natural features insofar as possible. Keep in context -- the fact that they are developing a site condominium.
    3. Address concerns regarding flooding;
    4. Does it meet all other Township Ordinance requirements?

Attorney Porter identified several issues that had been raised during the What shouldn't the Planning Commission focus on? For traffic issues, the Township relies upon the Kalamazoo County Road Commission to make these determinations. For concerns regarding drainage basins, the Township relies on the Kalamazoo County Drain Commissioner's office to approve these facilities. For issues related to wells and septic tanks, the Township relies on the Kalamazoo County Health Department to permit and oversee public health regulations with regard to wells and septics.

Attorney Porter stated that these issues are not decided in a vacuum. The Township and Planning Commission decides them jointly with multiple county agencies, using their expertise.

Attorney Porter recommended that the Commission focus on the Zoning Ordinance as it exists – not what the Commissioners might envision as being applicable in the future, but the Ordinance as it exists today.

Chairperson Schley asked Mr. Milliken to review the request.

Mr. Milliken noted the discussion involves a 40 unit residential site condominium located on the east side of VanKal Avenue on 40 acres of land between Stadium Drive and M Avenue in the SW corner of the Township. Although this is carried over from previous discussion in April, it is considered a new public hearing.

He reviewed the process for site condominium review, saying it is a three step process, and this is step one. He explained that step one is conceptual plan review stage. It requires a public hearing at the PC and recommendation to the Township Board, who will make the final decision. Ultimately, the Township Board makes the decision. The purpose of step one is to evaluate the proposal for compliance with

zoning requirements and consistency with overall requirements of the Ordinance. It does not require significant engineering detail or analysis.

Mr. Milliken indicated that step two is the final preliminary plan. This is where all the engineering detail is provided as well as approvals from the other agencies and jurisdictions. Road profiles, grading detail, drainage plans, stormwater calculations, etc. are all provided and confirmed at this stage along with review and approval from Road Commission, Health Department, and Drain Commissioner. This step requires Township Board approval. Step three is the final plan. This occurs following installation of the infrastructure. It involves approval of the installation and the sign-off of the various required agencies. It also involves the various legal documents required for the development.

Mr. Milliken said the proposed plan has been modified from the plan previously presented and includes the following elements. Rather than a rectangular block, a more natural loop shape is established for the road system in order to reflect the topography of the site. The intention is to follow the natural grade and result in less disturbance to the area. As a result, two natural areas are left protected in the northeast and southeast corners. These are areas that could not be developed due to 4:1 ratio. Language regarding their protection will need to be in the condominium documents. These are the only areas guaranteed to be preserved, although the applicant has indicated protection language is to be provided within developable units through the condominium documents for developable sites.

Mr. Milliken stated that the 40 units vary between .56 and 1.29 acres in size. There is no minimum lot size for development in the RR district. Density is set at one unit per acre. The minimum lot width is 100 feet. No unit in the proposed development has frontage smaller than 100 feet. The development is served by private well and septic. This will be reviewed by the Health Department.

Mr. Milliken stated that the roads will be public roads and will require approval of the Road Commission. The road layout shows an extension to the north to provide connectivity in that direction. A previous extension to the east was removed with the redesigned plan as it would not be able to be installed in compliance with Road Commission requirements and still provide natural resources protection. He indicated he was disappointed in this removal, but he understood the challenges such a connection would present both due to land assembly and topography to the east. As a trade-off for reducing the impact of the development, Staff was comfortable with this modification.

The Township Engineer provided a review of the previous plan. In a recent conversation regarding the updated plan, the Engineer indicated he thought it would have a reduced impact on the natural resources and the site, although it was difficult for him to make further judgments without the details he would typically review in step 2.

Mr. Milliken continued indicating that as Mr. Porter pointed out, the standards of approval for Step 1 are provided in Section 290.005.D.3 of the Ordinance. It includes four sections. The first is streets. The streets are public roads and have been laid out to public road standards. A connection has been proposed to the north and will require a turnaround. The second is lots. The development satisfies the density and frontage standards of the Ordinance. The applicant has indicated a willingness to restrict the clearing and grading of units in order to limit impact of development on the property. The third is pathways, and sidewalks are provided in the development.

Mr. Milliken said the fourth standard is a general provision section. He indicated that no reserve strips are provided and flooding is not anticipated to be an issue in this development. This standard does address natural features, and natural features are an issue at the site as there are steep slopes and trees particularly on the east side of the lot. With this plan, the NE and SE corners are more protected and less disturbance will be created as a result of the infrastructure placement than the previous plan. He said the question is whether that is enough to meet the requirements of the Ordinance.

Mr. Milliken concluded by saying he would be happy to answer any questions the Board might have

Ms. Jackson confirmed the 20 foot landscape buffer shown on the plan along Van Kal from the road east is what is required.

In answer to a question from Ms. Jackson regarding whether trees would be preserved in the enhanced preservation of topography mentioned in the revised proposal, Mr. Milliken said that question might better be posed to the applicant.

Chairperson Schley asked if there is a difference between private sub-divisions and site condominium agreements, such as plat restrictions, with regard to enforcement of restrictions versus Township Ordinances since it would not typically be judged appropriate for the Planning Commission to accept ordinance requirements being met in some areas through private restrictions.

Attorney Porter said typically enforcement of private restrictions is more likely to occur in condo situations because they are more likely to form associations for enforcement of association agreements.

The Chairperson asked how the Commission could consider any protections that are not in the documents provided other than by the record of the applicant.

Attorney Porter said nothing could be considered but the proposal in front of the Board. The Township Board will look at what is proposed at the next stage. At this stage, he said he did not see anything in the Ordinance regarding consideration of Stage 2 concerns.

Mr. Milliken noted one issue in Step 2 is drainage. Some swales and other drainage features will be required as part of some lots as part of the stormwater plan and part of the master deed and bylaws. That is something that as site plans come through, it will be the responsibility of the building and planning departments to be sure the building sites are developed in concert with the master deed and bylaws consistent with what was approved. Similarly if there was some other added condition included, that would be added to that sort of review as well.

Chairperson Schley directed a question to Attorney Porter about the collective statements made for Step 2 drainage issues that seem to be in conflict with Attorney Porter's past statements. He did indicate if Planning Commissioners had some knowledge or expectation that they were concerned that certain parts of the ordinances eventually could be met, they could consider their knowledge base that there might be concerns that could occur. He asked if this was a more specific re-direction of that instruction.

Attorney Porter said Commissioners may express concerns previously raised. He thinks the new plan was developed in direct response to their concerns regarding potential problems and that is within the Commission's authority. The question becomes at what point it is a requirement versus a recommendation. The way the proposal was originally designed, he thinks there were several people on the Commission who felt problems that would exist would not allow approval. Planning Commissioners can still express concerns with the new plan if they feel the problems may still exist.

Mr. Milliken explained he just used drainage as an example.

Ms. Farmer referred to the memo from the Township Engineer regarding his concerns.

Attorney Porter pointed out the Engineer's report was prepared based on the previous plan layout, which impacted his response and suggested the Commission not rely on it for the revised proposal.

Ms. Farmer said one concern the Engineer raised regarded trees greater than 12 inches in diameter, from zoning ordinance section 82.

Attorney Porter said when you read all the Township Ordinances together there are rules on how you read statutes, laws, and ordinances. The more specific ordinance is the sub-division ordinance which would take precedence in this situation over section 82, so he does not believe that provision is applicable in this case. Sometimes even staff has to agree to disagree.

In response to a question from the Chairperson regarding why there was not a memo from the Engineer pertaining to the revised proposal, Mr. Milliken said the Engineer did not have adequate time to fully review and prepare such a response.

Ms. Smith asked if the Planning Commission function in decision making should be based only on Ordinance 467 or also 206, since it is a rural residential district under consideration.

Attorney Porter said it is based primarily on the sub-division/site condominium ordinance. The basis for criteria comes out of the overall zoning ordinance. Unless the Planning Director specifically points out discrepancies for the Commission from the ordinance, the Commission may assume the proposal meets ordinance requirements. He said the assumption can be made, listening to him tonight, that it generally meets the requirements. Attorney Porter said if you feel there is something applicable in one of the other ordinances that needs to be addressed, that issue should be raised.

In answer to a request for additional clarification from Ms. Smith, Attorney Porter said he suggested Commissioners look at the RR zone statement of purpose and what he would call the "black letter law" as to what is permitted. Attorney Porter said in his opinion there is nothing within RR district black letter law that indicates the applicant is not in compliance. The law is very clear in the State that if you have a general statement of purpose, but not all those ideals are specific in the ordinance itself, you are required by law to follow the ordinance specifics.

Mr. Milliken said he focused on the site condominium ordinance for his analysis.

Ms. Smith said she understood from Attorney Porter that it was up to the Planning Commission to interpret the Statement of Purpose in the context of the ordinance itself.

Attorney Porter said it is ultimately up to the Planning Commission, but that he or Mr. Milliken would point out any areas of violation of the ordinance or any areas in which the applicant was not in compliance.

In answer to a question from Mr. Boulding, Sr., Mr. Milliken said the four items needing to be detailed in the revised plan according to review by the Road Commission, were 1) a dimension needed to be labeled more clearly, 2) a sketch needed to be added, 3) a right turn lane was not properly drawn, and 4) dimensions for private utilities were not shown.

Chairperson Schley noted the written staff report included excerpts of the minutes from the April 9 and May 14 meetings that reflected public comments. Mr. Milliken pointed out that Staff received several emails, copies of which were provided to the Commissioners.

Hearing no further questions from the Board, Chairperson Schley asked if the applicant wished to speak regarding the application.

Mr. Pat Lennon, 350 East Michigan Ave., Attorney for the applicant, indicated he was accompanied by Mr. Scott Carlson and Mr. Tim Woodhams, and that Mr. Mike Seelye was unable to attend the meeting but sent his regards.

Mr. Lennon said the main point he wanted to stress was their reaction to the process and what they hoped the Planning Commission would see as real improvement in the plan. He said Mr. Carlson and Mr. Seelye are invested in the area and are responsible land owners. They do not try to do projects to upset neighbors. He noted they are not asking for a variance or land use permit. Their approach was to find a parcel and tailor a development to fit it. Their reaction to unhappiness was to try to make it better and react to neighbors, staff and the Planning Commission. They took the feedback to heart and produced something that is a great improvement and that complies with the Township Ordinance, so they have a right to do it under the law. They added an additional curve to the road, changed the square to a loop following the topography, left the NE and SE corners untouched and want them preserved, and to build in architectural controls for homes to be developed with landscape plans to influence better preservation of natural features and trees. They would like the Board to consider where they started and what they are allowed to do. The Township knows these developers are responsive. Still to come are engineering and condominium documents and other agencies will have their say. They feel they have done the right thing in the right way. They are here to answer questions tonight and in the months ahead.

Chairperson Schley said he felt there was a lack of clarity in the staff presentation and in Mr. Lennon's comments regarding preservation issues. By parcel basis influence preservation is different than specific stipulations.

Mr. Lennon said he was blending two comments. Today they are committing to two corners but are making no further commitment at this point. A mechanism will oversee development of particular lots and will attempt to preserve more significant trees and vegetation. Specific trees on lots to be developed in the future cannot be identified now.

Chairperson Schley said in concept development we would be able to conclude from his comments that other than tweaks to grades and modifications to the entry road, there is not a specific broad scale assessment of natural features except for the corners.

Mr. Lennon said that would be premature; that they did produce a responsive plan regarding the road to mirror the topography. Describing specific elements of vegetation is premature.

Attorney Lennon said comments from the Commission and neighbors were taken seriously and considered.

In response to a question from Mr. Boulding, Sr., Mr. Woodhams, Civica Engineering, 1503 East Centre St., said the total area of the SE and NE corners was 1-1/2 – 2 acres.

In response to a question from Ms. Smith, Attorney Lennon indicated the condominium sub-division plan will identify the SE and NE areas that will not be developed and that homes will not be close.

Ms. Smith said there were extreme slopes with adjoining lots that will include set-backs, wells and septic systems and wondered if there will be walls to accommodate the slopes.

Mr. Woodhams said a plan will be submitted. Houses are typically built toward the front of lots with septic systems in the back yard and wells in the front yard. He noted whatever is done will need to be approved by the Health Department. There will be no grading in the corners.

In response to a question from Chairperson Schley regarding whether there will be a tile field in a flat area, Mr. Woodhams said the Health Department requires pre-grading at a 10% grade or more. He indicated the grade is not 10%. The majority of the topography steps down across lots and follows the topography with grading. He described a trenched underground absorption bed.

Attorney Lennon said all work would have to conform to requirements; the first plan and this one conform to the ordinance. They look forward to questions if there are more.

Chairperson Schley noted a May 5, 2015 supplemental document from staff was received.

Mr. Milliken said a number of email copies and letters have been received from residents.

Chairperson Schley also noted correspondence included in the packet from Ronald and Patricia Sims, Art and Judy Diani, and Derrick Millard and that emails had also been received from the Westrates, Heels and Sullers, and a letter received at tonight's meeting from Jan Thomas, endorsed by 23 signatures of residents agreeing with her comments. All comments were in opposition to the proposed project.

The Chairperson opened the meeting to public comment, reminding the audience that comments are limited to four minutes per speaker.

Ms. Julie Rogers, 3428 Marlene, County Commissioner for District 5, said she received numerous e-mails and calls from residents regarding this proposed project and that all were in opposition. She thanked the Planning Commissioners for providing a public comment period and asked that speakers remember to be respectful in their

comments. She said she had read a preliminary Health Department report in which it was noted borings in the area could not continue when they hit rock and said she has a question in to the Health Department and the Drain Commissioner for clarification.

Mr. Ted Boyer, 45732 22nd Street, Van Buren County, said the proposed plat driveway will be located directly across from his property. He felt it was absurd to create a mini-city in this location and was concerned with what would happen to the water table with the addition of 40 condos and 40 septic tanks and wells. He asked Commissioners to look to the future and said if approved, the project would level the ground, take out the hill and disrupt the whole environment, including wildlife. New residents will want nice lawns and landscaping which will take more water, affecting the water table, which will cause current residents to have to drill new wells. He said the land is extremely sandy, without much clay, and he is worried about pollution from septic tanks. He said both an environmental impact study and a traffic impact study are needed. 80 more people a day using the already busy roads will have an impact; there is no turn lane into the development.

Mr. Chris Tiller, 3776 S. 1st St., said the site condo definition bypasses certain federal and state rules and regulations in order to expedite the process. His home was built in the 1800s in a farming community. He does not understand how a 40 condo development qualifies for the rural residential designation. The Powell development has empty lots for condo development and other developments in the area already provide homes, 50-60 from Allen Edwin Allen builders. He wondered if these new condos are built, are they really going to come. He also expressed concern about noise and light pollution.

Mr. Wade Lawrence, 10749 West "M" Avenue, thanked the Commission for the meeting notice mailing. He said he and his wife concurred with the comments made at the last two meetings and tonight by other residents of the area and particularly mentioned traffic and wells. He said since Pond Estates was built, the pond no longer exists and that he had to drill a new well. 40 wells upstream will adversely affect his water availability and he is concerned about his drinking water. He said there are no guarantees on how residential lots will be developed – the project opens the opportunity for substantial grading and clearing; divorcing from responsibility is disingenuous. This project will cause a negative impact on the rural quality of life they expected when they moved to the area. While the rural residential designation definition does not have the force of law, this project contravenes the statement of purpose.

Ms. Judy Diani, 4115 VanKal, said her property was due south of the proposed land. She carefully read the Township Engineer's report and noted drainage ditches comprise 3.6 acres, which must mean runoff is a big concern, which will be exacerbated by tree removal. She wondered who would want to live next to a drainage ditch. She said the Health Dept. talks about the slope of the hill, that a grading plan is necessary for slopes exceeding 10%. She said the slope at the back is severe, from 2 – 20%. Houses will be higher and lower on the hill. Some septic systems will be higher and lower than some houses. A lot of the hill will need to be carved out to make it more

level. Steep sides for the property are not part of the plat, so what will happen? She said Mr. Woodhams said at the last meeting they would struggle to preserve natural features and that it feels like a reasonable slope. She said the same slope is at her house and it is steep and a plat does not fit, it needs to be flat. She provided written comments to Commissioners.

Mr. Art Diani, 4115 VanKal, said he is strongly concerned about this project and agrees with other residents' comments. He felt the revised plan changes were cosmetic and do not address all the concerns of topography, including grading and drainage issues. He was also strongly concerned about severe environmental impacts. He appreciated and thanked the Board for hearing residents' concerns.

Mr. Terry Hoay, 3499 VanKal, said he had lived here seven years and is strongly opposed to this project; he mentioned water and traffic concerns, saying the traffic there is already terrible and this development will make it worse.

Ms. Jan Thomas, 45537 Winchester Circle, Mattawan, provided the Commission with written comments, but highlighted her concerns about accountability and trees, wondering who will remove the trees and grade the property and how would it be monitored and enforced. She said they are tree-conscious, noting a residence across from the housing site is paying to bury electric lines in order to preserve trees. Widening of VanKal would make it necessary to remove at least many of these same trees. She said when turning on VanKal from Red Arrow Highway and 44th Street are 21 homes, some not seen, on large wooded parcels. If approved, 40 homes will be in the middle of this section on flat, stripped land, with street lights, curbs and gutters and catch ponds, 80 plus vehicles in and out, plus all the service vehicle traffic, garbage, lawn care, etc. The peace and tranquility and nature, the very reasons residents moved there, will be gone forever. The proposed 40 unit plan just does not fit in this area.

Mr. Kevin VanDyk, 3795 VanKal, said his property borders the property planned for development on the south and east. He purchased his property last year because it was quiet, secluded and provided a peaceful existence fundamental to his lifestyle. He is unable to reconcile this project with the Master Plan statements. He noted there is high residential interest in preserving the rural feel and felt the zoning ordinance should enforce the Master Plan. He did not understand how a development of this size and complexity fits the rural residential zoning definition. He wondered what the definition of "high density" is and urged Commissioners to consider the intent of the ordinances. He chose to make his home in the woods without improvements or services. He asked the Board to preserve the rural character, thanked the Commission for listening to his comments, and urged the developer to reconsider the impact on the area.

Mr. John Robyn, 3517 VanKal, said he lives at the northwest corner of the planned development. There are lots of hills and he noted water does not stop at the property line. There is a natural swale on his property and the water from the development will fill it. He spent $4000 on a new well after Pond View Estates was built. He does not understand why this has to be done to the neighborhood. Residents care

about preserving what they have. He said if the development could not be stopped, the developers should be required to run sewer lines and not be allowed to put in septic systems or private wells. He said they are not welcome in the neighborhood and to leave them alone. He said there are endangered turtles in the area and asked if an environmental impact study was done or would be done.

Attorney Porter said an environmental impact study is not required in state law.

Hearing no further public comment, Chairperson Schley said the Planning Commission would take a break before moving to Board Deliberations.

After a break from approximately 8:30 to 8:36 p.m., Board Deliberations began.

Mr. Antosz commented the Master Plan is not under consideration here. The ordinance is based on the Master Plan.

Attorney Porter agreed the current zoning ordinance is not fully reflective of the Master Plan; if something is not, it is unfortunate, but the Planning Commission must follow the ordinance.

Chairperson Schley asked Attorney Porter if it is true that the comment regarding the site condominium process being more lax in requirements was due to State and Federal standards.

Attorney Porter said it is the choice of the developer whether to use the sub-division control act or the site condo act, but that state law says condo development is no different than any other development; the rules and regulations are a mirror image for each process. They are subject to the same review and scrutiny.

There were questions from Ms. Jackson and Ms. Farmer regarding whether it is appropriate to look at grading and drainage issues in step one or step two of the process.

Mr. Milliken said a lot of the reason for looking at these in step one was at his advice. Step one lays out the concept. Step two includes specific engineering work. His theory acknowledged there would be grading issues with the site and he thought it prudent to get those concepts viewed ahead of time so that through discussion if there will be an impact on the layout, it would be better to know sooner than later and not have to re-do step two. Complete information is not available for a lot of issues and are not part of step one, but are important elements for consideration.

Ms. Farmer said preservation of natural features needs to be looked at now; it would be a poor choice not to do so. Planning Commisioners should desire to know what will be done in order to make a decision. If there is a lack of information or a requirement to wait for step two, she did not see how they can go past the first step. She said she finds the public comments important but the Planning Commissioners

cannot consider traffic or groundwater issues because these issues are not in their jurisdiction. The Planning Commission can speak to natural features preservation and she sees no indication the developers would preserve them in any way.

Mr. Loy confirmed no work could begin until approval is granted by the Township Board.

Attorney Porter counseled recommending approval to the Township Board if the proposal complies with the ordinance and not recommending approval if it doesn't meet the ordinance requirements.

Mr. Antosz said he has been deliberating and based on Counsel and the ordinance, he feels the proposal meets the ordinance, but has strong concerns against it being in the RR district as it does not seem to fit in and he does not think the developers can preserve natural features as much as they think they can.

Mr. Boulding, Sr. said he was not convinced the project is a right fit for the property. A number of things make him uncomfortable; for instance, open-ended statements like "grading minimized to extent possible." He will need further convincing to move to a positive vote for development.

Ms. Jackson said she has a land conservation background and that is where her heart is, but she also believes in following local law, and though she has reservations she believes the proposal follows the Standards of Approval and would vote positively on the application.

Ms. Smith said there is a requirement for sidewalks for the condo development; normally if there are sidewalks there is something to walk to, like a bus stop or a library for instance, but in this rural area, it is likely to be 50 years before there will be something to walk to. She said the presence of ground water and sewer are not in the Board's jurisdiction, but if we knew then what we know now, sewer and water would have been installed before developments. She hopes in the future those will extend to the County line, but it will likely be a number of years before that will occur. She said she is opposed to the application.

Mr. Loy said according to what the ordinance states, he would vote in favor of the application at this point; the Township Board will make the ultimate decision. A yes or no vote will not affect the project now.

Chairperson Schley said the ordinance allows and has for some time allowed plats and subs in the RR district. He said he is most familiar with Oshtemo Wickford, a subdivision of ½ acre lots, somewhat rural characteristics, flat, and less intense than this application on storm treatment; it has a different character and adaptability than here; it has lots to its' west and at the east a golf course. As he described Wickford is in one way how he feels he must look at things; not just the specific technicalities of an

application, but what is around the "place" when considering land use and purpose statements, character natural features, suitability and trends.

He said here, this application within its property boundaries and to the extent of things like streets and other technical matters, the specific "technical" criteria under Part 290 are met. But purpose and suitability are a concern for him, and he believes ordinance in both Section 290 and at the primary zone of Rural Residential requires him to consider the broader "place" in considering this application. Part 290 "purpose" cites the criteria being an objective interest to review the sites proposed similarly to a general subdivision, and, including all requirements of the Township Zoning Ordinance. As the Planning Commission considers the purpose in Section 290, he believes he is also under further instruction to narrow his view, this being general instruction from Township legal counsel. Yet, such guidance, he believes, does not suggest that overall land use zoning be totally disregarded, and as one of the most tenured Planning Commissioners present, he can share that the Planning Commission has looked before to a use zone's purpose with all the other criteria of ordinance together to consider the potential fit of a proposal into a surrounding area. If the overall zone's purpose is inappropriate to consider, and if the issues of an area's character and suitability are to be disregarded, then he doesn't understand at all the logic of zoning. Further in consideration of any application, the Chairperson stated that the Commission has not typically in Oshtemo taken ordinance to be strictly just checklist fulfillments of only the technical compliance items, such as drawing scale, or setbacks complying, but always we have considered the impact of the collective complete applicable ordinance at hand and its intent.

Chairperson Schley continued, saying the Rural Residential District Purpose also gives intent of land use, and it is for a semi-rural lifestyle not suitable for traditional residential subdivisions as a result of topography or other features. In his own characterizations in discussion with the applicant previously, he believes he struggled to describe the previous concept plan as other than "regimented". That reflected his honest view of the application. The applicant's representative previously also variously described the previous solution in every way as being but with little consideration for the natural features present, and the applicant's representative himself then gave the Board little in understanding but that this was previously a fairly typical traditional subdivision. Attorney Porter even suggested the previous design could have easily been placed in a flat corn field, and the modifications being considered tonight in the revised plan to the Chairperson still represents a more traditional subdivision than a plan likely to respect the rural character and to likely respect the site's natural features. Even our Township Engineer, Marc Elliot, casts questions on how this can't still not be a major earth work project when done – hinting it nearly all encompassing. This is not sufficient for the Chairperson. For him this application does not meet the Rural Residential District Purpose.

He said he also must add along with these comments a sincere disappointment that this revised application has failed so significantly in attempt to address Part 290 First Step Section 3, sub-point 2, General Provisions, in regards to preservation of woods and natural habitat, as he understands the applicant's concept. The concept

solution, in his opinion, has placed "value" on a maximized execution to have the greatest number of lots, clearly at the expense of the natural features. Section 2 cites that natural features adding value to residential developments to be preserved are a general provision we can consider, and "value" here can include by intent of ordinance the richness of nature, not solely a maximum number of marketable lots.

Chairperson Schley said he would also be remiss to not consider the overall process here for he noted he is knowledgeable of those next steps for the proposal should the Planning Commission choose to recommend this onward. Eventually he believes the Miscellaneous Provisions of the Township ordinance will come to bare, and storm water management standards and Section 78.520 will eventually need to be addressed. The Chairperson noted he has real reservations that storm water management in this rural setting as proposed with concentrated storm basin designs can met Sections, C, D and F of 78.250, where drainage is wanted to be comparable in function and appearance to common natural drainage and runoff, and that development reflects an encouragement to have considered surface and vegetated buffering, and the storm water solution being designed to be visually attractive.

So, he said he will be voting to not recommend this application to the Township Board out of step one.

The Chairperson said he must also share, however, for the neighbors here, that his position tonight is only on the specific concept at hand – meaning, as a Planning Commissioner, he must be guided by and respond appropriately to ordinance, and for the property owners, this applicant, their rights also under law that ordinance gives them. If this proposal had more sensitively given assertion that natural features were more respected, if the concept had been better delineated to fit in the "RR" zone purpose, and if the storm drainage approach had been understood not a next step concern, and if this was plainly more suitable to the character of that around it, he would have had to recommend such an application onward. He personally remains sympathetic to all voiced concerns the audience as neighbors have shared, but this site in his experience may have been able to meet our Oshtemo ordinance criteria as a lesser maxed out concept, and he doesn't know if that would be at 40, 39, 35, 30 or only 20 sites, but somewhere a solution might so exist, and then it will be difficult to say no to it, for appropriately it could be right to say yes to such a proposal respecting ordinance. He said the neighbors here have described real concerns on aquifer levels, traffic safety, endangered species, sanitary impacts and even electrical capacity concerns were mentioned, but have also heard this Commission must consider our role being not omniscient in many of these matters, for we are as only one partial authority in review of such proposals, and required to fairly consider and apply ordinance in our Planning Commission's review and considerations of the applications before us. For tonight he believes the Board has fairly and appropriately considered this application.

Hearing no further comments from Board members, the Chairperson indicated he would entertain a motion regarding the application.

Ms. Farmer moved to deny the revised application as presented. Mr. Loy seconded the motion. Chairperson Schley took a roll call vote.

Farmer – yes; Antosz; - no; Schley – yes; Boulding – yes; Smith – yes; Loy – no; Jackson – no. Motion carried: 4 – 3. The application was denied.

Chairperson Schley moved to the next item on the agenda.

PUBLIC HEARING: PLANNING COMMISSION TO CONDUCT PUBLIC HEARING TO REVIEW THE APPLICATION FROM KEN AND JONI SLUYS FOR REZONING OF THE SOUTHERN PORTION OF A 2.58 ACRE PARCEL LOCATED AT 5527 PARKVIEW. REQUEST IS TO REZONE PROPERTY FROM RR RURAL RESIDENTIAL TO R-2 RESIDENCE DISTRICT (PARCEL #3905-36-130-094).

The Chairperson noted that some years ago he provided professional services on the adjacent daycare owned by the applicants and asked Attorney Porter if that constituted a conflict of interest.

Attorney Porter said he saw no conflict.

Chairperson Schley asked Mr. Milliken to review the application for rezoning for the Board.

Mr. Milliken said the applicant owns a 2.58 acre parcel on the west side of South 11th Street just south of Parkview Avenue. Approximately two of the acres are zoned RR Rural Residential and approximately half an acre at the northern end of the property is zoned R4 Residence District. The applicant also owns the property to the north at the corner of 11th and Parkview that houses a day care center and is in the R4 district. The applicant wishes to rezone the RR portion of the parcel to the R2 Residence District. The parcel has 500 feet of frontage on 11th Street.

He continued, saying the property is currently vacant, though it has been farmed in previous years. The property to the south and west is a 125 acre farm field zoned RR Rural Residential. Property to the east, across 11th Street, is Oshtemo Township's Genesee Prairie Cemetery and is zoned RR Rural Residential. Property to the north fronts on Parkview Avenue and houses the Looking Glass Child Care. The applicants own the child care center, which is in the R4 zone. The child care center building was formerly a Masonic Temple. Though much of the area around the subject site is zoned RR, north of Parkview Avenue there is a mix of R2, R3 and R4 zoning districts.

Mr. Milliken said the RR district has a minimum lot size of 1.5 acres and a minimum frontage of 200 feet. Therefore, under current zoning, the parcel could not be divided. The R2 district also has a minimum requirement of 200 feet of frontage and has a minimum area of 50,000 square feet (1.15 acres). The smaller area requirement would allow the parcel to be divided in the R2 district.

Mr. Milliken explained many of the uses permitted in the RR and R2 districts are similar with minor differences between the two. The most significant difference between the two in terms of use is that the R2 allows duplexes and the RR does not. This is particularly significant as the applicant has indicated that building a duplex is the reason they desire the rezoning.

He said, as has been stated before, regardless of proposals presented by an applicant with a rezoning application, a rezoning must be reviewed based on all of the potential uses that could be developed in that district and not just the proposal presented.

Mr. Milliken told the Board in the Future Land Use Plan, this parcel is located in the Genesee Prairie Sub-Area. The Sub-Area Plan designates this area as "Conservation Residential". This designation was crafted in response to the large parcels of prime agricultural land in this area and a vision of conservation style residential development that could occur in concert with continued, small scale agricultural uses.

He said the land uses intended include a mix of agriculture, open space, rural residential, and low density residential neighborhoods. Reestablishing prairie, preserving open space, and providing interconnecting local streets are important features of the Conservation Residential designation. Clustered development on a portion of a site with the remainder set aside as permanent open space is also important in this designation.

He concluded, saying the sub area plan and land use designation was crafted primarily with the larger parcels in mind. The sub area plan does not indicate what zoning districts correspond with the designations. Therefore, the Planning Commission will need to determine if the R2 district on this parcel is consistent with the sub area plan. The Planning Commission will want to consider whether rezoning of the subject property to the R2 district would be consistent with the vision of the future land use designation, particularly considering the size of the property and limited opportunities for development. There are also limited opportunities for conservation.

Chairperson Schley asked if Commissioners had questions for Mr. Milliken.

Ms. Farmer said she understood the explanation of future land use but felt Conservation Residential seems to be more conserving of the land, encouraging residential so it does not become commercial.

Mr. Milliken said the rezoning is to R2 and does not involve commercial uses. When dealing with these types of land use categories where zoning districts don't easily translate, new districts can be created, specific standards can be created through techniques like PUD or conditional rezoning, or existing districts can be utilized. In this case, the request is to utilize the R2 district. Open cluster development will probably happen in R2. He felt comfortable with R2 because of the size of the property.

Chairperson Schley asked if a special exception use was appropriate in this category, which includes things like golf courses, schools and daycares.

Mr. Milliken said if the Commission has concerns about the uses in the R2 district, he can discuss some alternative options with the applicants. However, he was not concerned with the uses due to the size of the property.

There were no further questions for Mr. Milliken; the Chairperson asked whether the applicant wished to speak.

Ms. Joni Sluys, 973 Treasure Island Drive, Mattawan, said it is the intent to build a duplex. She and her husband will benefit personally and the Looking Glass Daycare will benefit 99 children. They have no intent to expand the daycare facility and would be willing to sign a contract spelling out their intent.

Mr. Milliken noted to add to his previous response to the Chairperson's question that the special exception uses in the R2 district are the same as in the RR district with the exception of essential services, which the Township really cannot regulate anyway.

There was no public comment; Chairperson Schley moved to board deliberation.

In response to a question from Ms. Jackson, Mr. Milliken said the minimum square footage allowed in R2 is 50,000 square feet.

Mr. Loy confirmed irrigation to the south does not reach the property in question.

Mr. Boulding, Sr. confirmed the duplex to be developed is a 2-family unit.

There were no further comments; Chairperson Schley asked for a motion.

Mr. Loy made a motion to recommend approval to rezone the property as requested to the Township Board. Ms. Smith seconded the motion. The motion carried unanimously.

OLD BUSINESS/OTHER BUSINESS

Chairperson Schley asked if there was old business or other business to come before the Commission.

Mr. Milliken thanked Commissioners for their attendance at a joint session; good information was received and he will keep them informed.

Mr. Antosz suggested several topics for future discussion: revisions to the site condominium ordinance, ordinance amendments to implement the Genesee Prairie sub

area plan, aligning the Statements of Purposes with the ordinance requirements, understanding the definitions of low, medium and high density, and addressing sewer/septic systems and water quality.

PLANNING COMMISSIONER COMMENTS

Ms. Jackson said she respects all opinions of Board Members and appreciates the mutual respect among the Commissioners.

Ms. Farmer said tonight included one of the Commission's most divisive votes during her time on the Board and said she appreciates each individual's thought processes; that's what makes the Planning Commission professional and important.

ADJOURNMENT

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Schley asked for a motion to adjourn.

Mr. Loy made a motion to adjourn. Ms. Farmer seconded the motion. The motion carried unanimously.

Chairperson Schley adjourned the Planning Commission meeting at approximately 9:30 p.m.

Minutes prepared:
May 31, 2015

Minutes approved:
_____, 2015

June 4, 2015

Mtg Date: June 11, 2015

To: Planning Commission

From: Gregory Milliken, AICP

Subject: Agenda for June 11th Planning Commission Meeting

There are no applications or public hearings on the agenda for the June 11th Planning Commission meeting. Typically, this would be a meeting in consideration for cancellation. However, bearing in mind the number of concerns and issues that have been raised at recent meetings to be addressed in the Zoning Ordinance, Staff felt it would be a good idea to have the meeting and discuss some of these issues.

Note, we are not going to resolve most of these issues, nor are we going to attempt to solve them in one meeting. In fact, it is likely a consultant will need to be brought on board to assist the Township develop necessary amendment language and ensure the identified concerns are addressed in a comprehensive and efficient manner. So, to ensure we have an accurate understanding of the concerns and can provide good information to the consultants, we want to take a little time to discuss them further before engaging the professionals.

Here is a short list of the items I have heard mentioned that I would like to discuss with you along with any associated questions open for discussion.

- Purpose Statements / District Standards
    - Besides the RR district, are there other districts you have noticed where you feel there may be inconsistency between the purpose statement and the standards of the Ordinance?
    - If you feel there are inconsistencies, what standards in particular raise concerns?
- Sanitary Sewer / Septic Discussions
    - We do not have additional information to share with you to facilitate a broader discussion on this topic. We believe this would be wrapped into the same discussion above with the help of a consultant.
    - But in a general sense, are there places where expanding public sanitary sewer service does not make sense? Is there a level of density that just seems too dense with septic systems? Is there a minimum lot size that is too great?
        - We understand you need additional information in order to make a more informed decision, so if you cannot judge that is fine. But if you have initial impressions or thoughts, I would be interested in those.
- Signs
    - Although this has not been raised at the Planning Commission, a couple issues have come up internally that we would like to raise for discussion.

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    - Signs for financial institutions are treated separately from other commercial / office uses. While this makes sense in non-commercial districts where they are permitted, this may not necessarily make sense in commercial districts.
    - Changeable copy area is limited to 25% of sign area. As electronic signs have advanced technologically, this percentage limits the ability of signs to take advantage of new technology. A small increase would allow for such advances. We would like to provide greater explanation and see how the Commission feels about such a change.
    - Window signs are permitted up to 25% of the window area. The term window sign is fairly loosely defined in the Ordinance. We will show some examples of how this has perhaps created a loophole in the Ordinance and assess whether that is something that should be closed.
- Landscaping
    - We discussed previously the desire to tour the Township and look at sites that have established landscape plans based on our Ordinance requirements.
    - We are probably looking to view three to six properties, non-residential in nature, that are maybe 5-15 years post development. The idea is to compare what was proposed to what exists to what the Ordinance intends and see how it all works. Then we can have a basis for determining if anything needs to change if at all.
    - If you are able, think about sites you feel would be good candidates for such a review and bring them to the meeting. We can then make sure we have the right plans, and develop a reasonable tour for later this summer.

We do not anticipate this being a long meeting (or will do our best to ensure it is not), although there might be several issues raised over the course of the conversation. Again the goal is to just get some initial feedback and direction and not necessarily solve the issues in this discussion.