

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A PUBLIC HEARING AND MEETING HELD DECEMBER 10, 2015**

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**Agenda**

**PUBLIC HEARING: CONCEPT PLAN AND TENTATIVE PRELIMINARY PLAN (OPEN SPACE DEVELOPMENT – SKY KING MEADOWS, PHASE III)  
CONCEPTUAL PLAN REVIEW FOR AN OPEN SPACE DEVELOPMENT AND TENTATIVE PRELIMINARY PLAN REVIEW FOR A SITE CONDOMINIUM OF THE APPLICATION OF GARY HAHN, ON BEHALF OF SEECO 2, LLC, FOR SKY KING MEADOWS, PHASE III. PROPERTY IS LOCATED ON APPROXIMATELY 29.98 ACRES OF VACANT LAND IN TOWNSHIP SECTION 23 WITHIN THE R-2: RESIDENCE DISTRICT PARCEL #3905-23-210-010.**

**PUBLIC HEARING: SPECIAL EXCEPTION USE (COMMERCIAL CENTER – CORNERS @ DRAKE)  
SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF AVB CONSTRUCTION FOR THE DEVELOPMENT OF A KELLOGG COMMUNITY FEDERAL CREDIT UNION AND THE CORNER SHOPPES WHICH WILL HOST RETAIL STORES. PROPERTY IS LOCATED WEST OF DRAKE ROAD AND NORTH OF STADIUM DRIVE WITHIN THE C: LOCAL BUSINESS DISTRICT.**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, December 10, 2015, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

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

ABSENT: Dusty Farmer

Also present were James Porter, Attorney, and Martha Coash, Meeting Transcriptionist. Approximately 50 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 accept 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 NOVEMBER 12, 2015**

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the Meeting of November 12, 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 November 12, 2015 meeting. Mr. Antosz seconded the motion. The motion was approved unanimously.

## **PUBLIC HEARING: CONCEPT PLAN AND TENTATIVE PRELIMINARY PLAN (OPEN SPACE DEVELOPMENT – SKY KING MEADOWS, PHASE III) CONCEPTUAL PLAN REVIEW FOR AN OPEN SPACE DEVELOPMENT AND TENTATIVE PRELIMINARY PLAN REVIEW FOR A SITE CONDOMINIUM OF THE APPLICATION OF GARY HAHN, ON BEHALF OF SEECO 2, LLC, FOR SKY KING MEADOWS, PHASE III. PROPERTY IS LOCATED ON APPROXIMATELY 29.98 ACRES OF VACANT LAND IN TOWNSHIP SECTION 23 WITHIN THE R-2: RESIDENCE DISTRICT (PARCEL #3905-23-210-010)**

Chairperson Schley moved to the next item on the agenda, a conceptual plan review and tentative preliminary plan review for a site condominium for Sky King Meadows, Phase III. In the absence of Ms. Johnston, Planning Director, Attorney Porter indicated he would fill in for Staff and was asked to review the request.

Mr. Porter, referring to Ms. Johnston's written report, said the applicant is seeking to develop 46 single-family homes on 29.98 acres of vacant, undeveloped land immediately east of the Buckham Highlands site condominium and southwest of the Country Club Village development. The property is east of 9<sup>th</sup> Street and located in the R-2 zoning district.

The applicant is proposing to develop an open space community, which is a Special Exception Use under 60.500 of the Zoning Ordinance and requires conceptual plan approval. Section 60.530 of the ordinance requires at least 40 percent of the gross acreage to be designated as open space. In addition, the project is intended to be a site condominium developed under the procedures of 290.005, Site Condominiums of the Township's General Ordinances. Part 290.005.D indicates that the project must receive tentative preliminary plan approval (Step 1) from the Township Board after being reviewed by the Planning Commission.

The requirements for a conceptual plan under the Open Space Community Special Exception Use and the tentative preliminary plan approval under the Site Condominium ordinance are very similar. As this project is not intended to be built in phases, the whole project can be reviewed under each ordinance requirement through one submission. Therefore, staff recommended the applicant request both review of the conceptual plan and the tentative preliminary plan. The final site plan review, as required by Section 60.580 of the Open Space Community ordinance, will occur at the same time as the final preliminary plan review (Step 2) of the Site Condominium ordinance. Step 2 is when engineered drawings of the project are required.

## **SPECIAL EXCEPTION USE PERMIT FOR OPEN SPACE COMMUNITY – CONCEPTUAL PLAN**

### OPEN SPACE

Attorney Porter explained that as required by the ordinance, more than 40 percent of the project site – just over 15 acres – is set aside as permanent open space. This open space includes dense, wooded areas and steep slopes. It will be accessible to the property owners within the development via wood chip pedestrian trails that connect to the sidewalks located along the street rights-of-way.

There is a designated reciprocal drainage easement located in the Sky King Meadows III property and the two unplatted properties to the south. This acreage is under an agreement between Buckham Highlands, Sky King Meadows II and Sky King Meadows III for storm water runoff. A total of 4.74 acres of the subject property is located within this easement.

The applicant has indicated only 1.66 acres of the 4.74 acre storm water drainage easement is actually needed to handle the high water elevation. Therefore, they have added the remaining 3.08 acres within their designated open space. It is intended that the storm water easement area will remain in its natural setting. Section 60.500: Open Space Community indicates the following:

*60.530.C. Any significant/sensitive environmental resource (steep slopes, wetlands, woodlands, etc.) shall be included within the designated open space.*

He said the final site plan will need to include the appropriate legal mechanisms to protect the open space in perpetuity.

## DENISTY / SITE LAYOUT

Attorney Porter said the density of an open space community is based on a parallel plan. A parallel plan is an alternate site plan developed consistent with the standards of the R-2 district and the requirements for a tentative preliminary plat. The submitted parallel plan satisfies the standards of the R-2 district and demonstrates that 46 building sites can be provided on the site. The R-2 district allows for a density of approximately four dwelling units per acre, depending on utilities. The gross density proposed for this site is approximately one and a half units per acre and the approximate net density (minus roads, sanitary easement, storm water easement area, etc.) is two dwelling units per acre. Therefore the proposed 46 units satisfy the density requirements.

He pointed out the Planning Commission is specifically granted the authority to waive or modify the development standards within the open space community provided the modification is consistent with the goals and intent of the ordinance requirements as stated in 60.510. The deviations the Planning Commission may allow are to the minimum building site or building site area, frontage and width requirements of the underlying zoning district.

He noted the applicant is requesting the following deviations from the R-2 district:

1. The building site size for the R-2 district is 10,560 square feet. The project has building sites that range in size from 7,861 to 12,844 square feet, with most building sites somewhere between 8,000 and 10,000 square feet.
2. The building site frontages within the development range from 60 to 124 linear feet, where 100 are required. However, the majority of the building sites are between 60 and 80 linear feet.
3. A side yard setback of five feet instead of ten feet.

## INFRASTRUCTURE & CIRCULATION

Attorney Porter explained access is provided through one connection point from Buckham Highlands to the west of the proposed development. New stub streets are planned to connect to potential future sites to the north and east if these parcels ever develop.

The development will be connected to public water and sewer facilities. The Township Engineer has reviewed the plans and has the following comment:

The concept includes a description of two sanitary sewer alignment alternatives. Without exception, the second alternative which proposes to discharge sanitary flows easterly to the adjoining undeveloped parcel is preferred. The adjoining parcel has a public sewer main in its interior and accommodating the proposed development would be the simple matter of extending sewer piping through the

parcel. More importantly, this option allows abandonment of an existing public sanitary sewer pumping station and facilitates further orderly development of public sewer to the adjoining, interior parcels.

It is important to note that acquiring the necessary easements and associated agreements for extending the public sewer through the adjoining third-party parcel may be a challenge to finalize within the expressed construction start of April 2016 as indicated on the plan. Preliminary discussions with the third-party parcel owner have been initiated by the Township.

## STANDARDS FOR APPROVAL

Attorney Porter walked through the Standards of Approval for the Commission:

- A. The overall design and land uses proposed in connection with an open space community shall be consistent with the intent of the open space community concept and the specific design standards set forth herein.**

The design of the proposed community and the single-family uses are consistent with the intent of the open space community concept and the design standards set forth in the ordinance. Simply comparing the proposed development to the parallel plan, which demonstrates how the land could be developed in conformance with the standards of the ordinance, demonstrates the benefits of this concept.

- B. The proposed open space community shall be serviced by the necessary public facilities to assure the public health, safety, and welfare of project residents and users.**

The proposed community will be serviced by public water and sewer. The roads will be public roads.

- C. The proposed open space community shall be designed to minimize the impact of traffic generated by the development on the surrounding land use and street network.**

The proposed community will connect to Buckham Highlands to the west, currently only allowing for one access point into the development. There are access difficulties with this site as it is land locked between existing development and unplatted land. The future connections to the north and east proposed in the plan will provide possibilities to improve access to the site, but only if development occurs in these locations. Until other properties develop, the majority of the traffic will likely access the site from 9<sup>th</sup> Street through the Buckham Highlands Condominiums on Buckham Woods Drive to Wood Hollow Avenue.

Some concerns have been expressed from neighbors regarding the one access point to the proposed site. While not ideal, the Open Space Community ordinance does not

address the requirement of multiple access points. In addition, the design guidelines of the Site Condominium ordinance indicate the following:

*Part 290.005.D.3.a.(11) – A condominium project or extension of an existing condominium project creating a total of 75 or more building sites must be developed so as to provide two or more access streets or will provide for connection to adjacent property through future street development.*

The project in question is creating a total of 46 building sites, which is below the required minimum for two access points. In addition, they have provided two stub streets for future connections. The Road Commission for Kalamazoo County was provided a copy of the plan and they have no major concerns with the proposed circulation system. In addition, the Fire Marshal was consulted during an internal staff review meeting and no concerns were raised.

During Staff review of the development, it appeared that a 66-foot easement was available from the subject site south to KL Avenue. However, after further investigations through our GIS mapping system and the recorded easements within that section of the Township, it became clear that no easement exists and likely never existed. The lines for this anomaly are recorded in the GIS system under “old property lines.” Staff believes this was an historical property line that was never removed from the mapping database.

As the adjacent properties develop, it is unlikely that a fully connected road network would create a desirable short-cut for vehicles passing through the area. None of the routes would be direct and all such possible routes would involve multiple stops and turns. The benefit of the connections would be to provide various outlets and options for the residents of the neighborhood in addition to managing traffic flow from these developments.

**D. The proposed open space community shall be designed so as to be in character with surrounding conditions as they relate to the bulk and location of structures, pedestrian and vehicular circulation, landscaping, and amenities.**

The proposed development is comparable in density, layout, circulation, amenities, and infrastructure to the surrounding developments. As expected, the building site sizes in Sky King Meadows II are very similar to this project as they were designed by the same owner/developer. The building sites within Buckham Highlands and Country Club Village are slightly larger than Sky King Meadows III, with an average building site size between 10,000 and 15,000 square feet.

Sky King Meadows III is providing some substantial buffering of their building sites along the west and south property lines. Building site 1 is approximately 70 linear feet from the western property line, with the building envelope closer to 100 linear feet. Building site 26 is the next closest to Buckham Highlands and is at least 200 linear feet of wooded area from the property line. From the south property line, there is at

least 220 feet of wooded area before the first building site. The buildable sites located along the northern and eastern portions of the development are much closer to the property boundary lines. To the north, the building site is within 30 feet of the property line while the house would be developed approximately 50 feet from the property line. The closest building site to the east mirrors the northern dimensions.

The configurations of the building sites are largely due to topography, existing wooded features, and the location of the storm water drainage area in the southwest corner of the site. During the review of the initial concept/ tentative preliminary plan, staff noted that building sites 1-2 and 19-23 were either directly in line or close to the area where storm water infiltration would occur as it flows to the drainage area designated for this and adjacent developments. To avoid problems with flooding, as has occurred in Buckham Highlands, staff requested the development be shifted to the east to provide for a larger natural area between Buckham Highlands and Sky King Meadows III to hopefully manage storm water infiltration more effectively.

The placement of the new building site 1 begins to encroach into this natural area where storm water will infiltrate. Staff would recommend that building sites 1 through 5 be moved to the east, closer to Ben Street, where there currently is open space area available.

- E. The proposed open space community shall be designed and constructed so as to preserve the integrity of existing on- and off-site sensitive and natural environments, including wetlands, woodlands, hillsides, water bodies, and groundwater resources.**

Per the requirements of the ordinance, more than 40 percent of the development area (just over 15 acres) is set aside as permanent open space. This includes some of the most heavily wooded portions of the site as well as the portions with the steepest slopes, helping to preserve the natural features of the site.

- F. The designated open space shall be of functional value as it relates to opportunities for wildlife habitat, woodland preservation, crop-growing, orchards, recreation, visual impact and access.**

The designated open space is almost entirely established hardwood forest area with access provided by a wood-chip pedestrian path. The designated areas are connected and are substantial in size. This should allow the area to continue to provide habitat to wildlife as it develops.

- G. The proposed open space community shall comply with all applicable federal, state and local regulations.**

Proof of compliance, as necessary, will need to be provided with the site plan/final preliminary plan.

Attorney Porter said in addition to the standards cited above from Section 60.570, the Planning Commission should review the conceptual plan against Section 60.580.C – Conceptual Plan Review Requirements, the specific details required on the conceptual plan. Staff completed an initial and a final review prior to the Planning Commission meeting and found the plan compliant with these requirements.

## **TENTATIVE REVIEW OF PRELIMINARY PLAN**

Attorney Porter explained that tentative review of the preliminary site condominium plan is the first of three steps of the approval process for a site condominium development. This first step requires a public hearing, and the Planning Commission shall make a recommendation to the Township Board. Section 290.005.D.3 provides design standards for tentative preliminary plans at this stage of the review process. These requirements include design of streets, building sites, non-motorized or pedestrian pathways, and general provisions related to existing and natural features on the site. The plans have been reviewed against these standards and are consistent with the requirements as they are similar in scope to many of the conditions of the open space community design for these features.

In addition to the design conditions, tentative preliminary plans also have specifics for what is required on the plan submittal. These are very similar to the requirements of the conceptual plan submittal under the Open Space Community ordinance. After providing comments to the project engineer, the current tentative preliminary plan meets all the requirements of Step 1 of the approval process.

Attorney Porter said Staff recommends the Planning Commission approve the conceptual plan for the Open Space Community Special Exception Use as presented. Staff also suggests the Commission forward a recommendation of approval to the Township Board for the tentative preliminary plan, with the following conditions:

1. If approved, the site plan/final preliminary plan, consistent with the approved concept plan/tentative preliminary plan, shall be submitted for approval within one year.
2. The appropriate legal documents and conveyances necessary for the permanent protection of the open space are provided to the Township with the site plan/final preliminary plan approval.
3. The requested modifications to the minimum building site size (less the 10,560 square feet), frontage (less than 100 linear feet) and side yard setback (5 feet as opposed to 10 feet) satisfy the intent of the open space community requirements.
4. Building sites 1 through 5 shall be shifted approximately 25 feet to the east (Ben Street) to allow for more area where storm water runoff may infiltrate and to be consistent with the placement of other building sites adjacent to Ben Street and Sky Avenue, which are approximately 25 feet from the road right-of-way.

5. The storm water system will require a review by the Township Engineer for site plan/final preliminary plan approval and shall comply with all applicable County requirements.
6. Sanitary sewer will connect to the existing system on the adjoining undeveloped property located to the east of the development.
7. Specific details of the proposed street lighting will be provided at site plan/final preliminary plan and reviewed by the Township Engineer to ensure compliance with Township street lighting policy and ordinance standards.
8. The site plan/final preliminary plan shall be reviewed and approved by the Township Engineer and Fire Department.

. Attorney Porter suggested recommendation #6 be amended to include “contingent on Township obtaining an easement to develop” and included as part of any motion for approval.

He concluded by saying he was concerned that some residents who live within 300 feet of the exterior of the development reported they did not receive written notification of the meeting that were sent by certified mail, even after notices were re-sent after problems with delivery from the November meeting were reported. However, based on the turnout for this meeting and Township compliance with state statute, he recommended proceeding with action on this item.

Chairperson Schley thanked Mr. Porter for the review and asked if Commissioners had questions for Mr. Porter. Hearing none, he asked the applicant to speak.

Mr. Gary Hahn, Wightman & Associates, 9835 Portage Road, said he was attending on behalf of Seeco and Mr. Mike Seelye. He appreciated the patience of those who attended the last meeting and noted the conceptual plan presented is consistent with and meets or exceeds the ordinance and responsible property development and requested approval of the application.

The Chairperson asked if there were questions from the Board for Mr. Hahn.

Mr. Boulding, Sr. asked whether a harder surface than a wood chip trail had been considered at the perimeter of the development for easier hiking and biking.

Mr. Hahn said it had not been considered as the intent was to leave open space fairly rustic, but that he could bring it up with the developer.

In answer to questions from Chairperson Schley, Mr. Hahn said there was no problem with moving sites 1 – 5 to the east, and agreed that the five-foot setbacks are measured between the roof overhangs which could mean a minimum of 10 feet between buildings.

There being no further questions from the Board, Chairperson Schley asked if there were members of the public who wished to comment.

Mr. J. R. Carson, 6530 Chatham Wood Avenue, cited concerns with traffic safety given the extra traffic that will be generated and the large number of children and people who walk. He was also concerned that the streets in Buckham Highlands are not built for heavy traffic by large construction vehicles and wondered if there is provision to take care of any damage caused as a result.

Mr. Jimmy Edwards, 6503 Buckham Drive, was concerned about lot sizes and wanted the developer to meet Planning Commission standards. He wondered why no bike path is included. He was also concerned about removing 30 acres from what is available for wildlife that will drive deer toward West Main likely resulting in more car accidents. He was also concerned about safety for children in the neighborhood with the challenge of big trucks coming through the neighborhood during construction as well as the damage to roads in the neighborhood. Trucks and heavy equipment causing road damage was a challenge during Phase II of Sky King and roads are still not repaired. The developer should be responsible for the burden of paying for road repair.

Mr. Robert Schleichert, 1046 Laurel Wood Street, spoke about the inadequate ingress and egress of traffic through a single point in the development.

Mr. David Kingsley, 932 Laurel Wood Street, said he felt it was incumbent on the Planning Commission to require provisions for financial reimbursement from the developer to repair roads that will be damaged as a by-product of construction and was in favor of another means of access. He asked them to be careful to protect the welfare and safety of children in the area. He asked for a provision to make Buckham Highlands Homeowners Association whole for road repair costs. He felt there is more work to be done and that this item should be tabled until the road provisions are clearly managed. He also was concerned about how easily fire could spread among buildings that will be so close to each other.

Mr. Jeff Cooley, 6201 Horizon Heights Drive, said his property was at the top right corner down to house #15 and is concerned that houses will be very close to his back yard property line. He would like to see a soft buffer zone from where his property ends. He would also like to see a decrease by half in the number of units built to allow more room between buildings.

Mr. Dan Thompson, 105 Echo Hills Drive, questioned the rationale for the 10 foot distance between buildings as well as the five foot setback. He also wondered why the trail is located so close to the boundary line.

Mr. Dominick Tomasi, 1059 Laurel Wood Street, stated there should be a specific date required for additional egress roads and asked that an exception be considered for the 100 foot frontage width.

Ms. Karen Cooley, 6201 Horizon Heights Drive, said if the property were being sold to individuals to resemble a true neighborhood she would not have a problem, but that it seems more like a housing project and the resulting view from their homes many windows will be disheartening. She was also concerned about the effect on nature and wildlife. Sky King Meadows is barren with no mature trees and this development will cause animals to be driven further and further away. She asked if there was a need for another cookie cutter project and asked the Commission to consider the impact of this project on the environment.

Ms. Margaret Masuzawa, 331 West Ridge Circle, said she had questions for Mr. Hahn.

Chairperson Schley explained meeting policies and procedures are designed to keep control of the meeting. There is no direct engagement allowed with applicants; engagement by the audience is with the Planning Commission. If questions are included in public comments the Commission may try to get them addressed for you. Commissioners wish all comments to be heard, but need to maintain orderly procedures.

Mr. Alan Webb, 404 Echo Hills Drive, commented that five foot setback spacing produces junky development. He also was worried about devastating the capacity of the land to carry water flow and was opposed to outlet roads to Country Club Estates which he felt would become a cut-through and cause disruption and a danger to children. He was also concerned about clearing trees and losing wildlife support by removing beautiful old forest to be replaced by what he considered to be moderate quality homes at best, which would damage the Township's environment.

Mr. Randy St. John, 6462 Caddam Wood Avenue, expressed his concerns regarding the safety of children in light of construction traffic as well as the beating the roads will take. He said repair and upkeep this past summer were disappointing.

Mr. Anthony DeFulio, 6199 Horizon Heights Drive, said he did not receive the certified mail or other mailings although he usually has no mail delivery problems. He doubted the problem was with the U. S. Postal Service. He commented the houses in the developer's plan are too close together and noted people speaking out are passionate for a reason.

Mr. Ron Commissaris, 6392 Buckham Wood Drive, spoke about the large drop in elevation from the top to the bottom of Buckham Wood Drive and asked that Mark Elliott, Township Engineer, be asked to look at whether the retention basin can handle water from several plats. He was also concerned about increased traffic.

Mr. Don Halstead, 37 West Ridge Circle, said he had been through this process a couple years ago for Buckham Highlands and that certain representations raised by residents were a major issue. He did not see the concern of the Planning Commission for the future of Oshtemo Township included in this development. He said he is not privy to

and would like to see the master deed, lives right next to the property at issue, but did not receive revisions to the original plan prior to this meeting; he said he refused to sign for the certified mail he received. He did not feel this matter could be resolved at this meeting and objected to proceeding with the plan at this time. Issues raised should be gone through and discussed at a later meeting. He was in favor of a buffer zone for neighbors who are fearful of people coming into their homes from other developments. He also was concerned about wildlife, including both animals and protected plants, including Trillium.

Mr. Bill Birch, 6403 Buckham Wood Drive, moved here four months ago and has sincere concern about stress on the system where he lives, including density of population and road erosion that will be caused by this project. The Township, concerned about economics, should also be concerned about correcting problems with egress. Only one point of egress is available and there are times entering 9<sup>th</sup> Street is a problem now that will only get worse with this increased stress. He asked that Commissioners take that into account as they negotiate with developers.

In addition to the public comments, a communication was received from Michael Salbenblatt, signed Homeowner and BHA Board Member, outlining his concerns about limited entrance/exit into the proposed development, accessibility, wear and tear, and safety factors for EMS, fire and police response. He suggested that an easement could be used for additional ingress/egress. He also questioned why existing street names would be reassigned to new roads on the east side of the project. He said he would not object to the development if a second road for entrance and exit into and out of the proposed development is provided.

Hearing no further comments from audience members, Chairperson Schley asked Mr. Hahn how far 9<sup>th</sup> Street is from the back of the development and what the effective pitch is on roads.

Mr. Hahn said the development is at least 900 feet from 9<sup>th</sup> Street on the south side and approximately 1300 feet from the road on the north side. He indicated the road design has not yet been started but that it will meet Road Commission standards.

Attorney Porter answered some of the questions that were raised by audience members during their comments:

- Easement from Country Club Village to site: referred to Township drawings that is no longer current. There is no direct access point, no easement that he is aware of.
- Two step process: in addition to the conceptual plan and tentative preliminary plan, there is a three step process for a site condominium development.
- Water overflow: Buckham Highlands has a joint reciprocal drainage agreement with Sky King Meadow II and Sky King Meadow III.
- 10 foot setback: with open space development, normal requirements have to be modified to provide open space.

- Water discharge: the Township Engineer has reviewed the water discharge plan and has approved it.
- Master Deed: There is no Master Deed at this point; it will be created later.

Chairperson Schley noted there will be a great deal of technical review by the Township regarding details of water runoff and finalization of road design during the third step of the process described by Attorney Porter.

Attorney Porter noted all Township departments are included for every conceptual plan received.

The Chairperson moved to Board Deliberations and began by saying the Planning Commission is tasked to apply Standards and Ordinance that exist with which property owners must comply. The Township has had legal challenges when developments have come through when it was believed the Planning Commission did not respect its Ordinance. As Chair, he has to consider land use relevant to ordinance and precedents that exist. One of those challenges is when people would like something different or nothing at all. The challenge is that you did not buy that property. The owner has the right to develop it under Ordinance. The Planning Commission looks to other agencies for compliance to their rules. The Road Commission designs roads to accompany development. The Planning Commission is not able to intercede in traffic issues that have been approved by the Road Commission.

He continued, saying some years ago Ordinance was constructed to encourage green areas and to encourage builders to do so by providing deviation. The Commission has very little ability to stop that. Ordinance was crafted to allow trading for smaller sites to achieve open space. With regard to setback issues, he is personally challenged by that, but precedent exists from previous Planning Commission action. There may be some challenges for builders on this issue in the future, but today this is allowed. He noted the water flow issue has been addressed and that the endangered species question would be appropriately addressed through federal agencies.

He noted the Fire Chief has addressed safety issues for emergency responders and supports the application; depths of 900 – 1300 feet from the perimeter were cited and noted in the past singular dead end linear subdivisions have been approved by the Township.

Chairperson Schley concluded by saying he knows everyone wants to see something different, but he sees that the application meets the intent of the Ordinance.

Ms. Smith asked whether the proposed project is a discrete condominium project or an extension and how many sites are in Country Club Village.

Attorney Porter said Planning Director Johnston says it is not an extension; there are 144 lots in Country Club Village.

Ms. Jackson appreciated Attorney Porter's review and said the Planning Commission has to live within Ordinance. She appreciates the open space concept and said it is important to remember it was specifically put there to retain character. She is concerned about displacing wildlife, but cannot address that issue. She has no further concerns about the property and recommendation.

Mr. Loy said he understands the density concern, but people have a right to develop, have met the criteria in this application, and he has no problem with it.

Mr. Boulding, Sr. said the application meets all criteria of the Ordinance and the roads have the Road Commission's stamp of approval. He noted roads deteriorate here anyway with Michigan weather, there is not concrete evidence damage was caused by construction, and that roads can be repaired. He has to go by whether the Ordinance criteria are met.

Mr. Antosz said his concerns were addressed by Attorney Porter and that he had no objections to the plan. Open space is desirable and the project is in line with the Master Plan, and the Ordinance and will ultimately be good for Oshtemo Township. The Planning Commission cannot do anything about concerns expressed.

Chairperson Schley said we all see things differently. The Ordinance is constructed to preserve open space to enjoy life in West Michigan without density of development. It is clear to him as a Planning Commissioner that open space concepts could be better delivered from development partners, but if the market place did not support this type of development, we wouldn't see them. He would like to see a more fluid, intermixed green space, but does not have the ability to affect that at this time. He sees both sides. The Township has pursued this direction as a preferred choice.

Attorney Porter recommended two separate motions, and that the second motion regarding the tentative preliminary plan include the eight separate staff recommendations as part of a motion. He would like the wording for #6 to say "contingent on Township obtaining an easement to develop."

Mr. Loy made a motion to approve the conceptual plan for open space development as presented. Mr. Antosz seconded the motion. The motion was approved unanimously.

Chairperson Schley said all public comments have been considered strictly in light of the Ordinance which they are charged to administer; the tax base/Township income are no part of their consideration process.

Mr. Loy made a motion to recommend the preliminary plan to the Township Board for approval as presented, including staff recommendations 1 – 8, with added wording to #6, saying "contingent on Township obtaining an easement to develop." Mr. Boulding, Sr. seconded the motion. The motion was approved unanimously.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (COMMERCIAL CENTER – CORNERS @ DRAKE)**  
**SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF AVB CONSTRUCTION FOR THE DEVELOPMENT OF A KELLOGG COMMUNITY FEDERAL CREDIT UNION AND THE CORNER SHOPPES WHICH WILL HOST RETAIL STORES. PROPERTY IS LOCATED WEST OF DRAKE ROAD AND NORTH OF STADIUM DRIVE WITHIN THE C: LOCAL BUSINESS DISTRICT.**

Chairperson Schley moved to the next item on the agenda, the public hearing for special exception use and site plan review for a Kellogg Community Credit Union and Corner Shoppes, and asked Attorney Porter to review the application.

Attorney Porter referred to the written comments from Ben Clark, Zoning Administrator, saying the applicant is seeking permission to construct a 10,854 square foot, two story financial institution, complete with drive-through service.

He said zoning considerations, including setbacks, landscaping, parking, site access and lighting are all in compliance with the Zoning Ordinance.

In addition all Standards of Approval are met by the proposal.

Attorney Porter said Township Staff is generally comfortable with the project as proposed. However, if the Planning Commission is inclined to grant approval, Staff would recommend the following conditions:

1. A revised landscape plan, indicating how existing trees on the site are to be protected during the construction phase. Any other subsequent changes to the landscape plan must meet the standards of the Zoning Ordinance.
2. Approval of the site plan as presented, including the reduced size parking spaces, is contingent upon the approval of a future commercial planned unit development for the Corner @ Drake.
3. Prior to the granting of a building permit, the applicant must submit a revised site plan to the Township that rectifies the outstanding issues identified in the Engineer's and Fire Marshal's memos, which are attached. Additionally, any future site plan revisions unrelated to current concerns must also be approved by the Township Engineer and Fire Marshal.
4. A sign permit is required before any new signs are installed on site, and all signage shall conform to the requirements of the sign chapter of the Zoning Ordinance.

5. If approved by the City of Kalamazoo, the right-turn only egress lane shall be widened from 12' to 15'. If made, this change shall be indicated on a revised site plan.

Chairperson Schley noted the plan includes a reduction in size to 9 x 18 for 25% of the parking spaces, based on 84% high density expected by the credit union. He said he is generally against 9 x 18 parking spots as a rule, but it is allowed in the Ordinance. Long term, the Township should reconsider some trends regarding what people need vs. suppressing the amount of asphalt, given an elderly/aging population. He said overall this is a nice plan, consistent with a quality Township, which is blessed to have this overall development and follow through so far.

Ms. Smith confirmed the parking includes capacity for employees and that the double retaining wall shown in the plan faces the medical office to the north.

Mr. Antosz noted the Township Engineer's comments need to be addressed during the process.

Mr. Loy made a motion to approve the special exception use and site plan for the development of a Kellogg Community Federal Credit Union and the Corner Shoppes which will host retail stores with the inclusion of the five Staff recommendations listed. Ms. Smith seconded the motion. The motion was approved unanimously.

## **OLD BUSINESS**

### **Consumers Credit Union Site Plan Approval Conditions – Crosswalk to Costco**

Attorney Porter presented Ms. Johnston's request that the Planning Commission review a condition placed on the Consumer Credit Union site plan for a pedestrian connection to the west across the service drive to Costco.

On April 23, 2015, the Planning Commission held a public hearing to review a special exception use and site plan for Consumers Credit Union (CCU) within the Corner @ Drake commercial development. At the time of approval, the Planning Commission conditioned the site plan to require CCU to provide pedestrian access from their site west to the Costco development. This condition was based on a staff recommendation. CCU is currently under construction and the Zoning Administrator noted that this condition was not being met.

It is clear from the previous staff report excerpt provided above that staff was viewing this development as one large project. The problem with this approach is that Costco is its own parcel and has been since May of 2014. In Michigan, municipalities generally do not have the authority to condition a site plan with required off-site improvements.

An examination of the site shows that the service road that separates Costco from the CCU site has curbs along both sides. The condition placed on the CCU site plan would require the developer to construct a curb cut with tactile warnings on the Costco property. The location of the possible curb cut does not lead to a dedicated sidewalk that would take a pedestrian to the entrance of the store. The curb cut would place pedestrians on a sidewalk that ends within approximately the first 27 feet of the 278 foot southern wall of the Costco store. The sidewalk picks up again but this occurs along the portion of the wall that contains the four bays for their auto service center, requiring pedestrians to cross these garage doors to access the store entrance. In addition, the gas station is located in this area and circulation patterns for the station may conflict with pedestrian traffic.

Pedestrian improvements are important to the overall access plan for this commercial development. Unfortunately, access to the undeveloped properties east of Costco was not requested as part of the Costco site plan and therefore was not planned accordingly on their site. A sidewalk has been constructed from Drake Road along the southern side of the private street within the development to the entrance of the Costco store. While not a direct route from CCU, it is a dedicated sidewalk that provides safe access to Costco separate from vehicular traffic.

Staff requested the Planning Commission review the possibility of removing the CCU site plan approval condition that a pedestrian connection must be established between the CCU property and the Costco property.

Mr. Boulding, Sr. made a motion to rescind the requirement for sidewalk construction between the CCU property and the Costco property. Mr. Loy seconded the motion. The motion was approved unanimously.

## **OTHER BUSINESS**

### **a. SITE PLAN REVIEW – DISCUSSION OF POSSIBLE AMENDMENTS**

Due to the absence of Ms. Johnston, this item was postponed, but Commissioners had several comments on the draft of proposed site plan ordinance amendments.

Commissioners liked the clear, user-friendly format.

Although the intent was appreciated, it was felt the proposed language for the purpose statement, including safe, efficient, environmentally sound was too subjective and perhaps need definition to be able to enforce. In addition “and to protect adjacent properties” could be used adversely by staff in some environments to stop projects.

It was pointed out that building colors are not dictated by Ordinance.

Also of concern was the language under Buildings/Structures, reading “within 100 feet of the site – it was felt this should not be included; there was concern with water supply/sanitary sewer wording, and that the wording under 4/C regarding utilities, soil erosion etc. is too technical. Also considered too technical is the wording under lighting/photometrics.

Lastly there was concern about the legality of requiring professional seals for work professionals did not personally perform and that this can violate state law.

#### **b. APPROVAL OF 2016 PLANNING COMMISSION MEETING DATES**

Attorney Porter presented the following Schedule of 2016 Meeting Dates for consideration, generally the second and fourth Thursday of the month at 7:00 p.m.

January 14, 2016	July 14, 2016
January 28, 2016	July 28, 2016
February 11, 2016	August 11, 2016
March 10, 2016	August 25, 2016
March 24, 2016	September 8, 2016
April 14, 2016	September 22, 2016
April 28, 2016	October 13, 2016
May 12, 2016	October 27, 2016
May 26, 2016	November 10, 2016
June 9, 2016	December 8, 2016
June 23, 2016	

Tentative joint meeting dates: February 16, May 17, and September 20

Mr. Loy made a motion to accept the 2016 Planning Commission Meeting Dates as presented. Ms. Jackson seconded the motion. The motion was approved unanimously.

#### **PLANNING COMMISSIONER COMMENTS**

Ms. Smith said the expertise of Mr. Schley and Mr. Antosz are valuable and hoped that although their terms are up they will return to the Board.

Mr. Antosz said it had been an honor to serve on the Board – that it is a good group to work with and wished everyone happy holidays.

Ms. Jackson said she appreciates the leadership from Attorney Porter and Chairperson Schley.

Mr. Loy wished everyone a Merry Christmas and happy new year.

Chairperson Schley complimented everyone for their patience in 2015 and noted they can all be proud of the hand they had in accomplishing good business for the Township and thanked them for their work in 2015. He wished all safe and happy holidays and looks forward to the New Year.

## **ADJOURNMENT**

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Schley adjourned the Planning Commission meeting at approximately 9:25 p.m.

Minutes prepared:  
December 14, 2015

Minutes approved:  
January 14, 2016