



7275 W. MAIN STREET, KALAMAZOO, MI 49009-9334
269-216-5220 Fax 375-7180 TDD 375-7198
www.oshtemo.org

**NOTICE
OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

**Thursday, April 28, 2016
7:00 p.m.
AGENDA**

1. Call to Order
2. Pledge of Allegiance
3. Approval of Agenda
4. Public Comment on Non-Agenda Items
5. Approval of Minutes – April 14, 2016
6. **PUBLIC HEARING: Step 1 Site Condominium Review (Mystic Heights)**
Planning Commission to consider an application from Scott Carlson, on behalf of Van Kal Partnership, LLC, for a Site Condominium, under Step 1 tentative plan approval 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 number is #3905-31-155-030).
7. **PUBLIC HEARING: Non-Conforming Uses, Structures and Land**
Planning Commission to review proposed amendments to Chapter 62 of the Township Zoning Ordinance regarding the regulation of non-conforming uses, structures and land.
8. **PUBLIC HEARING: Drive-Through Stacking Spaces**
Planning Commission to review proposed amendments to Chapter 68 of the Township Zoning Ordinance regarding Off-Street Parking of Motor Vehicles, specifically Section 68.300, Paragraph G concerning drive-through stacking spaces.
9. **PUBLIC HEARING: Area Requirements**
Planning Commission to review proposed amendments to Chapter 66 of the Township Zoning Ordinance regarding Area Requirements, Dwelling Standards and Residential Occupancy, specifically Section 66.201: Dimensional requirements for parcels, lots and buildings sites in the RR: Rural Residential District.
10. Old Business
11. Any Other Business
 - a. Parking lot aisle widths – Section 68.300
 - b. Business Research Park open space requirements – Section 39.406
12. Planning Commissioner Comments
13. 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 APRIL 14, 2016

Agenda

**PUBLIC HEARING: SPECIAL EXCEPTION USE – FLAGSTAR BANK
CONSIDERATION OF THE APPLICATION MADE BY MBA ARCHITECTS, ON
BEHALF OF MEIJER FOR A SPECIAL EXCEPTION USE AND SITE PLAN
REVIEW TO CONSTRUCT A FLAGSTAR BANK WITH DRIVE-THROUGH
SERVICE AT 6660 WEST MAIN STREET PURSUANT TO SECTION 30.407.
PARCEL # 3905-14-185-036.**

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, April 14, 2016, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

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

MEMBERS ABSENT: Kimberly Avery

Also present were Ben Clark, Zoning Administrator, James Porter, Attorney, and Martha Coash, Meeting Transcriptionist. Two other persons were in attendance.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Loy at approximately 7:00 p.m., and the “Pledge of Allegiance” was recited.

Agenda

Chairperson Loy asked if there were any additions, deletions or corrections to the Agenda. Hearing none, he asked for a motion for approval.

Mr. Antosz made a motion to approve the agenda as presented. Ms. Farmer supported the motion. The motion passed unanimously.

Public Comment on Non-Agenda Items

Chairperson Loy asked if anyone from the audience cared to comment on non-agenda items. Hearing no one, he moved to the next item on the agenda.

Approval of the Minutes of March 24, 2016

The Chairperson asked if there were any additions, deletions or corrections to the minutes of March 24, 2016.

Hearing none, Chairperson Loy asked for a motion to approve the minutes as presented.

Mr. Boulding, Sr. made a motion to approve the minutes of March 24, 2016. Mr. Antosz supported the motion. The motion was approved unanimously.

PUBLIC HEARING: SPECIAL EXCEPTION USE – FLAGSTAR BANK CONSIDERATION OF THE APPLICATION MADE BY MBA ARCHITECTS, ON BEHALF OF MEIJER FOR A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW TO CONSTRUCT A FLAGSTAR BANK WITH DRIVE-THROUGH SERVICE AT 6660 WEST MAIN STREET PURSUANT TO SECTION 30.407. PARCEL # 3905-14-185- 036.

Chairperson Loy moved to the next item on the agenda and asked Mr. Clark to review the special exception use request and site plan for the Board.

Mr. Clark said the applicant was seeking Special Exception Use (SEU) permission and site plan approval for a new bank, to be located on the last remaining vacant Meijer outlot on West Main Street. The inclusion of drive-through facilities necessitated the SEU approval process. Proposed to be located between the existing Arby's restaurant and the soon-to-be built AutoZone, which received ZBA approval in early Autumn of 2015, the new Flagstar bank will occupy what is currently the only Meijer outlot that isn't already developed or slated for construction. Approximately 1.6 acres in size, the commercially zoned parcel will be served by public water and sewer and will have a driveway connecting to Meijer's parking lot—no direct vehicle access to West Main Street is planned. 2,840 square feet in size, the structure itself will include three drive-through lanes and be oriented to face West Main.

He said the proposed project fully complies with all relevant sections of Oshtemo Township's Zoning Ordinance, including but not limited to building setbacks, number of parking spaces, landscaping, drive aisle circulation width, fire access lanes and photometrics.

Mr. Clark noted the only motorized connection will be to the Meijer parking lot to the north, and ingress and egress to the site will be handled by one two-way aisle,

running to the south and west of the building. The drive-through and bypass lanes will be one way, terminating into the two-way aisle north of the building. The applicant is proposing a non-motorized connection to the West Main shared use path and also intends to link to the Arby's path to the west, completing that property's non-motorized connection as well.

The project's site plan is in full compliance with section 75.000 of the Zoning Ordinance. The applicant plans to preserve numerous mature trees present on the property. Both the Township's Engineer and Fire Marshal reviewed the site plan; neither has any concerns at this time. All issues noted in the Engineer's initial feedback to the applicant were addressed in the revised site plan.

In summary, Mr. Clark said since the proposal satisfies all relevant sections of Oshtemo Township's Zoning Ordinance and any other applicable development requirements, Staff recommends the Planning Commission approve the proposed Flagstar Bank site plan and Special Exception Use request, free of any conditions.

Chairperson Loy asked if there were questions for Mr. Clark.

Mr. Antosz asked about plantings and light poles given last October's Planning Commission visits to area businesses and the plan to change the Ordinance. He also wondered whether the central lane, discussed at the time the AutoZone application was reviewed by the ZBA, was incorporated.

Mr. Clark said the plan was developed according to current landscape requirements; planned changes have not yet been incorporated, and don't affect this proposal or the AutoZone plan. He said Meijer had been approached regarding re-striping the drive aisle, but there is nothing binding to require that work and Meijer was not interested.

In answer to a question from Ms. Farmer regarding who owns the property lines in front of the outlots, Mr. Clark said MDOT owns the right of way and Attorney Porter said the lines were put there by the state.

Ms. Farmer also asked whether the drive-throughs provide enough stacking.

Mr. Clark said Staff was not concerned with interference; no one will have to go east to exit. If any concern develops, Staff will ask the applicant to address it.

Chairperson Loy determined there were no further questions from the Board and asked if the applicant wished to speak.

Mr. Mike Boggio, MBA Architects, 30100 Telegraph Road, Bingham Farms, MI, explained the drive-through lanes each have room for four cars to stack, which is felt to be plenty. He also noted they were careful to respect the trees between their site and

Arby's – the building was placed with retention of the trees in mind. He felt it should be a beautiful site when completed.

There were no members of the public to address the Board; Chairperson Loy closed the Public Hearing and moved to Board Deliberations.

Mr. Antosz expressed concern about left hand turns into Auto Zone, Arby's and Flagstar and complimented the effort to keep existing trees.

Ms. Farmer also was pleased with the effort to keep all the existing trees and commented that with the addition of two businesses the Meijer parking lot will need to be treated more like a road. She thought signs similar to what are in the Menard's parking lot might be appropriate.

Attorney Porter suggested looking at the original approval to be sure there is compliance regarding that issue and also suggested having the traffic officer observe traffic in the parking lot to see what might need to be addressed.

Ms. Smith noted the area was a kind of gateway and the retained trees will be beneficial to shield Meijer. She felt the parking was ok.

Hearing no further comments, Chairperson Loy asked if there was a motion to approve the special exception use and site plan as presented.

Mr. Antosz made a motion to approve the special exception use and site plan for construction of a Flagstar Bank with drive-through service at 6660 West Main Street as proposed. Ms. Jackson supported the motion. The motion was approved unanimously.

Old Business

Since there was no old business to consider, Chairperson Loy moved to the next agenda item.

Any Other Business

Ms. Jackson said she will be absent from the May 26 meeting. Ms. Smith said she may also be absent from that meeting.

PLANNING COMMISSIONER COMMENTS

Chairperson Loy reminded Commissioners of the Drake House Open House from 2:00 – 4:00 p.m. Sunday April 17.

ADJOURNMENT

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Loy adjourned the Planning Commission meeting at approximately 7:20 p.m.

Minutes prepared:
April 16, 2016

Minutes approved:
_____, 2016

April 20, 2016



Mtg Date: April 28, 2016

To: Planning Commission

From: Julie Johnston, AICP

Applicant: Scott Carlson

Owner: Van Kal Partnership, LLC

Property: Parcel #3905-31-155-030 (3839 South Van Kal Avenue)

Zoning: RR – Rural Residential District

Request: Tentative Approval of Preliminary Plat (Step One of Site Condominium Review)

Section(s): Section 290.005 of General Ordinances (Site Condominiums)

Project Name: Mystic Heights Site Condominium

PROJECT OVERVIEW

The proposed development is a 40 unit residential site condominium located on the east side of Van Kal Avenue. It is situated on 40 acres of land between Stadium Drive and M Avenue in the southwest corner of the Township. The proposed building sites vary between 24,550 square feet (0.56 acres) and 56,150 square feet (1.29 acres) in size, with an average of around 31,700 square feet (.73 acres). There is no minimum lot or building site size in the RR: Rural Residential District; the density is limited to one unit per acre without public water.

The minimum building site width is 100 feet measured at the building setback line, and none of the building sites have a frontage smaller than 100 feet. Building envelopes have been drawn in each of the proposed units showing the required setback distances. Based on setback requirements alone, there is room for construction on each parcel.

The development will be served by private well and septic systems as public water and sewer are not available in this area. County Health Department approval will be necessary prior to Step 2 approval.

PROJECT HISTORY

The Mystic Heights Site Condominium (formerly Van Kal Site Condominium) was presented to the Planning Commission between April and May of 2015 and was finally denied by the Planning Commission on May 28, 2015 by a four to three vote. This history is as follows:

- April 9th – Planning Commission held a public hearing for Step 1 of the site condominium process. Concerns were raised at the meeting with regarding to the design of the project and its lack of consideration for the topography and natural features of the site. In addition, there was some concern about the distribution of the public hearing notice. The Planning Commission tabled the application until the May 14, 2015 meeting to provide the applicant an opportunity to address their concerns and to allow the Township to re-notice the public hearing.
- May 14th – The applicant requested the Planning Commission table the public hearing until the May 28th meeting to allow them to continue making alterations to the site condominium plan. The public in attendance was allowed to speak under the agenda item “Public Comment on Non-Agenda Items.”
- May 11th – Attorney Porter provided an ordinance interpretation to the Planning Commission regarding the Statement of Purpose in the RR: Rural Residential District.
- May 28th – The applicant presented a revised site condominium plan at the May 28th Planning Commission meeting. The loop street was changed from a rectangle shape to a more pentagon shape to better reflect the topography of the site. The sizes and shapes of the building sites altered slightly to accommodate this new street shape, but the number of units proposed remained the same. In addition, two limited common elements were placed at the northeast and southeast corners of the site where no development will occur. These corner elements are to assist with the protection of natural features and steep slopes. These areas are also portions of the site that cannot be incorporated into adjacent units due to the 4:1 depth to width ratio requirement for lots. (Units cannot be four times deeper than they are wide.) The protection and preservation of these areas will need to be defined in the condominium documents.

The Planning Commission denied the application, indicating that the development maximizes the greatest number of building sites at the expense of the natural features on the site. Section 290.005.D.3.d.(2) of the Site Condominium Ordinance indicates that “*existing natural features which add value to residential developments and enhance the attractiveness of the community should be preserved, insofar as possible, in the design of the condominium project.*” The Planning Commission did not feel the design of the site condominium met the intent of this ordinance.

At the conclusion of this process, meetings were held between the applicant and representatives from the Township to discuss how to bring the tentative preliminary plan more into compliance with the intent of the ordinance. At the conclusion of these discussions, the applicant submitted the current site condominium plan for Mystic Heights for the Planning Commission’s consideration.

PROPOSED DEVELOPMENT

Section 290.005.D.3 contains standards for the tentative preliminary plan to achieve in order to be approved. These are reviewed here.

- a. **Streets** – The proposed street layout consists of public roads and has been illustrated to conform to County Road Commission standards. A street extension is shown to the north, the direction

most likely to see expansion. The extension that was currently on the plan to the east has been removed as a result of layout changes to better relate to natural features.

The Road Commission of Kalamazoo County has completed a preliminary review of the road layout and found it acceptable. A more formal review of the proposed road will occur during development of the Step 2 plan and the final engineering plans. The preliminary review by the Road Commission indicates a few adjustments to be made but nothing too substantial.

- b. **Building Sites** – There is no minimum size requirement for building sites in the RR district. Rather, development must maintain a density of no greater than one lot or building site per acre. The proposed development satisfies this requirement as 40 units are proposed on the 40 acres of development. The development creates no land locked parcels.

Building envelopes have been shown on the plan illustrating setback requirements. While the sites are large enough to accommodate a home within the setbacks, the sites will be further limited by the topography and natural features that exist, as well as the need to provide level land area for two drain fields. Accommodating development on these sites will require extensive grading and tree removal to ensure suitable space is available for home and drain field construction.

- c. **Drainage** – The plan illustrates the general flow of stormwater from many of the units to the two proposed drainage basins. For several units, either a drainage swale will be developed in the rear of the building site or the site will be graded to direct stormwater runoff. The condominium documents will need to have language reflecting this to ensure stormwater is managed as the building sites are individually developed.

As designed, it is not anticipated that the residential development would generate enough drainage to cause significant adverse impacts on surrounding properties. However, this cannot be clearly determined until specific building and grading plans are resolved for each individual building site.

- d. **Pathway** – The applicant is providing sidewalks in the development.
- e. **Landscaping** – A 20 foot landscape buffer will be maintained along Van Kal Avenue, including both canopy and understory trees and shrubs. Street trees will also be placed along the internal roadway for every 50 linear feet of frontage.
- f. **General Provisions** – The Site Condominium Ordinance contains some general provisions the plan must meet. These include the following:

1. *Privately-held reserve strips controlling access to streets shall be prohibited.*

No reserve strips are planned.

2. *Existing natural features which add value to residential development and enhance the attractiveness of the community (such as streams, watercourses, historic spots, woods, natural terrain habitat for threatened or endangered species and similar irreplaceable assets) should be preserved insofar as possible in the design of the condominium project.*

There are natural features, including steep slopes and substantial wooded areas, making up the majority of the proposed development. These were the key elements of discussion and debate during the previous Planning Commission meetings.

The difference between the current and previous condominium plans is the addition of wording to protect trees and to provide some landscape buffer areas. The new plan provides a 20-foot buffer along the rear property line of building sites 1 - 9 and 19 - 20, where trees will not be removed. This will provide some buffering to the property owners to the north and south of the subject site.

In addition, there will be a restriction to preserve trees over a 12-inch diameter, except in the building envelope, as necessary for the construction of improvements, and/or as necessary to facilitate drainage. Finally, the two limited common elements are also areas where no development will occur. The two areas combined total approximately 1.75 acres in size and have been set aside for protection of natural features and preservation of steep slopes.

- 3. Lands subject to flooding or otherwise determined by the Township Board to be uninhabitable should not be developed for residential, commercial or industrial purposes. Such lands within a condominium project may be set aside for other purposes such as parks and/or open space.*

Grading and drainage are typically resolved as part of Step 2 in the site condominium process. However, because of the concerns previously raised by the Planning Commission and because such concerns and the feedback thereof could impact site layout, staff felt it appropriate to raise the issues in Step 1 prior to extensive engineering work and detailing. Without clear grading plans, engineering details and individual site assessments from Kalamazoo County Department of Health and Community Services, the exact impact cannot be determined. However, it is fairly clear that in order to establish suitable building sites with the layout proposed and accommodate the drain fields for each property, substantial grading and tree removal will be required, particularly building sites 7 - 18 and 26 - 28.

EXISTING / SURROUNDING CONDITIONS

The existing property is vacant, and the majority of the site is heavily wooded with a mix of deciduous and evergreen trees. The western portion of the site is not as heavily wooded and appears to have been previously used as a pasture or other clearing. As the site moves east, the existing topography also becomes more intense, rising over 80 feet from the entry to the eastern boundary.

Most of the properties surrounding the subject site are larger, rural residential properties characterized by a substantial amount of open land.

AGENCY REVIEWS

The applicant has submitted the tentative preliminary site condominium plan to a variety of different offices and agencies for preliminary review.

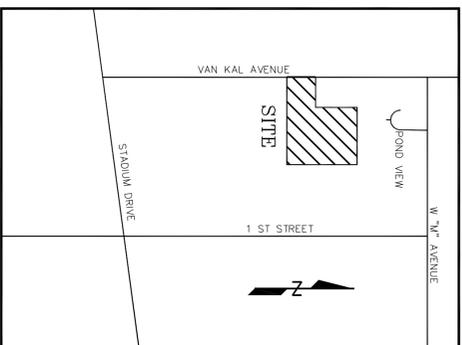
- The Oshtemo Township Fire Department has reviewed the plans and indicated they have no concerns.
- The Township Engineer has been engaged in the staff review process from the outset. He continues to express concerns related to grading and stormwater management, which will need to be more clearly addressed in Step 2 of the process.
- The Kalamazoo County Department of Health and Community Services has conducted a pre-preliminary review including a site visit and soil borings. They provided the applicant with the results of their inspection and their requirements for the on-site utility design.
- The Road Commission of Kalamazoo County has provided a preliminary approval of the road design.

CONCLUSION

The applicant has made some revisions to the proposed layout and provided some protections with regard to tree preservation on the site. The Commission will need to consider whether or not the proposed amendments to the plan satisfies the criteria of the Ordinance and responds to the concerns raised at the previous public hearings. Based on these considerations, there appears to be three possible choices of action the Planning Commission may take, as follows:

1. Make a recommendation to the Township Board approving the tentative preliminary plan for the Mystic Heights Site Condominium, as presented.
2. Make a recommendation to the Township Board to approve the tentative preliminary plan for the Mystic Heights Site Condominium, with the following conditions:
 - a. As the project develops, each individual building site will submit a grading plan as part of their building permit application that will be reviewed and approved by the Township Engineer. The grading plans will include 2-foot contours.
 - b. A 20-foot natural preservation area will be required along all building sites, including drainage basins, which abut the subject site property lines.
3. Deny the request based on the previous concerns of the Planning Commission, indicating that the current plan does not do enough to satisfy Section 290.005.D.3.d.(2) of the Site Condominium Ordinance, which states that *“existing natural features which add value to residential developments and enhance the attractiveness of the community should be preserved, insofar as possible, in the design of the condominium project.”*

TENTATIVE PRELIMINARY SITE CONDOMINIUM OF:
MYSTIC HEIGHTS SITE CONDOMINIUM
 A CONDOMINIUM SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST
 OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN



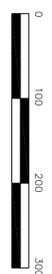
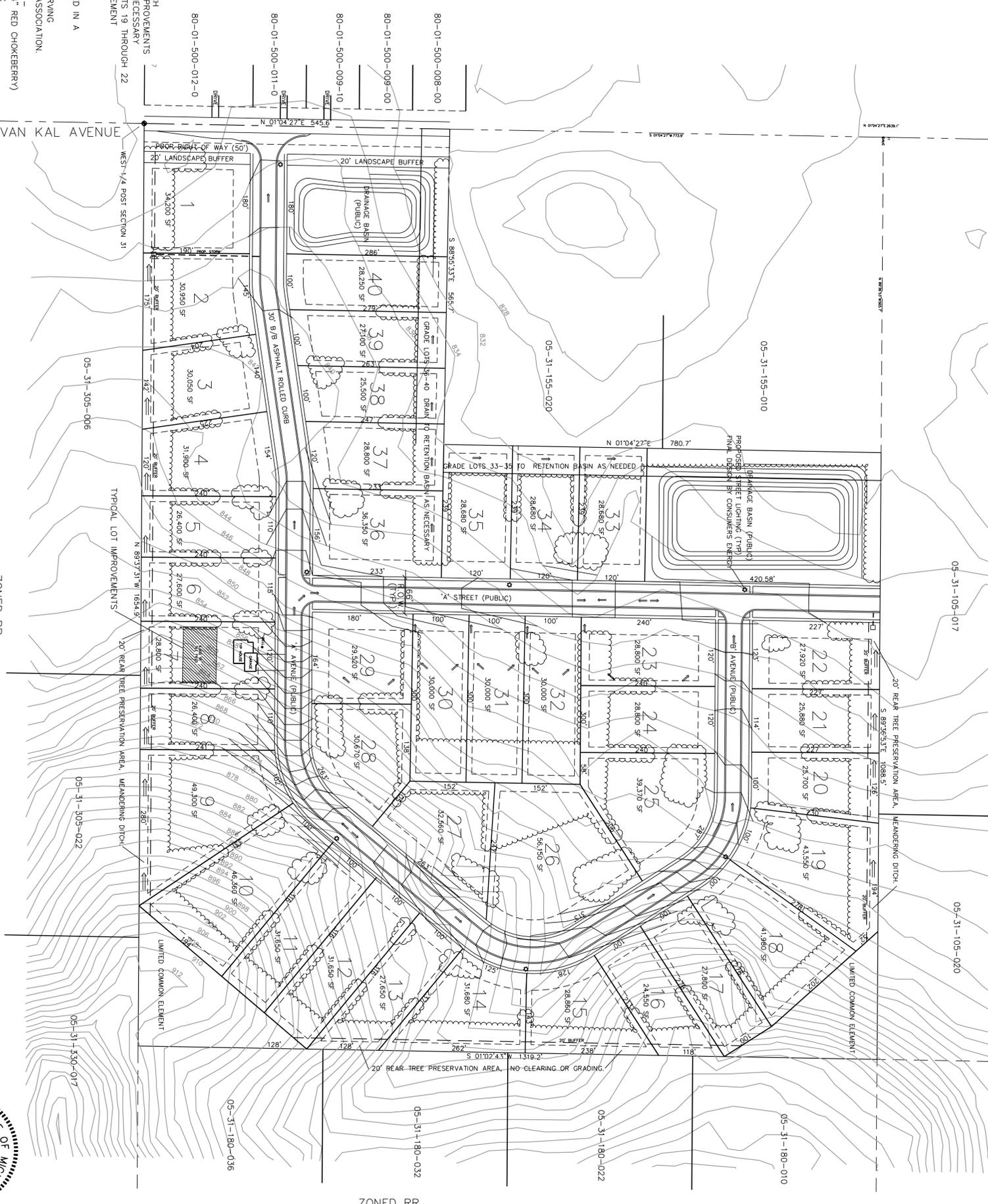
VICINITY MAP

LEGAL DESCRIPTION:
TAX PARCEL 3905-31-155-030 (3839 SOUTH VAN KAL):
 LAND SITUATED IN THE TOWNSHIP OF OSHTEMO, COUNTY OF KALAMAZOO, STATE OF MI DESCRIBED AS FOLLOWS:

THE SOUTHWEST 1/4 OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST; EXCEPT BEGINNING AT THE WEST 1/8 POST OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST; THENCE SOUTH, ALONG THE RANGE LINE, 773.5 TO A POINT WHICH IS 343.63 FEET NORTH OF THE WEST 1/8 POST OF SAID SECTION 31; THENCE EAST PERPENDICULAR TO SAID RANGE LINE, 307.5 FEET; THENCE NORTH PARALLEL WITH SAID RANGE LINE TO THE EAST AND WEST 1/8 LINE OF SAID NORTHWEST FRACTIONAL 1/4; THENCE WESTERLY ALONG SAME, 565.7 FEET TO THE PLACE OF BEGINNING, CONTAINING 40 ACRES MORE OR LESS

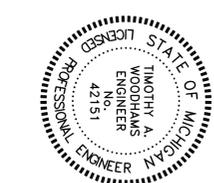
NOTES:

1. MYSTIC HEIGHTS SITE CONDOMINIUM INCLUDES 40 SINGLE FAMILY RESIDENTIAL UNITS ON 40 ACRES OF LAND
2. UNITS DIMENSIONS SHALL CONFORM TO OSHTEMO TOWNSHIP RR ZONING REQUIREMENTS
3. STORM SEWER WITHIN THE PUBLIC ROADWAYS SHALL BE DEDICATED AS PUBLIC AND ARE SUBJECT TO APPROVAL BY THE KALAMAZOO COUNTY ROAD COMMISSION
4. UNITS TO BE SERVED BY ON SITE WATER AND PRIVATE SANITARY SYSTEMS APPROVED BY THE KALAMAZOO COUNTY HEALTH DEPARTMENT.
5. PUBLIC STORMWATER RETENTION BASIN SHALL BE DESIGNED IN ACCORDANCE WITH THE KALAMAZOO COUNTY DRAIN COMMISSION STANDARDS AND DEDICATED AS A COUNTY DRAIN
6. CONTOURS SHOWN ARE BASED ON KALAMAZOO COUNTY GIS SYSTEM INFORMATION
7. STREET NAMES ARE SUBJECT TO REVIEW, APPROVAL AND REVISION.
8. RIGHT TURN LANE AND TAPER REQUIRED. AVG. DAILY TRAFFIC LESS THAN 3500 VPD
9. KATS TRAFFIC COUNT DATA BASE INDICATES 2,435 VPD ON VAN KAL, BETWEEN STADIUM DRIVE AND WEST M AVENUE
9. SITE IS WOODED. SITE CONDOMINIUM PUBLIC ROADWAY CONSTRUCTION WILL REQUIRE CLEARING AND GRUBBING OF KCRG ROAD RIGHT OF WAY AND UTILITY EASEMENTS IN ACCORDANCE WITH THE CONSTRUCTION POLICY OF THE KCRG.
10. STREET LIGHTING TO BE DESIGNED BY CONSUMERS ENERGY AND APPROVED BY THE TOWNSHIP ENGINEER.
11. 5' PEDESTRIAN SIDEWALKS SHALL BE CONSTRUCTED ALONG THE RIGHT OF WAY AS EACH HOME IS BUILT. 80-01-500-012-0
12. ESTIMATED GRADING LIMITS SHOWN FOR KCRG AND KADC REQUIREMENTS
13. DEVELOPER TO INCLUDE MASTER DEED LANGUAGE RESTRICTING THE REMOVAL OF ALL TREES OVER 12 INCH DIAMETER UNLESS (i) WITHIN BUILDING ENVELOPES, (ii) AS NECESSARY FOR CONSTRUCTION OF LOT IMPROVEMENTS (INCLUDING DWELLING, DRIVEWAYS, WELLS, SEPTIC, UTILITY CONNECTIONS AND THE LIKE) AND/OR (iii) AS NECESSARY TO FACILITATE DRAINAGE, WITH THE EXCEPTION OF PRESERVE AREAS ON LOTS 1 THROUGH 9 AND ON LOTS 19 THROUGH 22 WHICH AREAS SHALL CONTAIN A MEANDERING DRAINAGE DITCH WESTERLY TO A CATCH BASIN IN AN EASEMENT TO THE KALAMAZOO COUNTY DRAIN COMMISSIONER
14. CONCEPTUAL LIMITS OF CLEARING
14. STORM PIPE AND CATCH BASINS LOCATED OUTSIDE OF THE PUBLIC ROAD RIGHT OF WAY WILL BE LOCATED IN A OF WAY WILL 20 FOOT EASEMENT AND DEDICATED TO THE KALAMAZOO COUNTY DRAIN COMMISSIONER
15. LIMITED COMMON ELEMENTS ALONG EASTERN BOUNDARY SHALL REMAIN IN THEIR NATURAL STATE, PRESERVING THE EXISTING NATURAL FEATURES. THESE AREAS TO BE OWNED AND MAINTAINED BY THE HOMEOWNERS ASSOCIATION.
16. SOUTH VAN KAL 20 FOOT LANDSCAPE BUFFER TO BE TYPE "C", PER SECTION 75.130. EVERY 100 FEET - 2 CANOPY TREES (2" CALIPER RED OAK), 3 UNDER STORY TREES (8"-10" DOGWOOD) AND 4 SHRUBS (24" RED CHOKEBERRY) EXISTING CANOPY TREES TO BE CREDITED TOWARDS TREE PLANTING REQUIREMENTS PER SECTION 75.130C
17. INTERNAL STREET TREES - ONE CANOPY TREE (SUGAR MAPLE) FOR EVERY 50 FEET OF ROAD FRONTAGE OR PORTION THEREOF.



OWNER/APPLICANT:
 VAN KAL PARTNERSHIP L.L.C.
 c/o SCOTT CARLSON
 6146 WEST MAIN ST
 KALAMAZOO, MI 49009
 269-353-4700

ZONING INFORMATION:
 DENSITY: 1 UNIT/ACRE
 MIN. LOT WIDTH: 100'
 SETBACKS: FRONT: 30'
 REAR: 15'
 SIDE: 10'
 ZONING DESIGNATION: "RR" RESIDENTIAL



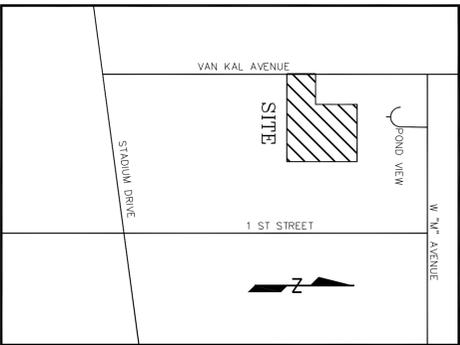
DESIGNED BY:	DATE:
TAW	1/23/15
DRAWN BY:	DATE:
TAW	1/23/15
CHECKED BY:	DATE:
TAW	1/23/15
HORIZ. SCALE:	" = 100'
VERT. SCALE:	" = 100'
FILE:	1005-3
SHEET NUMBER:	1 of 1

TENTATIVE PRELIMINARY SITE CONDOMINIUM
MYSTIC HEIGHTS
 SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST
 OSHTEMO TWP., KALAMAZOO COUNTY

CIVICA ENGINEERING PLLC
 1503 East Centre, Suite C • Portage, Michigan 49024
 (269) 760-6688

DATE:	BY:	REVISIONS:
3/19/15	TAW	TOWNSHIP REVIEW
5/15/15	TAW	TOWNSHIP REVIEW
12/11/15	TAW	CONCEPTUAL CLEARING LIMITS
3/20/16	TAW	NATURALIZED AREAS
4/12/16	TAW	4/5/16 TWP REVIEW

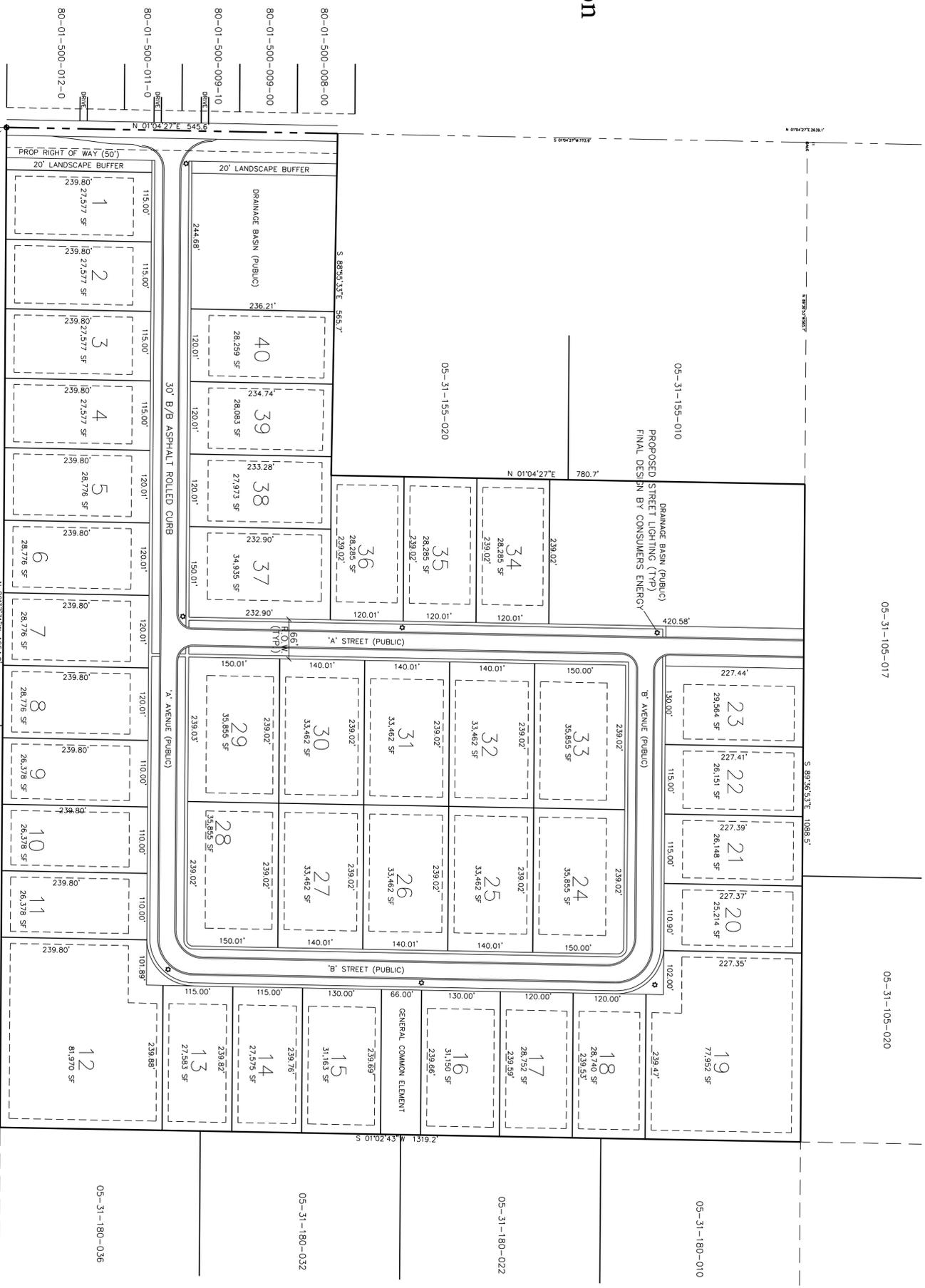
**PREVIOUS SITE
CONDOMINIUM
PLANS**



VICINITY MAP

Original Plan Submitted to Planning Commission on April 9, 2015

TENTATIVE PRELIMINARY SITE CONDOMINIUM OF: VAN KAL SITE CONDOMINIUM A CONDOMINIUM SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN ZONED RR



LEGAL DESCRIPTION:
TAX PARCEL 3905-31-155-030 (3839 SOUTH VAN KAL):
LAND SITUATED IN THE TOWNSHIP OF OSHTEMO, COUNTY OF KALAMAZOO, STATE OF MI DESCRIBED AS FOLLOWS:

THE SOUTHWEST 1/4 OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST; EXCEPT BEGINNING AT THE WEST 1/8 POST OF THE NORTHWEST FRACTIONAL 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST; THENCE SOUTH, ALONG THE RANGE LINE, 773.5 TO A POINT WHICH IS 543.65 FEET NORTH OF THE WEST 1/4 POST OF SAID SECTION 31; THENCE EAST, PERPENDICULAR TO SAID RANGE LINE, 565.7 FEET TO THE EAST AND NORTH PARALLEL WITH SAID RANGE LINE TO THE EAST AND WEST 1/8 LINE OF SAID NORTHWEST FRACTIONAL 1/4; THENCE WESTERLY ALONG SAID 565.7 FEET TO THE PLACE OF BEGINNING, CONTAINING 40 ACRES MORE OR LESS

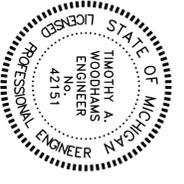
NOTES:

1. VAN KAL SITE CONDOMINIUM INCLUDES 40 SINGLE FAMILY RESIDENTIAL UNITS ON 40 ACRES OF LAND
2. UNITS DIMENSIONS SHALL CONFORM TO OSHTEMO TOWNSHIP RR ZONING REQUIREMENTS
3. STORM SEWER WITHIN THE PUBLIC ROADWAYS SHALL BE DEDICATED AS PUBLIC AND ARE SUBJECT TO APPROVAL BY THE KALAMAZOO COUNTY ROAD COMMISSION
4. UNITS TO BE SERVED BY ON SITE WATER AND PRIVATE SANITARY SYSTEMS APPROVED BY THE KALAMAZOO COUNTY HEALTH DEPARTMENT.
5. THE KALAMAZOO COUNTY DRAIN COMMISSION STANDARDS AND DEDICATED AS A COUNTY DRAIN
6. CONTOURS SHOWN ARE BASED ON KALAMAZOO COUNTY GIS SYSTEM INFORMATION
7. STREET NAMES ARE SUBJECT TO REVIEW, APPROVAL AND REVISION.
8. RIGHT TURN LANE AND TAPER REQUIRED. AVG. DAILY TRAFFIC LESS THAN 3500 VPD KATS TRAFFIC COUNT DATA BASE INDICATES 2,435 VPD ON VAN KAL, BETWEEN STADIUM DRIVE AND WEST M AVENUE
9. SITE IS WOODED. SITE CONDOMINIUM PUBLIC ROADWAY CONSTRUCTION WILL REQUIRE CLEARING AND GRUBBING OF KGRD ROAD RIGHT OF WAY AND UTILITY EASEMENTS IN ACCORDANCE WITH THE CONSTRUCTION POLICY OF THE KGRD.
10. STREET LIGHTING TO BE DESIGNED BY CONSUMERS ENERGY AND APPROVED BY THE TOWNSHIP ENGINEER.
11. 5' PEDESTRIAN SIDEWALKS SHALL BE CONSTRUCTED ALONG THE RIGHT OF WAY AS EACH HOME IS BUILT.



OWNER/APPLICANT:
TO BE NAMED LLC.
c/o SCOTT CARLSON
6146 WEST MAIN ST
KALAMAZOO, MI 49009
269-353-4700

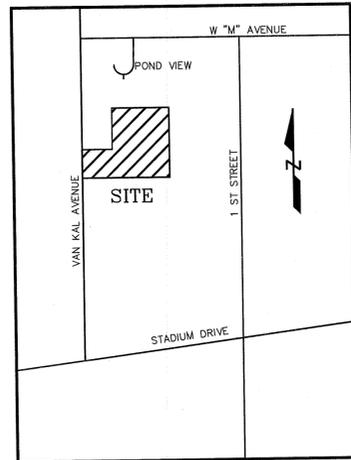
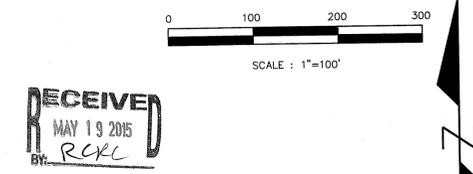
ZONING INFORMATION:
DENSITY: 1 UNIT/ACRE
MIN. LOT WIDTH: 100'
SETBACKS: FRONT: 30'
REAR: 15'
SIDE: 10'
ZONING DESIGNATION: "RR" RESIDENTIAL



DESIGNED BY: DATE: 1/23/15		DRAWN BY: DATE: 1/23/15		CHECKED BY: DATE: 1/23/15		HORZ. SCALE: 1" = 100'		VERT. SCALE:		FILE: 1005-3		SHEET NUMBER: 1 of 2	
TENTATIVE PRELIMINARY SITE CONDOMINIUM													
OSHTEMO VAN KAL													
SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST													
OSHTEMO TWP., KALAMAZOO COUNTY													
CIVICA ENGINEERING PLLC													
1503 East Centre, Suite C • Portage, Michigan 49024													
(269) 760-6688													
DATE: 3/19/15		BY: TAW		REVISIONS:		TOWNSHIP REVIEW							

TENTATIVE PRELIMINARY SITE CONDOMINIUM OF: MYSTIC HEIGHTS SITE CONDOMINIUM

A CONDOMINIUM SUBDIVISION IN THE SOUTHWEST 1/4 OF SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST
OSHTEMO TOWNSHIP, KALAMAZOO COUNTY, MICHIGAN



VICINITY MAP

1st REVISED SITE CONDOMINIUM PLAN Presented to Planning Commission on May 28, 2015

LEGAL DESCRIPTION:
TAX PARCEL 3905-31-155-030 (3839 SOUTH VAN KAL):
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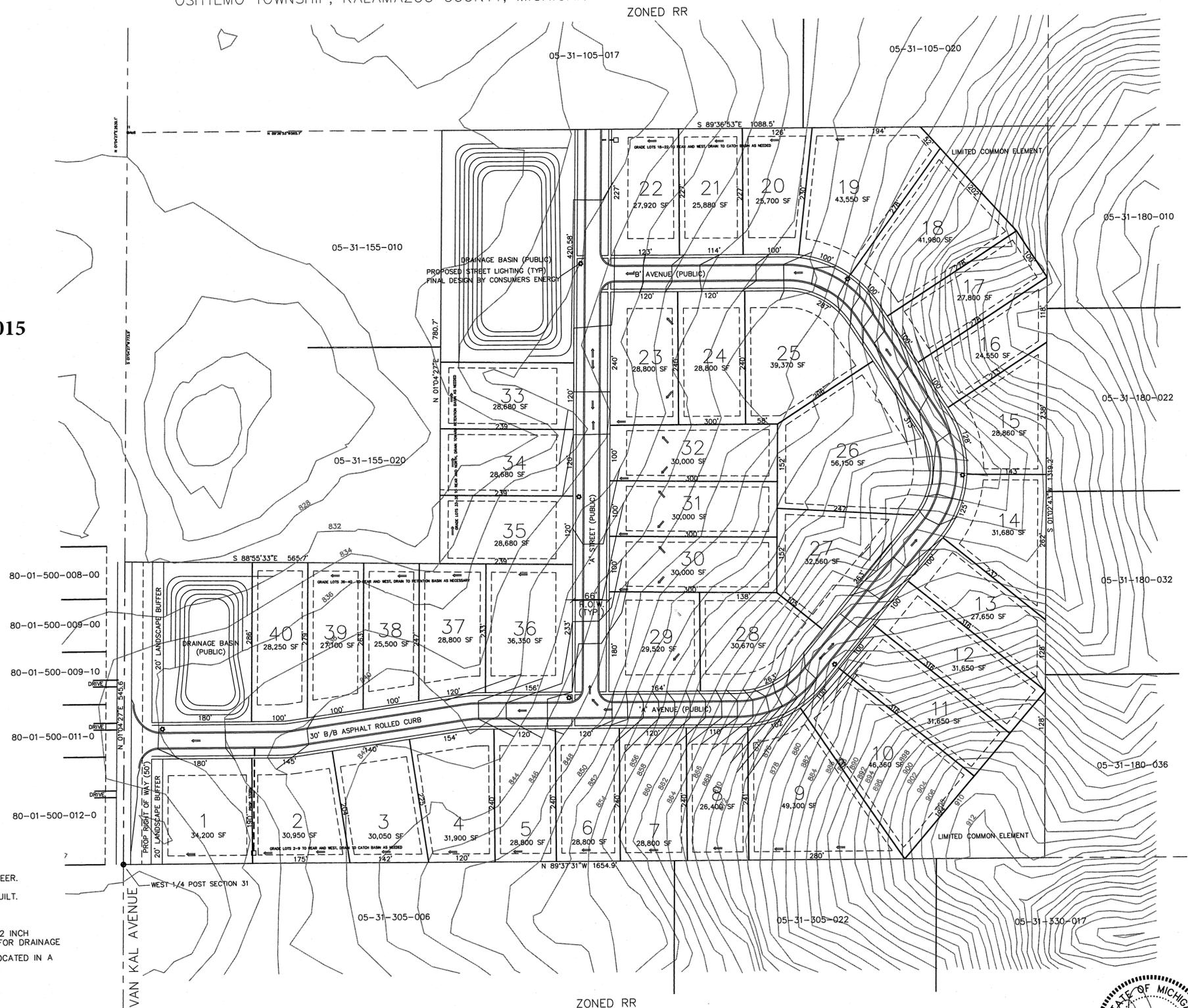
NOTES:

1. MYSTIC HEIGHTS SITE CONDOMINIUM INCLUDES 40 SINGLE FAMILY RESIDENTIAL UNITS ON 40 ACRES OF LAND
2. UNITS DIMENSIONS SHALL CONFORM TO OSHTEMO TOWNSHIP RR ZONING REQUIREMENTS
3. STORM SEWER WITHIN THE PUBLIC ROADWAYS SHALL BE DEDICATED AS PUBLIC AND ARE SUBJECT TO APPROVAL BY THE KALAMAZOO COUNTY ROAD COMMISSION
4. UNITS TO BE SERVED BY ON SITE WATER AND PRIVATE SANITARY SYSTEMS APPROVED BY THE KALAMAZOO COUNTY HEALTH DEPARTMENT.
5. PUBLIC STORMWATER RETENTION BASIN SHALL BE DESIGNED IN ACCORDANCE WITH THE KALAMAZOO COUNTY DRAIN COMMISSION STANDARDS AND DEDICATED AS A COUNTY DRAIN
6. CONTOURS SHOWN ARE BASED ON KALAMAZOO COUNTY GIS SYSTEM INFORMATION
7. STREET NAMES ARE SUBJECT TO REVIEW, APPROVAL AND REVISION.
8. RIGHT TURN LANE AND TAPER REQUIRED. AVG. DAILY TRAFFIC LESS THAN 3500 VPD KATS TRAFFIC COUNT DATA BASE INDICATES 2,435 VPD ON VAN KAL, BETWEEN STADIUM DRIVE AND WEST M AVENUE
9. SITE IS WOODED. SITE CONDOMINIUM PUBLIC ROADWAY CONSTRUCTION WILL REQUIRE CLEARING AND GRUBBING OF KCRD ROAD RIGHT OF WAY AND UTILITY EASEMENTS IN ACCORDANCE WITH THE CONSTRUCTION POLICY OF THE KCRD.
10. STREET LIGHTING TO BE DESIGNED BY CONSUMERS ENERGY AND APPROVED BY THE TOWNSHIP ENGINEER.
11. 5' PEDESTRIAN SIDEWALKS SHALL BE CONSTRUCTED ALONG THE RIGHT OF WAY AS EACH HOME IS BUILT.
12. ESTIMATED GRADING LIMITS SHOWN FOR KCRD AND KCDC REQUIREMENTS
13. DEVELOPER TO INCLUDE MASTER DEED LANGUAGE RESTRICTING THE REMOVAL OF ALL TREES OVER 12 INCH DIAMETER UNLESS REQUIRED FOR CONSTRUCTION OF LOT IMPROVEMENTS AND GRADING NECESSARY FOR DRAINAGE
14. STORM PIPE AND CATCH BASINS LOCATED OUTSIDE OF THE PUBLIC ROAD RIGHT OF WAY WILL BE LOCATED IN A 20' OF WAY WILL 20 FOOT EASMENT AND DEDICATED TO THE KALAMAZOO COUNTY DRAIN COMMISSIONER

ZONING INFORMATION:

OWNER/APPLICANT:
VAN KAL PARTNERSHIP L.L.C.
c/o SCOTT CARLSON
6146 WEST MAIN ST
KALAMAZOO, MI 49009
269-353-4700

DENSITY: 1 UNIT/ACRE
MIN. LOT WIDTH: 100'
SETBACKS:
FRONT: 30'
REAR: 15'
SIDE: 10'
ZONING DESIGNATION: "RR" RESIDENTIAL



REVISIONS:	DATE:	BY:	TOWNSHIP REVIEW:
	5/19/15	TAW	TAW
	5/15/15	TAW	TAW

CIMCA ENGINEERING PLLC
1505 East Centre, Suite C • Portage, Michigan 49924
(269) 760-6688

TENTATIVE PRELIMINARY SITE CONDOMINIUM
MYSTIC HEIGHTS
SECTION 31, TOWN 2 SOUTH, RANGE 12 WEST
OSHTEMO TWP., KALAMAZOO COUNTY

DESIGNED BY:	DATE:
TAW	1/23/15
DRAWN BY:	DATE:
TAW	1/23/15
CHECKED BY:	DATE:
TAW	1/23/15
HORZ. SCALE:	1" = 100'
VERT. SCALE:	
FILE:	1005-3
SHEET NUMBER:	



PREVIOUS STAFF REPORTS

April 2, 2015



Mtg Date: April 9, 2015

To: Planning Commission

From: Gregory Milliken, AICP
Karen High

Applicant: Tim Woodhams (Civica Engineering)

Owner: MAR-BO Investments Inc.

Property: Parcel #3905-31-155-030 (3839 South Van Kal Avenue)

Zoning: RR – Rural Residential District

Request: Tentative Approval of Preliminary Plat (Step One of Site Condominium Review)

Section(s): Section 290.005 of General Ordinances (Site Condominiums)

Project Name: Van Kal Site Condominium

The proposed development is a 40 lot residential site condominium located on the east side of Van Kal Avenue. It is located on 40 acres of land between Stadium Drive and M Avenue in the southwest corner of the Township.

SITE CONDOMINIUM REVIEW

A few months ago, the Planning Commission conducted a step one review of a subdivision plat. The subdivision ordinance lays out a rather strict process for approval of a subdivision plan as it is spelled out in State law. The procedures for site condominium are not spelled out in the state law, and the Township Ordinance has been drafted such that the process for site condominiums is quite similar to subdivisions.

Like with platted subdivisions, the site condominium process involves three steps before the Township. This is the first step. The purpose is to evaluate the proposal for compliance with zoning requirements and consistency with the overall requirements of the Ordinance. This allows the applicant to gain a broad understanding of where the project stands and any changes that may need to be made before undertaking the time and expense of the detailed engineering required in step two. Step one approval requires a public hearing at the Planning Commission and then Township Board approval.

Step two then provides the detailed engineering that accompanies the road plans, grading, stormwater drainage and detention, and utilities. It also includes more specific approvals from a variety of other

agencies. Step two only requires Township Board approval. Following this approval, construction of the infrastructure can begin.

Step three also only requires Township Board approval. It is the final step and occurs once all the infrastructure is completed. Step three allows for review and approval of legal documents, agency approvals, and as-built plans. It is the Township's chance to confirm everything was done according to the approved plan and is in compliance with the appropriate standard.

PROPOSED DEVELOPMENT

The proposed 40 unit site condominium occupies 40 acres in the southwest corner of the Township in the RR district. The proposed lots vary between 25,214 square feet (0.58 acres) and 81,970 square feet (1.88 acres). There is no minimum lot size in the RR district; the density is limited to one unit per acre. The minimum lot width is 100 feet measured at the building setback line. With the exception of the two largest lots located on corners that have frontage just greater than 100 feet, proposed frontage of lots is no less than 110 feet.

Building envelopes have been drawn in each of the proposed units showing the required setback distances. Based on setback requirements alone, there is room for development on each parcel.

The development will be served by private well and septic systems as public water and sewer are not available in this area.

A new public road is proposed to serve the proposed development. Built to Road Commission standards, the road provides access to the development from Van Kal and incorporates a large loop to serve all proposed units. To satisfy connectivity requirements, the road has been extended to the north property line to serve future development. (A temporary cul-de-sac or other approved turnaround should be located at the terminus of the road extension.)

An additional extension has been provided to the east. Development to the east would require assembly of several parcels, or at least the rear portions of several parcels, and would encounter topographic issues as it heads south to the largest undeveloped parcel. Therefore, construction of the road extension has been deferred to a later date with construction commitment to be provided for in the condominium documents.

Sidewalks are being provided throughout the development, although the plan should be amended to show sidewalks extending north along the proposed street extension. Street lights are also shown in the development, and the applicant has agreed to participate in the Township's street light district.

EXISTING / SURROUNDING CONDITIONS

The existing property is vacant, and the majority of the site is heavily wooded with a mix of oak and evergreen trees. The western portion of the site is not as heavily wooded and appears to have been previously used as a pasture or other clearing.

As the site moves east, the existing topography also becomes more intense rising over 80 feet from the entry to the eastern boundary. Several proposed units along the eastern boundary and in the southeast

corner have existing slopes exceeding 10% that make development challenging. Extensive grading will be necessary to accommodate a building site, flat areas for the required drain fields, and any necessary drainage controls. Extensive grading will also be necessary for the road and sidewalks as the proposed layout appears to disregard the topography of the site. With all of this grading will come removal of trees.

A conceptual plan for stormwater has been provided illustrating that drainage from the proposed road will be directed through stormwater pipes to one of two drainage basins on the site. General flow of stormwater from several units has been noted. For several units, it appears some form of drainage structure or grading will occur in the rear to direct drainage as depicted on the plans.

Most of the properties surrounding the subject property are larger, rural residential properties characterized by a substantial amount of open land. It is not anticipated that the residential development would generate substantial enough drainage to cause significant adverse impacts on these surrounding properties. However, this cannot be determined for certain until specific building and grading plans are determined for the home to be built on the unit.

AGENCY REVIEWS

The applicant has submitted the conceptual site condominium plan to a variety of different offices and agencies for preliminary review.

- The Oshtemo Township Fire Department has reviewed the plans and indicated they have no concerns.
- The Township Engineer has been engaged in the staff review process from the outset. He did not submit a formal review memo as there was not a substantial amount of information provided for his review. (It will come at the next step.) His input as to the feasibility of development and challenges posed by the topography and layout was critical to our understanding and the development of this memo.
- The Road Commission of Kalamazoo County has provided a preliminary review of the road layout. A more formal review will occur during development of the step 2 plan and the final engineering plans. The preliminary review indicates a few adjustments to be made but nothing that appears too substantial.
- The Kalamazoo County Department of Health and Community Services has conducted a pre-preliminary review including a site visit and soil borings. They provided the applicant with the results of their inspection and their requirements for the on-site utility design.

STANDARDS OF APPROVAL

Section 290.005.D.3 contains standards for the preliminary plan to achieve in order to be approved. These are reviewed here.

- a. **Streets** – The proposed street layout consists of public roads and has been illustrated to conform to County Road Commission standards. Street extensions are shown to the north and

east to provide for future development connections. The extension to the north will need a cul-de-sac or other turnaround capacity, while the extension to the east will be constructed at a later date if necessary. Connections, dimensions, and street lighting all appear to conform to ordinance standards.

- b. **Lots** – There is no minimum size requirement for building sites in the RR district. Rather development must maintain a density of no greater than one lot per acre. The proposed development satisfies this requirement as 40 units are proposed on the 40 acres of development. The development creates no land locked parcels.

Building envelopes have been shown on the site plan illustrating setback requirements, and a potential site layout has been illustrated for one of the units on sheet 2. While the sites are large enough to accommodate a home within the setbacks, the sites will be further limited by the topography and natural features that exist as well as the need to provide level land area for two drain fields. Accommodating development on these sites will require extensive grading and tree removal to ensure suitable space is available for home construction.

- c. **Pathway** – The applicant is providing sidewalks in the development.
- d. **General Provisions** – There are no reserve strips in the development. There is no land subject to flooding in the development area.

There are, however, natural features including steep slopes and substantial tree areas making up the majority of the proposed development. Without additional engineering details, particularly considering the detailed grading and stormwater plans for the property and each individual unit, the exact impact cannot be determined. However, it is fairly clear that in order to establish suitable building sites with the layout proposed and accommodate the drainfields for each property, substantial grading and tree removal will be required on many of the properties.

CONCLUSION

Although a conceptual plan, there is a lot here for the Planning Commission to consider. This is the opportunity to provide feedback and voice concerns so that adjustments can be made prior to substantial investment being made in the final design process.

To make this easier, the issue can be narrowed down to two sets of questions.

First, does the plan satisfy the strict, quantitative requirements of the Ordinance? The density and frontage requirements are satisfied. Public roads are properly dimensioned. The required amenities – street lights, sidewalks, greenspace – have been provided.

The second set of questions however are more subjective and more difficult to quantify. Site condominiums are required to also satisfy the criteria for site plan approval (Section 82.800 of the Zoning Ordinance.) Many of these address impacts on adjacent properties and the surrounding community. For example, Section 82.800(c) states “that as many features of the landscape shall be

retained as possible...” Section 82.800(h) includes a statement encouraging lands be used in accordance with their character and adaptability.

With the information available, will the proposed development have an adverse impact on adjacent properties due to runoff or destruction of natural features? Would an alternative layout, such as open space preservation design, that was more respectful to the natural features and topography have a lesser impact on adjacent properties and perhaps on the character of the community?

Any action on the proposal should be conditioned on the following:

- a. The development shall receive the necessary approvals from the Kalamazoo County Department of Health for provision of private water and sanitary septic service on each building site.
- b. Tree removal shall be minimized to the extent possible during building site development.
- c. The condominium documents and/or other legal agreements shall be put in place to the satisfaction of the Township Attorney assuring the construction of the road extension to the east at the time of development of adjacent properties.
- d. Sidewalks shall be extended north along ‘A’ Street to the north boundary line of the subject property and a turnaround area provided, at least on a temporary basis until the road is extended.

May 8, 2015



Mtg Date: May 14, 2015

To: Planning Commission

From: Gregory Milliken, AICP
Karen High

Applicant: Tim Woodhams (Civica Engineering)

Owner: MAR-BO Investments Inc.

Property: Parcel #3905-31-155-030 (3839 South Van Kal Avenue)

Zoning: RR – Rural Residential District

Request: Tentative Approval of Preliminary Plat (Step One of Site Condominium Review)

Section(s): Section 290.005 of General Ordinances (Site Condominiums)

Project Name: Van Kal Site Condominium, continued

UPDATE

As you may recall, this request was tabled at the April Planning Commission due to issues with the public hearing notice. The notice has been published again and distributed properly for this hearing. There are no changes proposed to the request and no new or additional information provided, as of right now. A meeting is scheduled with the applicant and Township staff next week, which could result in new information or changes. We will send you any updates via email if necessary prior to next week's meeting. In the interim, we have provided a copy of last month's staff report below.

INTRODUCTION

The proposed development is a 40 lot residential site condominium located on the east side of Van Kal Avenue. It is located on 40 acres of land between Stadium Drive and M Avenue in the southwest corner of the Township.

SITE CONDOMINIUM REVIEW

A few months ago, the Planning Commission conducted a step one review of a subdivision plat. The subdivision ordinance lays out a rather strict process for approval of a subdivision plan as it is spelled out in State law. The procedures for site condominium are not spelled out in the state law, and the Township Ordinance has been drafted such that the process for site condominiums is quite similar to subdivisions.

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- b. **Lots** – There is no minimum size requirement for building sites in the RR district. Rather development must maintain a density of no greater than one lot per acre. The proposed development satisfies this requirement as 40 units are proposed on the 40 acres of development. The development creates no land locked parcels.

Building envelopes have been shown on the site plan illustrating setback requirements, and a potential site layout has been illustrated for one of the units on sheet 2. While the sites are large enough to accommodate a home within the setbacks, the sites will be further limited by the topography and natural features that exist as well as the need to provide level land area for two drain fields. Accommodating development on these sites will require extensive grading and tree removal to ensure suitable space is available for home construction.

- c. **Pathway** – The applicant is providing sidewalks in the development.
- d. **General Provisions** – There are no reserve strips in the development. There is no land subject to flooding in the development area.

There are, however, natural features including steep slopes and substantial tree areas making up the majority of the proposed development. Without additional engineering details, particularly considering the detailed grading and stormwater plans for the property and each individual unit, the exact impact cannot be determined. However, it is fairly clear that in order to establish suitable building sites with the layout proposed and accommodate the drainfields for each property, substantial grading and tree removal will be required on many of the properties.

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- d. Sidewalks shall be extended north along ‘A’ Street to the north boundary line of the subject property and a turnaround area provided, at least on a temporary basis until the road is extended.

May 21, 2015



Mtg Date: May 28, 2015

To: Planning Commission

From: Gregory Milliken, AICP

Applicant: Tim Woodhams (Civica Engineering)

Owner: Van Kal Partnership, LLC

Property: Parcel #3905-31-155-030 (3839 South Van Kal Avenue)

Zoning: RR – Rural Residential District

Request: Tentative Approval of Preliminary Plat (Step One of Site Condominium Review)

Section(s): Section 290.005 of General Ordinances (Site Condominiums)

Project Name: Mystic Heights Site Condominium (formerly Van Kal Site Condominium)

UPDATE

As you may recall, this request was tabled at the April 9th Planning Commission meeting due to issues with the public hearing notice. It was subsequently tabled again at the May 14th Planning Commission meeting at the applicant's request due to the need for additional time to address the comments and feedback received at the first public hearing. Because the public hearing was properly noticed for May 14 and then tabled to the May 28th meeting, there was no requirement to re-notice the meeting. Nonetheless, due to the previous challenges with noticing and the high interest in this request, letters were mailed to all parties who previously received a public notice informing them of the May 28th meeting.

CHANGES SINCE LAST MEETING

As you will note reviewing the preliminary plan, the layout for the development has been changed. The road layout has been modified to better reflect the topography of the site and reduce the amount of grading necessary for infrastructure development. The number of units has remained the same and other details of the development are generally similar to previously proposed. The biggest issue with the previous layout was the lack of regard for the existing natural features, particularly the topography of the site and the trees.

Here are a few of the other specific items that have evolved or changed related to the request or in response to issues raised at the April 9th public hearing:

- The ownership has changed as Van Kal Partnership, LLC has closed on the property since the time of the initial application. Van Kal Partnership has always been the agent behind the application, submitting with permission of the previous owner. A letter was submitted indicating the change in control.
- Township Engineer Marc Elliott has submitted a formal review and written report for Planning Commission review and consideration. This was not prepared for the April meeting but was completed with the additional time provided. It should be noted that the review is based on the previous layout and has not yet been updated to reflect the new design concept.
- The applicants have decided upon a name for the proposed development: Mystic Heights.
- The Township Attorney has prepared a memo defining the details the Planning Commission should consider and issues that are outside the bounds of its authority that was distributed prior to the May 14 meeting.

(The balance of the review memo below is the same as was previously presented with various details updated as necessary to reflect the new layout.)

INTRODUCTION

The proposed development is a 40 lot residential site condominium located on the east side of Van Kal Avenue. It is located on 40 acres of land between Stadium Drive and M Avenue in the southwest corner of the Township.

SITE CONDOMINIUM REVIEW

The procedures for review and approval of a site condominium are not spelled out in state statutes as they are for subdivision plats. However, the Township Ordinance for site condominiums has been drafted such that the process for site condominiums is quite similar to subdivisions.

Like with platted subdivisions, the site condominium process involves three steps before the Township. This is the first step. The purpose is to evaluate the proposal for compliance with zoning requirements and consistency with the overall requirements of the Ordinance. This allows the applicant to gain a broad understanding of where the project stands and any changes that may need to be made before undertaking the time and expense of the detailed engineering required in step two. Step one approval requires a public hearing at the Planning Commission and then Township Board approval.

Step two then provides the detailed engineering that accompanies the road plans, grading, stormwater drainage and detention, and utilities. It also includes more specific approvals from a variety of other agencies. Step two only requires Township Board approval. Following this approval, construction of the infrastructure can begin.

Step three also only requires Township Board approval. It is the final step and occurs once all the infrastructure is completed. Step three allows for review and approval of legal documents, agency approvals, and as-built plans. It is the Township's chance to confirm everything was done according to the approved plan and is in compliance with the appropriate standard.

PROPOSED DEVELOPMENT

The proposed 40 unit site condominium occupies 40 acres in the southwest corner of the Township in the RR district. The proposed lots vary between 24,550 square feet (0.56 acres) and 56,150 square feet (1.29 acres). There is no minimum lot size in the RR district; the density is limited to one unit per acre. The minimum lot width is 100 feet measured at the building setback line, and no lots have frontage smaller than 100 feet.

Building envelopes have been drawn in each of the proposed units showing the required setback distances. Based on setback requirements alone, there is room for development on each parcel.

The development will be served by private well and septic systems as public water and sewer are not available in this area. County Health Department approval will be necessary prior to Step II approval.

A new public road is proposed to serve the proposed development. Built to Road Commission standards, the road provides access to the development from Van Kal Street and incorporates a large loop to serve all proposed units. This loop now has more of a pentagon shape versus the previous rectangle shape to better reflect the topography of the site.

To satisfy connectivity requirements, the road has been extended to the north property line to serve future development. (A temporary cul-de-sac or other approved turnaround should be located at the terminus of the road extension.)

An additional extension was previously provided to the east. With the change to the road layout, this extension was removed. The Road Commission requires 90 degree perpendicular intersections when connecting roadways, and this would not be possible with the orientation that reflects existing natural areas. Development to the east would require assembly of several parcels, or at least the rear portions of several parcels, and would encounter topographic issues as it heads south to the largest undeveloped parcel. Any effort to protect the natural resources on the eastern portion of the site likely would result in removal of this future access point.

Sidewalks are being provided throughout the development. Street lights are also shown in the development, and the applicant has agreed to participate in the Township's street light district.

Besides the change in the road layout, the other substantial change to the plan involves the designation of limited common element areas in both the northeast and southeast corners of the site. These areas are set aside for permanent protection of the natural resources, and they are also portions of the site that cannot be incorporated into proposed units due to the 4:1 depth to width ratio requirement. (Units cannot be four times deeper than they are wide.) In the condominium documents, the protection and preservation of these areas will need to be defined.

With any residential development, there is no guarantee what will happen on the residential lot when it is purchased. There is no requirement as to how a private residential lot can be developed thus opening the opportunity for substantial grading and clearing once the lot is purchased. This is true of the current proposal, the previous proposal, or an open space design. The advantage of the current proposal versus the previous is that the current proposal does result in protection of the limited common element areas.

The Commission will need to determine if that is enough to satisfy the Ordinance requirements or if additional limits on the site development are necessary.

EXISTING / SURROUNDING CONDITIONS

The existing property is vacant, and the majority of the site is heavily wooded with a mix of oak and evergreen trees. The western portion of the site is not as heavily wooded and appears to have been previously used as a pasture or other clearing.

As the site moves east, the existing topography also becomes more intense rising over 80 feet from the entry to the eastern boundary. Although the road has been realigned to reduce the grading necessary for the road infrastructure, substantial grading will likely be necessary for some these properties depending on where the homes and utilities are located on the eastern lots. The difference is that if grading is necessary, it will be required by the condominium documents to stop and tie into existing grades in the designated limited common element open space area in both the northeast and southeast corners of the development.

A conceptual plan for stormwater has been provided illustrating that drainage from the proposed road will be directed through stormwater pipes to one of two drainage basins on the site. General flow of stormwater from many of the units has been noted. For several units, it appears some form of drainage structure or grading will occur in the rear to direct drainage as depicted on the plans. The condominium documents will need to have language reflecting this as well to ensure these are installed as the lots are individually developed.

Most of the properties surrounding the subject property are larger, rural residential properties characterized by a substantial amount of open land. It is not anticipated that the residential development would generate substantial enough drainage to cause significant adverse impacts on these surrounding properties. However, this cannot be determined for certain until specific building and grading plans are determined for the home to be built on the unit.

AGENCY REVIEWS

The applicant has submitted the conceptual site condominium plan to a variety of different offices and agencies for preliminary review.

- The Oshtemo Township Fire Department has reviewed the plans and indicated they have no concerns.
- The Township Engineer has been engaged in the staff review process from the outset. He has provided a memo regarding the site and issues with the development. As stated previously, this review is based on the previous layout and not the current proposal presented here. The Engineer will play a more significant role as this moves forward.
- The Road Commission of Kalamazoo County has provided a preliminary review of the road layout. We understand they have reviewed the plans for the updated layout as well but have not received their comments from that review. A more formal review of the road plans will

occur during development of the step 2 plan and the final engineering plans. The preliminary review indicates a few adjustments to be made but nothing that appears too substantial.

- The Kalamazoo County Department of Health and Community Services has conducted a pre-preliminary review including a site visit and soil borings. They provided the applicant with the results of their inspection and their requirements for the on-site utility design.

STANDARDS OF APPROVAL

Section 290.005.D.3 contains standards for the preliminary plan to achieve in order to be approved. These are reviewed here.

- a. **Streets** – The proposed street layout consists of public roads and has been illustrated to conform to County Road Commission standards. A street extension is shown to the north, the direction most likely to see expansion. The extension to the east has been removed as a result of layout changes to better relate to natural features. The extension to the north will need a cul-de-sac or other turnaround capacity. Connections, dimensions, and street lighting all appear to conform to ordinance standards.
- b. **Lots** – There is no minimum size requirement for building sites in the RR district. Rather development must maintain a density of no greater than one lot per acre. The proposed development satisfies this requirement as 40 units are proposed on the 40 acres of development. The development creates no land locked parcels.

Building envelopes have been shown on the site plan illustrating setback requirements. While the sites are large enough to accommodate a home within the setbacks, the sites will be further limited by the topography and natural features that exist as well as the need to provide level land area for two drain fields. Accommodating development on these sites will require extensive grading and tree removal to ensure suitable space is available for home construction.

- c. **Pathway** – The applicant is providing sidewalks in the development.
- d. **General Provisions** – There are no reserve strips in the development. There is no land subject to flooding in the development area.

There are, however, natural features including steep slopes and substantial tree areas making up the majority of the proposed development. This was the key element of discussion and debate from the first public hearing, and likely will be the key element of debate at next week's meeting.

Certainly, the proposed change in the layout does a better job of reflecting the natural features and topography of the site than the previous layout. In addition, two areas (approximately 1.75 acres in size combined) have been set aside for protection and preservation. Ultimately, these areas, which were not provided in the previous plan, are the only areas guaranteed for preservation. We can make assumptions of likely locations and sizes of homes and drain fields on the units, but it will ultimately be up to the future property owner and their desires for the location of the home and utilities to dictate how each site ultimately develops. Thus, with the

exception of the two limited common elements, the balance of the site could still be substantially impacted by grading / clearing necessary for development.

As indicated previously, the concerns about grading and drainage may be raised prematurely as they are more of a Step II issue. However, as such concerns and the feedback thereof could impact site layout, Staff felt it appropriate to raise the issues in Step I prior to extensive engineering work and detailing. Without these details, the exact impact cannot be determined. However, it is fairly clear that in order to establish suitable building sites with the layout proposed and accommodate the drainfields for each property, substantial grading and tree removal will be required on many of the properties.

CONCLUSION

The applicant has made a revision to the proposed layout to better reflect the topography of the site and respond to some of the concerns raised at the April public hearing. The Commission will need to consider whether or not the proposed amendments to the plan satisfies the criteria of the Ordinance and responds to the concerns raised at the public hearing. If it is determined that it does not, alternatives would include a reduction in units or use of an open space development concept. The applicant has indicated the latter is not practical however due to the requirements of the health department for on-site utilities.

Any action on the proposal should be conditioned on the following:

- a. The development shall receive the necessary approvals from the Kalamazoo County Department of Health for provision of private water and sanitary septic service on each building site.
- b. Disturbance of natural features – including grading and tree removal – shall be minimized to the extent possible during building site development.
- c. The condominium documents shall include language regarding the preservation of the limited common element areas in the northeast and southeast corners of the site as well as indicate the requirement to provide any drainage swales or facilities required on individual sites for the overall stormwater management system.
- d. A turnaround area shall be provided at the north end of 'A' Street on a temporary basis until the road is extended.

**PREVIOUS
PLANNING
COMMISSION
MINUTES**

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

MINUTES OF A PUBLIC HEARING AND MEETING HELD APRIL 9, 2015

Agenda

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

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, April 9, 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
Millard Loy
Mary Smith

MEMBERS ABSENT: Pam Jackson

Also present were Karen High, Zoning Administrator, James Porter, Attorney, and Martha Coash, Meeting Transcriptionist. Approximately 30 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. Boulding, Sr. 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 MARCH 26, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the Meeting of March 26, 2015. Hearing none, he asked for a motion to approve the minutes as presented.

Mr. Loy made a motion to approve the minutes of the March 26, 2015 meeting Mr. Antosz seconded the motion. The motion was approved unanimously.

Chairperson Schley moved to the next item on the agenda.

PUBLIC HEARING: STEP 1 SITE CONDOMINIUM REVIEW (VAN KAL SITE CONDOMINIUM. PLANNING COMMISSION TO REVIEW APPLICATION OF TIM WOODHAMS, ON BEHALF OF MAR-BO INVESTMENTS, INC., FOR TENTATIVE APPROVAL OF A PRELIMINARY SITE CONDOMINIUM PLAN (STEP 1) FOR A 40-UNIT RESIDENTIAL SITE CONDOMINIUM DEVELOPMENT NAMED VAN KAL SITE CONDOMINIUM. 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 Van Kal Site Condominium, located at 3839 South Van Kal Avenue in the RR Rural Residential District. He asked Attorney Porter to address procedural issues.

Attorney Porter explained the zoning ordinance regulations for single family dwellings are applicable in this instance. Although referenced in the staff report, site plan review issues are not being addressed at this time. He noted that state law requires that residential site condominiums be considered in the same way that subdivisions are considered.

He said if there is concern about the site itself, including such items as natural features, flooding, habitability, the question is whether those issues have been addressed by ordinance. He noted this is a preliminary design step. Some of the questions people may have are not intended to be answered at this point. They will be answered in a later step when engineered drawings are prepared.

Chairperson Schley asked Ms. High to provide background for consideration.

Ms. High said for the benefit of the large audience in attendance, she would read the memo provided to Commissioners regarding this project. The report is included here by reference. She concluded by showing several slides from the county-wide mapping system that provided an aerial view of the proposed site's topography, soils present on the site, the zoning of the area, the proposed layout of the streets and lots, and a conceptual grading plan showing the impact resulting from grading for the proposed roads.

Chairperson Schley thanked Ms. High and asked if Commissioners had questions.

Mr. Antosz asked whether the applicant was aware of the encouragement from the Township regarding open spaces in developments.

Ms. High said the applicant was made aware of that desire and said it was considered.

Attorney Porter referenced the ordinance itself regarding how open space is encouraged and said there are "carrots" to that effect in the ordinance.

Mr. Antosz asked whether each unit would have its own septic tank, drain field and well and if so, what size they would be, and whether Township Engineer Mark Elliott had seen the plans.

Ms. High confirmed that each unit would have its own tank, field and well and that according to the Health Department a working figure to use for the size of a drain field is 6,000 square feet, but the actual size would depend on the size of the residence and number of bedrooms of each house. She said she also learned that the 6,000 square feet drain field must be as close to absolutely level as possible.

Attorney Porter noted that is not a criterion for Step I of the project.

Ms. High said Mr. Elliott has seen the plans but relies on the Health Department in regards to approval of septic systems.

Mr. Antosz asked about the length of the streets and how they are measured.

Ms. High said the maximum length of a block, considering intersecting streets on either sides of the street, is 1000 feet. The plan has a street that is 1372 feet in length but it is interrupted by a cross street, so it does not exceed the maximum.

Mr. Boulding, Sr. asked about specifics for Steps II and III of the review and how they would be monitored.

Chairperson Schley indicated the Planning Commission would not have a role in Steps II or III, that the Township has other mechanisms to follow through on those steps. The County Road Commission and other entities as well as Township staff come into play.

Ms. High and Attorney Porter concurred there is monitoring by Township staff at both Steps II and III.

The Chairperson confirmed with Ms. High that relative to density issues, 40 units is the maximum allowed for 40 acres because there will be no public water or sewer available. Ms. High explained that if there were public water and sewer available, the maximum allowed would be one and one half units per acre.

Chairperson Schley noted the standards are proportional to the service at the site. He asked Ms. High for other examples of plats/condo sites in RR zoned areas of the Township.

Ms. High noted Pondview Estates, to the north of the proposed site, has both half acre and one acre lots, but does not have the topography of the proposed site. She said the Tuscany subdivision, which is of a similar size to the proposed site, has lots averaging three quarters of an acre. The proposed Van Kal Site Condominium has half and three quarter acre units and two that are over an acre.

Chairperson Schley asked whether other plats with topography similar to the property in question have designs similar to the rather regimented design being proposed.

Ms. High said they did not; that when staff saw the proposed layout they thought the land involved must be rather flat because the roads are so straight and rectilinear, and the units are evenly sized. She added that the roads did not appear to follow the contour of the land. Some subdivisions in the area have open space that was preserved where the topography is steep.

The Chairperson asked Attorney Porter to clarify whether Section 82 Site Plan Review standards should be judged appropriate for this application.

Attorney Porter confirmed that this Section does not apply to residential Site Condominiums, it applies to commercial, industrial or multi-family dwellings.

The Chair asked if the general standards in Section 78.520 which speak to storm water management standards are applicable.

Attorney Porter said it would be applicable when we get to Step II to address road run-off and large drainage basins. It would not be applicable for single family lots. It is directed to larger developments, not to the lots themselves.

The Chair asked whether this section of the ordinance shouldn't be applicable in this scenario if it speaks to all land uses.

Attorney Porter said from a specific design point, no, but from the general meaning of the ordinance, yes. In that case the applicant needs to be told our understanding is the general plan for roads and drainage basins do not meet the ordinance and the applicant should be asked how they are handling a change to "x or y" but not get into specific design. We would need to give a general indication if the plan does not meet the conceptual idea in the ordinance.

Chairperson Schley noted the proposed project is in an RR zoned area and said each individual zone in the ordinance has a statement of purpose. He wondered if the application could be looked at in that context regarding character issues.

Attorney Porter said it could be if the use is questionable. In looking at the statement of purpose, intents and desires are referenced, but if the ordinance does not provide requirements for general purpose, it does not control.

Chairperson Schley asked how the Township's tree clearing policy applies.

Ms. High said a clear cutting permit was adopted over a year ago. It applies to properties not going through a site condominium or subdivision review process, or not going through site plan review. The goal was to require clear cutting permits for those project that did not have to come before the Planning Commission. It was understood that tree preservation needs to be addressed, but the specific ordinance did not apply so that the Planning Commission could address the issue more comprehensively.

Chairperson Schley asked the applicant to speak since there were no further questions from Commissioners.

Mr. Tim Woodhams of Civica Engineering, 1503 East Centre Street, spoke to the Board and said the proposal as presented is a permitted use in the Township's RR zone. He said he understood and appreciated the desire from those in the community for open space in the development, but that it was not a cost feasible option. In order to build 40 units and get everything to meet Health Department requirements, the trees had to go.

He walked through 18 items listed in Section 290.005 of the General Ordinance that are required for tentative approval and explained how they have met or plan to meet them. He said if the project is tentatively approved, the Road and Drain Commission would closely review drainage and grading and that the Township Engineer would review the Drain Commissioner's review.

He also indicated items addressed in the Kalamazoo County Road Commission letter and the list of Township Staff concerns would be addressed in Step II drawings. He discussed the centerline survey of Van Kal, noting the way they plan to address

sight distance with a “flat both ways profile” and a deceleration lane would be OK with the Road Commission.

Mr. Woodhams said the grading and storm water issues would be part of other agency’s reviews and noted quite a bit of cutting and filling will be required to achieve a max. 7% grade. Section 78.500, Stormwater Management, will be in the Road and Drain Commissioners’ hands.

He noted the Township Staff report, since the Site Plan Review issues did not apply, recommended approval of the proposal. He added that it should receive the Commission’s approval since, if followed to the letter, the proposal complies with zoning requirements.

As far as tree removal, he said they tried to minimize it in the plan; they showed a standard template as to how they expect trees would be removed from individual lots, but it will be up to each prospective home owner to decide how they build on the lots.

Attorney Porter disagreed that “other agencies” would be the sole authority to decide on grading and storm water issues; Township ordinances would need to be addressed.

Ms. High emphasized that the Staff Report did not recommend approval of the proposal. It notes that the plan does not address existing natural features and topography.

Attorney Porter said although the 18 criteria were addressed by the applicant, those are items to be shown on the plan. Section D addresses the criteria to analyze features of the plan once received and said the design, as proposed, could be laid out on a corn field.

Chairperson Schley said that as the Commission moves forward it will make various judgments.

Mr. Woodhams said the attractiveness of the development would be similar to those in Texas Township where homes are selling in the \$500,000 range.

Attorney Porter asked how the applicant will attempt to preserve natural features.

Mr. Woodhams said that will be a struggle. The developer will need to remove many trees, but would like to develop a plan with the Township’s input.

Chairperson Schley asked if alternative concepts to the regimented plan proposed had been evaluated.

Mr. Woodhams said alternative layouts had been done, but they couldn't accommodate enough lots in order to recover the value of the property. The challenge is finding enough room for tile fields and wells on 40 units.

Chairperson Schley asked Mr. Woodhams if he agreed that Step I under general provisions speaks to the preservation of natural features.

Mr. Woodhams agreed that is the case. He said the existing Mystic development is similar in topography to the 40 acres being proposed for development.

Chairperson Schley asked how much attention was paid to the statement of purpose for the RR zone in development of the proposal and whether Mr. Woodhams agreed the concept proposed is a non-traditional subdivision.

Mr. Woodhams replied that the proposal conforms to the ordinance as written.

The Chairperson said he disagreed with Mr. Woodhams' assertion that the Mystic development is similar in topography to the proposed development site.

Mr. Woodhams said the topography does not preclude designing roads to meet Road Commission standards. It does not feel like you are walking up a steep hill, it is a reasonable slope.

Chairperson Schley noted the applicant proposal is generic with respect to tree preservation and again asked how much consideration was given to natural features.

Mr. Woodhams explained a certain swath of trees must be cut down to accommodate roads and sidewalks, utilities, tile field and house. He added that it doesn't matter what it looks like, the trees will all have to be cut. He said he would want to work with the Township on enforceable tree preservation after input from his client and noted again that builders will clear lots for each of the homes.

Attorney Porter clarified again the difference between a subdivision and site condominiums: a site condo looks just like a subdivision, it is just developed under a different statute.

Ms. Smith asked if there is a minimum square footage required for homes in the development.

Mr. Woodhams said there is no requirement, but the likely builder will probably build homes similar to ones in another plat they built in Texas Heights #9, mostly 3500-4000 square feet. There is no actual minimum at this time. He anticipated it would be around 2400 square feet.

Ms. High noted homes, by statute, must be no smaller than 1,000 square feet.

There were no further questions from the Board. Chairperson Schley opened the meeting to Public Comments, requesting that remarks be limited to four minutes from each speaker.

Ted Boyer, 45732 Van Kal (22nd St.), had both a complaint and concerns. He said the proposed plat driveway will be located directly across from his property and although public hearing notices, by statute, are to be sent to all parties within 300 feet of proposed development, he did not receive a notice – that apparently notices were not sent to residents of Almena Township in Van Buren County even though they live within 300 feet of what is being proposed. He considered that both negligent and thoughtless. He felt there would have been a larger turnout of concerned neighbors if all who should have received notices had gotten them.

His concerns were: 1) he and his wife are concerned about road safety and feasibility and wondered if a study had been done, including the number of cars that travel Van Kal now. 40 condos will have a major traffic impact; widened turn lanes will be needed. It is his understanding there is a requirement to notify the state for a safety and feasibility study. 2) He asked whether an environmental impact study regarding harmful chemicals was planned; he also wondered where the sewage would go.

Attorney Porter said the mailing list will be looked at to determine any problems with notification and thanked Mr. Boyer for informing the Board.

Mr. Art Diani, 4115 Van Kal (22nd St.), spoke on behalf of him and his wife Judy. He had nine points of concern with the proposed development: 1) the impact of individual septic systems; 2) drinking water and individual wells; 3) traffic increase on Van Kal, particularly with the rise in the road that interferes with visibility; 4) problems resulting from clear cut erosion of the 40 acres known as “Snake Hill”; 5) the necessity of two large drainage ditches and possible resulting impending trouble; 6) substantial streetlights and resulting magnetic fields; 7) a bad precedent since there is currently no subdivision from Stadium Drive to M-43; 8) negative impact on endangered lupines, pine and hardwood trees, and the natural wildlife corridor; and; 9) a negative impact on the quality of life for residents. He concluded by saying this would not be a good fit for the neighborhood and that there are numerous other subdivisions for people to live in if that is their desire.

Ms. Chris Dinkins, 13393 Honeysuckle, said her aunt and uncle, Tim and Sue Gordon, passed away several years ago and entrusted her to keep the 40 acre property undeveloped. They were the parents of her cousin Tim Gordon, the child who was killed by a vehicle at the rise on Van Kal some years ago, near the proposed entrance to the development. When she sold the property it was with the understanding that it would be a horse farm. If she had known this would happen she would never have sold the property. She apologized to the neighbors and said she hoped the application would not be approved.

Mr. Derrick Millard, 22192 Salisbury Drive, said he and his wife live close to the property and are totally opposed to its development. He believes there will be a water shortage in the near future. There is already plain, visible evidence it is occurring. He cited the drop in water level in ponds over the last 10 years, particularly one on 44th St. near Van Kal, which used to support ducks, geese and herons, that has all but dried up. 40 new homes will affect the water level and contamination. He is also concerned about increased traffic and noted the dangerous junction. He wondered if that had been considered and suggested a small roundabout be installed for even current traffic levels. Van Kal is narrow in places and more homes will mean less visibility. He proposed that any sizable developments should be hooked up to city water and sewers so as not to use natural resources of the countryside.

Mr. Wade Lawrence, who owns property on the north side of the proposed development, said he was concerned about water and agreed with the earlier speaker regarding the pond that is no longer a pond on M avenue. The water table is down and he thinks there is a correlation with the fact that it was necessary to install a new well on his property recently. He commented there is only one road provided in the plan for ingress and egress and said better emergency vehicle access is needed. He noted there is a stand of lupine that is the only food source for the Karner Blue butterfly, which is an endangered species. He concluded by saying he is concerned with fielding lifestyle complaints from people who move to the country but do not want the sounds and smells of the country. For example he has horses that produce manure which will smell in the summer and roosters that crow at dawn. Historically, this type of conflict has been a problem with new country developments.

Mr. William Nederhoed, 45960 Van Kal (22nd St.), told the Board there are two graves with 3-foot tall gravestones on the site that date back to the 1800s and shouldn't be disturbed. He said he had been an electrical inspector for a long time, including for years in Oshtemo Township, and he is unsure whether Midwest Energies has an adequate line to add the 40 200-amp services that would be required. This area is at the end of Midwest's line and he foresees low voltage and other service problems.

Mr. Al Geresy objected to the time limit for citizens to speak, and believed Mr. Woodhams should be held to the same limit. He also commented the Board says it wants to save trees, but seems willing to forgo that goal if more dollars come to the Township through development.

Mr. Larry Westrate, 22055 Salisbury Drive, said he and his wife live east of the property on Van Kal and are opposed to this development. He asked for a show of hands from attendees who did not receive the public hearing notification letter. Approximately five people raised their hands. He said he had been a witness to the accident scene when Tim Gordon was killed and noted traffic is a major problem in that area. More police presence is needed and noted that whenever he does see an officer there, a motorist is being pulled over. The traffic there is loud and will only increase with the addition of 40 units, which will be very detrimental. He said there is no street light at

Salisbury and Van Kal. He also said when he had to replace his well recently, they had to go 50 feet down rather than the previous well's depth of 23 feet.

Mr. Michael Foley, 4000 S. 1st Street, said he felt a lot of time was spent on adhering to the Ordinance and little time on the Master Plan. He is concerned about a high density project being placed in a low density area. The project was designed to maximize the number of units to be built. 40 wells and septic systems will cause problems. The Master Plan talks about protecting ground water sources by connecting to public utilities – he doesn't understand where this seems to be going. Lights and noise from 40 homes will have a negative impact, inconsistent with a rural area. He referred to the area as currently having 7.1 acres per home on a total of 360 acres. He noted the development would have 40 lots with less than an acre each and that this is inconsistent with the Master Plan.

Mr. Chris Tiller, 3776 S. 1st St., agreed with Mr. Foley, saying the slopes and grades on the 40 acre property are huge and he doesn't see how the plan presented will fit into the property.

Mr. Kevin VanDyk, 3795 Van Kal Avenue, said the 40 acre piece borders his property on two sides and he agrees with most of what was said by previous speakers, especially Mr. Foley. He bought his property for the peace and serenity it offers and this development will devalue his property and other property in the area. He asked Commissioners to please consider the intent of the law.

Mr. John Robyn, 3517 Van Kal, indicated his property is immediately northwest of the proposed development which cannot be called RR. To build as proposed the land will have to be butchered. He challenged the figures used in the proposal. Such a development was not what those as a community were looking for when they moved there and he said he was vehemently opposed to the proposal.

Mr. Chad Hughson, 18 N. Van Kal, said he owns 35 acres and considers himself a community representative. The grading and removal of forest on land formed by glaciation, once removed, will be gone forever. Major tracts of forest are being lost in Oshtemo Township. He talked about hydrological impacts and asked how it could be shown that the change in flow won't negatively impact the ponds. He said water flowing from that area to the south is a unique feature and is the start of the watershed for the Paw Paw River. He asked that the Commission consider doing an environmental impact study of all areas and noted the Drain Commissioner would not consider the impact of the project on the entire region. He also cited the endangered Carner Blue Butterfly and the lupine in the area that is its only food source. He also mentioned the state-threatened Blue Curly plant, which also grows in the affected area. The pristine corridor along the Kalamazoo/Van Buren County line should be considered.

Ms. Chris Dinkins, 13393 Honeysuckle, spoke again to say this is country land and the proposed development does not belong there.

Ms. Jan Thomas, 45537 Winchester Circle, thanked everyone for coming to the meeting to save the land. She lives across the street and fears water run-off and contamination from concentrated development. She said it is a terrible thing to disturb the land and that there are already water problems. It looks like the development does not belong there.

Hearing no further public comment, Chairperson Schley said the Planning Commission would deliberate.

Attorney Porter said he was concerned about the public hearing notice distribution and felt the due process issue needs to be looked at. He apologized for not providing notice as required and said the Township would need to incur the expense of re-noticing. It was agreed notice of a public hearing to offer the opportunity for input would be sent to all who were missed in the first notice as well as all those who did receive notice.

Mr. Woodhams suggested tabling the item to determine who was missed, so re-noticing could be done as appropriate.

Chairperson Schley said that although he would like the Board to talk about the issue while information is fresh, citizens not present are of great concern, and asked for a motion to table to a date certain.

Ms. Farmer made a motion to table further consideration of this item until the regularly scheduled meeting of May 14, 2015. Mr. Loy supported the motion. The motion carried unanimously.

Ms. High offered to accompany Commissioners on a site visit prior to May 14.

Attorney Porter cautioned that only one Commissioner at a time should make such visits and that they should not talk to each other, neighbors or property owners about this issue; it needs to be talked about as a group.

Chairperson Schley assured the audience and the applicant that the Board wants to deliberate with them and that they will follow the required process.

OLD BUSINESS/OTHER BUSINESS

Chairperson Schley asked if there was old business or other business to come before the Commission. There was none, so the Chairperson moved to the next item.

PLANNING COMMISSIONER COMMENTS

Ms. Farmer said one of her goals from the beginning of her term was that the Ordinances reflect the Master Plan. She now realizes they also need to reflect the statement of purpose. She urged this be completed as quickly as possible.

Mr. Loy noted he would be absent from the April 23 meeting.

Chairperson Schley appreciated everyone's patience with a long meeting. Good work was done in allowing the process to occur as defined. Hearing public comment is 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 9:22 p.m.

Minutes prepared:
April 10, 2015

Minutes approved:
April 23, 2015

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD MAY 14, 2015

Agenda

PUBLIC HEARING: PLANNING COMMISSION TO REVIEW APPLICATION OF TIM WOODHAMS, ON BEHALF OF MAR-BO INVESTMENTS, INC., FOR TENTATIVE APPROVAL OF A PRELIMINARY SITE CONDOMINIUM PLAN (STEP 1) FOR A 40-UNIT RESIDENTIAL SITE CONDOMINIUM DEVELOPMENT NAMED VAN KAL SITE CONDOMINIUM. 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 SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF JAKES FIREWORKS INC. FOR TEMPORARY OUTDOOR SALES FROM JUNE 20 TO JULY 5, 2015 IN HARDING'S MARKET PARKING LOT LOCATED AT 6430 WEST STADIUM DRIVE WITHIN THE VC VILLAGE COMMERCIAL DISTRICT (PARCEL #3905-26-465-022).

PUBLIC HEARING: PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM KA-BOOMER'S ENTERPRISES INC. FOR ESTABLISHMENT OF A TEMPORARY OUTDOOR SALES USE LASTING LONGER THAN ONE DAY LOCATED IN THE PARKING LOT OF AN EXISTING COMMERCIAL CENTER (MENARD'S) AT 6800 WEST MAIN STREET IN THE C LOCAL BUSINESS DISTRICT. (PARCEL #3905-14-155-029).

PUBLIC HEARING: PLANNING COMMISSION TO CONSIDER SPECIAL EXCEPTION USE REQUEST OF THE APPLICATION FROM OSHTEMO CHARTER TOWNSHIP FOR ESTABLISHMENT OF A PRIVATE, SHARED, COMMERCIAL ACCESS DRIVE TO BE LOCATED NEAR THE SOUTHEAST CORNER OF 9TH STREET AND STADIUM DRIVE WITH ACCESS FROM ATLANTIC AVENUE AND PROPERTIES WITH FRONTAGE ON 9TH STREET. THE SUBJECT PROPERTY IS LOCATED WITHIN THE VC VILLAGE COMMERCIAL. (PARCEL #3905-35-205-132).

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 14, 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 ten 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 noted that the applicant for item number six, regarding a public hearing for the review of the Van Kal Site Condominium, asked that it be removed from the agenda and tabled until the May 28, 2015 meeting. He explained to the audience that the applicant heard the comments from the public and the Planning Commission and was going to look at the condo project in a little different fashion. In light of expected changes to the plan it would not be valuable to discuss the original plan at this point. He said there would be a new and complete public hearing on this matter at the May 28 meeting, and noted the public comments made to date are on record, but that if those in attendance would like to speak further, they could do so under the "Public Comment on Non-Agenda Items" portion of the agenda. Chairperson Schley asked for a motion to approve the agenda with the removal of item six.

Mr. Loy made a motion to accept the agenda as presented with the removal of item six. Ms. Smith 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.

Ms. Julie Rogers, 3428 Marlene Avenue, County Commissioner representing the 5th District, told the Board she had heard from many of her constituents who live on Van Kal Avenue about this issue and that there was not one positive comment. She and others are concerned about the two-week turnaround time for the next public hearing, which will be just after the holiday weekend. Since she ran for the County Commission in 2012, the hot topic in the area is the concern over sewers. This area of the Township already has issues without adding another 40 homes, and there is probably no intent for the Township to add sewers in that area any time soon. She noted a high volume of traffic in that area and said she has almost been hit herself several times; additional

homes will add to that problem. She said she would try to be back at the meeting in two weeks with further comments, but would put them in writing. She thanked the Board for listening to her comments.

Mr. Wade Lawrence, 10749 West M Avenue, expressed his displeasure that there was no notification that this item would not be on the agenda. He asked rhetorically if he had called and said he couldn't make it tonight if the meeting would be rescheduled around him. He said there is a perception among residents that there is some favoritism going on with the developer. He added that cancelling at the last minute is discourteous if nothing else. At the last meeting there were due process issues raised and he said he would raise those same issues for the May 28 meeting. 15 days' notice is required for the public, this allows 14 days and not only did he not receive notification that this issue would not be discussed at this meeting, but he would raise the due process issue regarding whether there is sufficient notification for people to attend on May 28. People had to rearrange schedules to attend tonight and if nothing else, this was very discourteous on the part of the Planning Commission.

Attorney Porter explained that it was the developer who requested the public hearing be rescheduled to a date certain, following due process requirements.

Chairperson Schley added the Planning Commission followed proper application process. The applicant has the right to withdraw the application or ask that it be tabled at any time, including on the evening of its review. He noted that has happened in the past at times, due to the wisdom of the applicant, when more time was needed to make modifications to the proposal. In this case, the applicant met with planning staff very recently. They would have hoped that would have occurred sooner, but it wasn't able to occur sooner. The applicant has the right, without any bias of any member of the Planning Commission, to ask that consideration of the proposal be postponed. He wished it had been possible to get notice to everyone sooner, but he wanted everyone to understand that if the applicant had attended the meeting and simply stood up and asked that consideration of the application be postponed, they would have been required to grant that request. The Chairperson resumed the opportunity for public comments.

Mr. Art Diani, 4115 Van Kal, seconded Mr. Lawrence's comments, saying this smells like a backroom deal or that it is politically motivated. People are very, very upset; 50 people were planning to attend the meeting tonight. The last minute cancellation was very destructive to their schedules. Postponing for four weeks, then again for two weeks on short notice does not look good. It suggests some sort of under the table deal. He said he understood a moratorium on building in their area had been discussed because of the sewage problem, but it seems that was thrown out the window. He noted there are some very disappointed and upset taxpayers over this issue.

Ms. Judy Diani, 4115 Van Kal, expressed her frustration. A lot of people were planning to attend this meeting to express serious concerns about the proposed project

regarding the environment, water quality and sewage. She did not hear until late in the afternoon, by chance, that the issue would not be on the agenda and wondered why there was not at least a phone chain or something to alert people. She tried to call as many people as possible to let them know of the change, but said people shouldn't be treated like this. Next time will be the third time residents will be coming to a meeting for this process and she wondered why applicants are more important than more than 50 people who live in the area. They are coming in to propose a plat and she wondered why their idea of a plat is more important than all the people who have lived there for many years. They are concerned about the possibility of clear-cutting trees and bulldozing before the plat is approved. She hoped the Board understands residents' frustration and thanked the Board for listening.

Chairperson Schley thanked the audience for their comments.

Mr. Milliken asked if there might be a contact person Township personnel could contact in order to start a phone chain if there is a further postponement, which could occur. He said they noted the postponement for tonight's meeting on the website and posted it on the door, but did not have phone numbers or e-mails for residents in order to broadly distribute the information.

Ms. Diani said she would be willing to be the contact.

Attorney Porter said the law is pretty well established in Michigan that if you have public notice and then table to a date certain there is no requirement under the law to re-notice or re-publish. If it is necessary to table again, although there is no requirement to re-notice or re-publish, he would not be comfortable with that. He noted publication costs are very expensive.

Hearing no further public comments on non-agenda items, Chairperson Schley moved to the next item on the agenda.

APPROVAL OF THE MINUTES OF APRIL 23, 2015

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the Meeting of April 23, 2015. Hearing none, he asked for a motion to approve the minutes as presented.

Mr. Loy made a motion to approve the minutes of the April 23, 2015 meeting. Ms. Farmer seconded the motion. The motion was approved unanimously.

Chairperson Schley moved to the next item on the agenda.

**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 septic.

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 setbacks, 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 subdivision 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 Commissioners 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.

**PREVIOUS
CORRESPONDENCE
TO THE PLANNING
COMMISSION**

MEMORANDUM

TO: Planning Commission
FROM: James W. Porter 
DATE: May 11, 2015
SUBJECT: Ordinance Interpretation

At your last meeting there was a question raised by the Chair as to whether the Statement of Purpose should be used in the interpretation of the Zoning Ordinance. I believe what I said at the time is that the Statement of Purpose in the Zoning Ordinance can be used for purposes of interpreting the Ordinance but could not override the specific language provided for in the Ordinance. You will note that the Rural Residential District does provide a Statement of Purpose in Section 20.100. It specifically talks about protecting the quality of the overall environment and makes specific reference to non-traditional land developments such as open space communities to conserve open space, fallow land, wooded areas and wetlands. The Statement of Purpose says such uses should be “encouraged.” The question was whether that alone was a sufficient basis to require open space development.

My response was that I did not think one could use the Statement of Purpose in and of itself to make a determination unsupported by other Ordinance provisions, either in the Zoning Ordinance or outside the Zoning Ordinance. I stand by that position and provide the following in support of that position.

American Law of Zoning under Section 41.2 “Maxims of construction; statutory construction acts” provides the following:

* * *

“Numerous opinions, applying familiar rules of statutory construction, refer to the Statutory Construction Act. These include the interpretation of words in accordance with their common meaning; the objective of construction is to determine the intent of the legislature; if reasonable alternatives are available, legislation must be assigned the meaning which will preserve its constitutionality; the title and preamble of a legislative act may be consulted in determining its meaning; whenever possible, legislation must be construed to give effect to all its provisions; and particular provisions control general ones.” (Emphasis added)

The *American Law of Zoning*, Section 41.12 entitled, “Preambles, captions, and purpose clauses” states the following:

* * *

“The recitation in the Standard State Zoning Enabling Act, and in most state enabling acts, of provisions which describe the purposes of zoning, was included in the early acts mainly to fortify them against constitutional attack. Such statements of purposes have been carried forward into the more recent acts, due to legislative inertia in some instances, and as an aid to construction in others. Statements of purpose in zoning ordinances are included for the same combination of reasons. Where they do no more than copy into the ordinance the statement of purpose set forth in the enabling act, they add little to the likelihood of judicial approval, and they do not assist materially in construing the language of the ordinance. They may give the drafter and the legislator a feeling of security. Where statements of purpose are tailored to the specific objects of a municipal ordinance, they are capable of serving useful ends. A statement of purpose can guide the court toward an understanding of the relationship between the regulations and the approval statutory objectives of zoning. It can describe the specific evil which the regulations are intended to remedy, and it can furnish the administrators and the courts with a

useful guide to construction by including a fuller articulation of the legislative purpose than is convenient in the regulatory sections of the ordinance.

The drafters of zoning regulations make frequent use of extensive statements of purposes intended as a guide to the construction of language. These statements usually are included in the purview of the ordinance rather than in its preamble, because the latter is placed ahead of the enacting clause and may be used only when extrinsic aids to construction are permissible. A statement of purpose embodied in the ordinance itself may be used to resolve ambiguities, but it cannot be employed to bypass the specific language of the ordinance. For example, the function of a proviso clause is to make a qualification, limit, or condition on a provision of a zoning ordinance. Therefore, when different language is used in the same connection in different parts of the statute, the legislative intent is presumed to have intended the same meaning throughout. Furthermore exemption clauses are meant to protect those who owned their property before the zoning ordinances effective date.”(Emphasis added)

Therefore, as I said at the meeting, the stated purpose of the Ordinance cannot override the specific language of the Ordinance, but it can help to interpret the language of the Ordinance. I think the bigger question is whether the Statement of Purpose provision of the Zoning Ordinance can shed light on the Township’s Subdivision/Site Condominium Ordinance.

Since the courts have said that we should interpret ordinances like statutes, I believe the same rules would apply for interpreting the Zoning Ordinance in conjunction with the Subdivision/Site Condominium Ordinance. Section 2.28 “Statutory construction” of *Michigan Pleading and Practice* states as follows:

* * *

“The rules of statutory construction include the rule of in pari materia, the object of which is to give effect to the legislative purpose as found in harmonious statutes. Statutes which arguably cover the same subject matter and which potentially conflict must

be construed to preserve the intent and meaning of each, and where possible, interpreted in such a way that neither denies the effectiveness of the other. Statutes in pari materia are to be read and construed together as one law even if they were enacted at different times and without specific reference to each other. If statutory provisions of statutes in pari materia can be construed in a manner that avoids conflict, then that construction should control the analysis.”

Therefore, the Planning Commission should read the Subdivision/Site Condominium Ordinance and the Zoning Ordinance together to make both effective.

Since the Subdivision/Site Condominium Ordinance specifically says that the Planning Commission must determine that the proposed condominium project complies with all applicable ordinances and statutes and make a recommendation to the Township Board. I believe you are required to read the sections in a compatible fashion. In so doing, I believe Section V, Subsections D. 2 and 3 are further support by the Statement of Purpose for development of the Rural Residential District. How the two should be read to give effect to both, I will leave to your final interpretation.



Road Commission
of Kalamazoo County

3801 E. Kilgore Road
Kalamazoo, MI 49001
(269) 381-3171
Fax (269) 381-1760
www.kalamazoocountyroads.com

June 1, 2015

Timothy A Woodhams
CIVICA ENGINEERING
1503 East Centre Ave Suite C
Portage, MI 49002

**RE: Mystic Heights (formerly Oshtemo Section 31 Site Condo)
Preliminary Roadway Layout**

Dear Mr. Woodhams:

Thank you for submitting the revised preliminary layout for the proposed condominium of Mystic Heights to the Road Commission of Kalamazoo County (RCKC). I have reviewed the preliminary layout, revised May 15, 2015, according to the RCKC *Procedures, Guidelines and Specifications for Developing New Public Roads* (RCKC Policy). The preliminary layout is acceptable for approval.

The development entrance shall have a right-turn lane conforming to Figure IX of RCKC Policy (enclosed). The dimension for "Distance Determined by the KCRC" (deceleration space) shall be 125 feet. A left turn lane will not be required if the proposed entrance meets RCKC intersection sight distance requirements.

Should you have any questions or need additional information, feel free to contact me at 269-381-3170 ext. 224 or gwilson@kalamazoocountyroads.com.

Sincerely,

A handwritten signature in black ink that reads "Geoff S. Wilson". The signature is written in a cursive, flowing style.

Geoff S. Wilson, P.E.
Project Engineer

Cc: Ryan Minkus, Road Commission of Kalamazoo County
Jeff VanBelle, Kalamazoo County Drain Commission
Lucas D. Pols, Kalamazoo County Department of Public Health
Marc Elliott, Oshtemo Township
Enclosures(1)

March 24, 2015

Mr. Greg Milliken, Planning Director
Oshtemo Charter Township
7275 West Main Street
Kalamazoo, MI 49009

RE: Van Kal Site Condominium
Texas Township, Kalamazoo County

Dear Mr. Milliken:

Please accept this letter as our development group's commitment and future petition to add the street lights within the Van Kal Site Condominium, Lots 1-40 to the Township's Street Lighting Assessment District.

Sincerely,

A handwritten signature in black ink, appearing to read "Scott Carlson", with a long, sweeping horizontal line extending to the right.

Scott Carlson, Member
Development Group LLC

Ronald and Patricia Sims

45520 South Van Kal

Mattawan MI 49071

To: Osthemo Township Planning Commission

The intent of this letter is to express our opposition to the proposed construction of the 40 unit condominium/single family homes at 3839 S. Van Kal parcel # 3905-31-155-030. The information is not clear if the structures are to be condos or single family homes.

We are concerned about the effect 40 new wells and 40 new septic systems will have on our existing water supply. 40 more wells and 40 more septic systems may well reduce the availability of clean water and have an adverse effect on the many ponds in the area due to the possibility of lower water tables. The proposed water basins would be an unsightly addition to this rural community.

Condominiums do not appreciate in value at the same rate as single family homes and are more sensitive to real estate trends than single family homes as cited by condolifenow.com and nola.com/legal-encyclopedia/which-better-return-investment-condos-single-family-homes.html. We are concerned about what that will do to the value of our properties in the future.

If it is condos that are to be built, are these condos already sold or if they are vacant, what type of security will there be for them? Is this to be a gated community or if not what about the increase in crime on these vacant structures? Are there funds available to cover the maintenance fees for vacancies?

Whether it is condos or single family homes, South VanKal may not be able to handle the increase in traffic resulting in more road repairs or having to widen the road. Since South VanKal is a county line road, which county will bear the expense?

This is a major construction taking place in an established community. Wording in the proposal should be straight forward allowing homeowners to at least have the correct information.

Ronald and Patricia Sims

Ronald and Patricia Sims



April 20, 2016



Mtg Date: April 28, 2016

To: Planning Commission

From: Julie Johnston, AICP

Subject: Zoning Ordinance Amendments – Public Hearings

The Planning Commission has had an opportunity to review the attached Ordinance amendments at previous meetings. The information provided below highlights the reasons behind the requested changes.

Section 62.000: Non-Conforming Uses, Structures and Land

Currently, *Section 62: Nonconforming Uses* does not address parcels or lots that were lawfully recorded but no longer meet our Zoning Ordinance requirements. Instead, these nonconforming lots are regulated by *Section 66.200: Dimensional requirements for parcels, lots and building sites* found in *Section 66.000: Area Requirements*, as follows:

No building permit shall be issued therefore, and no buildings constructed, placed, or moved upon any parcel, lot, or building site less than the area and frontage requirements as specified in this Section; nor where the same would be located upon a parcel, lot, or building site of land with an area of ten acres or less having a depth of greater than four times the width of said parcel, lot or building site.

Often these parcels or lots do not meet the width requirements for frontage on a public right-of-way, making them nonconforming and unbuildable. Many communities provide language within their zoning ordinance to address these types of parcels or lots. In some instances, denying the use of a lawfully recorded property could be considered a “taking.” Staff is recommending language be added to this Section to address these types of properties.

In addition, the Section has been reorganized to address more clearly all of the different types of nonconformity: land, uses and structures. The revised language is attached for your consideration.

Section 68.300: Requirements for Parking Spaces, Parking Lots and Drive-Through Windows

The current Off-Street Parking Ordinance does not address the number of stacking spaces a drive through window should provide. With the number of facilities the Township has recently reviewed requesting drive through facilities, Planning staff feels that some regulatory control over drive through lanes should be considered.

At the March 24th Planning Commission meeting, the suggested amendment was presented to require five stacking spaces for each drive through window, each space measuring 10 feet by 20 feet. During discussions, a suggestion was made to delineate between restaurants and all other establishments that might utilize a drive through lane. The requested change was made to the amendment as follows:

Drive through windows. **A minimum of five 10 foot by 20 foot stacking spaces, measured from the serving window, for food service establishments and a minimum of three 10 foot by 20 foot stacking spaces for all other drive-through establishments** for vehicles awaiting service shall be on-site and designed and located so as not to block or impede pedestrian and/or vehicle circulation on the site or on any adjacent sidewalk or street. Stacking spaces shall not be considered parking spaces.

Section 66.201: Schedule of Area, Frontage, and/or Width Requirements.

The development and approval of the RR: Rural Residential District took place in late 2001 and early 2002. The district was developed in response to a Master Plan update that understood the decline of agricultural needs in the community while still wanting to maintain “rural” character. An excerpt from the Planning Commission Public Hearing minutes for the zoning ordinance amendment, which took place on December 6, 2001, is as follows:

“It was noted that the Agricultural-Rural District is being amended to the Rural Residential District, including an amendment of Statement of Purpose and amendment to some of the permitted and special uses. The District, as amended, would implement the Master Land Use Plan, which envisions a differentiation between residential densities in the western half of the Township verses vs. the eastern half of the Township. The Rural Residential District would facilitate preservation of Oshtemo’s rural character by encouraging use of open space community provisions as opposed to the traditional platting process. It was anticipated that 80% of the properties now zoned in the “AG-Rural zoning district would remain part of the Rural Residential District.”

An interesting component of this paragraph includes the encouragement of open space community provisions. Section 60.500: Open Space Community of the Special Exception Use ordinances does allow open space development within the RR: Rural Residential District. However, the majority of subdivisions and site condominiums within the RR District are not developed under the open space provisions. From our investigation, there were 13 plats and/or site condominiums approved within the RR District since the inception of the Open Space Community ordinance in 1995. Of these, only four were developed as open space projects.

In addition, the Master Land Use Plan for the Township indicates that the Rural Residential District should be developed at a low density that preserves rural character. The Plan indicates the following:

“The Rural Residential designation includes residential, agricultural, and pre-existing limited commercial land uses. Low density subdivision / neighborhood development is permitted and is encouraged to utilize open space cluster development practices in order to protect and preserve the natural features in this area and the rural character it defines. Other residential use consists of scattered-site development at low density. Units typically are served by private wells and septic systems. (Although public utilities have been extended west into portions of the Rural Residential area, this was done to address environmental concerns and not facilitate development.)

Desired Future Development Pattern:

- *Low density residential development*
- *Utilization of conservation / open space subdivisions to protect sensitive landscapes*
- *Utilization of programs available – purchase of development rights, transfer of development rights, conservation easements – to protect natural features*

- *Setback from natural features (surface waters, wetlands)*
- *Building pad site selection based on minimal disturbance to natural features*
- *Tree lines and other vegetation along road frontages selectively cleared if at all to minimize impact on rural character along County Roads*
- *Maintenance of existing agricultural and commercial uses with no new agricultural or commercial development”*

The Plan very clearly indicates that while public utilities, specifically public water, have been provided in portions of the Rural Residential area (down West Main Street), it was not done to spur development but to resolve a specific environmental problem. But, the Township Zoning Ordinance is contradictory to this statement because density in the RR District depends on whether a site has public water. The current Ordinance language states:

66.201

District	Dimensional Requirements	
RR	Parcels	
	Area Requirements:	1.5 acres
	Minimum Frontage:	200 feet
	Lot, building sites	
	With water:	density of 1.5 dwelling units per acre
	Without water:	density of 1.0 dwelling unit per acre
	Median width:	100 feet

Essentially, if your site has public water and you either subdivide or develop a site condominium, a density of 1.5 dwelling units per acre is allowed. As an example, a parcel with a total of 30 acres would be allowed to build 45 units if the site topography allowed. This calculation is based on gross acreage for the site.

In an effort to better support the Oshtemo Township Master Land Use Plan and the original intent when the RR: Rural Residential District was first adopted, Staff recommends the area requirements be amended to require any density higher than 1.5 acre lots be required to develop under the Open Space Community Special Exception Use. Please see the attached ordinance amendment.

Staff Recommendation

The Planning Commission will have an opportunity to make any final changes to the requested amendments at the public hearing. Staff would request that the amendments be forwarded to the Township Board with a recommendation of approval.

Thank You

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO. ____

Adopted: _____, 2016

Effective: _____, 2016

OSHTEMO CHARTER TOWNSHIP ORDINANCE

An Ordinance to amend the Oshtemo Charter Township Zoning Ordinance by the amendment of Section 62.000 Non-Conforming Uses; Section 66.000 Area Requirements, Dwelling Standards and Residential Occupancy, Subsection 66.200 Dimensional Requirements for parcels, lots and building sites, Subsection 66.201 Schedule of Area, Frontage, and/or Width Requirements and the amendment of Section 68.000 Off-Street Parking of Motor Vehicles, the heading of Subsection 68.300 Requirements for parking spaces and parking lots and Paragraph G. This Ordinance repeals all Ordinances or parts of Ordinances in conflict.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SECTION I. AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 62.000 NON-CONFORMING USES. Section 62.000 Non-Conforming Uses is amended to read as follows:

62.000 NON-CONFORMING USES, STRUCTURES AND LAND

62.150 Regulations. Intent.

Upon the adoption of this Ordinance or subsequent amendments, there may exist lots, buildings, structures and uses of land which were lawful prior to the enactment of this Ordinance, but which are not in conformance with the provisions of this Ordinance, or amendment thereto. It is the intent of this Ordinance to permit such nonconformities to remain until they are discontinued or removed, but not to encourage their survival or, where discontinuance or removal is not feasible, to gradually upgrade such nonconformities to conforming status. Because nonconforming lots, structures and uses, so long as they exist, prevent the full realization of the goals and

objectives of the Township Master Plan, the spirit of this Section is to reduce, rather than increase, such nonconformances.

The following regulations shall control lawful non-conforming uses in existence at the time of passage of this Ordinance.

62.151 Nonconforming parcels, lots or building sites.

In any zoning district, notwithstanding limitations imposed by other provisions of this Ordinance, where a nonconforming lot, parcel or building site of record, lawful at the time of its creation, fails to meet the requirements for minimum area, minimum width, minimum frontage or exceeds the allowable depth to width ratio of 4 to 1, such lot, parcel or building site may be used for the permitted uses of the zoning district, provided that all other applicable minimum requirements are met.

62.152 Nonconforming uses of land or structure.

The use of any land or structure, existing and lawful at the time the use commenced, may be continued, even though such use does not conform to the provisions of this Ordinance, or amendment hereto, subject to the following provisions:

- 1. No nonconforming use shall be enlarged or increased, nor extended to occupy a greater area of land or structure.**
- 2. No nonconforming use shall be moved in whole or in part to any other portion of the land or structure occupied by such use.**
- 3. If any nonconforming use of land or structure ceases for any reason for a period of more than 12 months, any subsequent use of such land or structure shall conform to the requirements of this Ordinance.**
- 4. If a nonconforming use of land or structure is changed to a permitted or more restrictive use in**

the district in which it is located, it shall not revert or be changed back to a nonconforming less restrictive use.

62.153 Nonconforming structures.

Structures which are existing and lawful at the time of construction may be continued, even though such structures do not conform to the provisions of this Ordinance, or amendment thereto, subject to the following provisions:

1. No nonconforming structure may be enlarged or altered in a way which increases its nonconformity.
2. If any nonconforming structure is damaged, by any means or in any manner, to the extent that the cost of reconstruction or restoration exceeds one-half the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall only be permitted in conformity with the provisions of this Ordinance.
3. If any nonconforming structure is damaged, by any means or in any manner, to the extent that the cost of reconstruction or restoration is equal to or less than one-half the value of such structure prior to the damaging occurrence, as determined by the most recent assessment of the market value of the structure, exclusive of the market value of land, such reconstruction or restoration shall be permitted, provided a building permit for such reconstruction or restoration is issued within one year of the occurrence of such damage.
4. If a nonconforming structure is altered or modified so as to eliminate, remove or lessen any or all of its nonconforming characteristics, then

such nonconforming characteristics shall not be later reestablished or increased.

62.154 Single-family and two-family dwellings.

Notwithstanding the foregoing, a single-family or two-family dwelling located in a zoning district, which does not permit the same, may be altered, expanded and/or rebuilt. In addition, one accessory building not exceeding 600 square feet in area may be erected for a nonconforming single-family or two-family dwelling lacking an existing accessory building.

62.155 Change of tenancy or ownership

There may be a change of tenancy, ownership, or management of any existing nonconforming uses of land, structures, and premises provided there is no change in the nature or character of such nonconforming uses except in conformity with the provisions of this Ordinance.

~~62.151 Lawful non-conforming uses or structures in existence at the time of passage of this Ordinance may be continued but shall not be extended, added to or altered unless such extension, alterations or additions are in conformity with the provisions of this Ordinance.~~

~~62.152 If the cost of repair or replacement of a non-conforming use or structure which has been destroyed by reason of windstorm, fire, explosion or any act of God or the public enemy exceeds 50 percent of the total replacement cost of the use or structure, such use or structure shall not be continued or rebuilt except in conformity with the provisions of this Ordinance.~~

~~62.153 If the non-conforming use of any land or structure shall terminate for a continuous period of time exceeding one year, such use shall not be re-established and any future use of land and structure shall be in conformity with this ordinance.~~

~~62.154 If a non-conforming use is changed to a permitted or more restrictive use in the district in which it is located, it shall~~

~~not revert or be changed back to a non-conforming less restrictive use.~~

~~62.155 Notwithstanding the foregoing, a single family or two-family dwelling located in a Zoning District which does not permit the same may be altered, expanded and/or rebuilt. In addition, one accessory building not exceeding 600 square feet in area may be erected for a nonconforming single-family or two-family dwelling lacking an existing accessory building.~~

SECTION II.

AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 66.000 AREA REQUIREMENTS, DWELLING STANDARDS AND RESIDENTIAL OCCUPANCY, SUBSECTION 66.200 DIMENSIONAL REQUIREMENTS FOR PARCELS, LOTS AND BUILDING SITES, SUBSECTION 66.201 SCHEDULE OF AREA, FRONTAGE, AND/OR WIDTH REQUIREMENTS. Section 66.000 Area Requirements, Dwelling Standards and Residential Occupancy, Subsection 66.200 Dimensional Requirements for parcels, lots and building sites, Subsection 66.201 Schedule of Area, Frontage, and/or Width Requirements for the “RR” Rural Residential District is amended to read as follows:

66.201 SCHEDULE OF AREA, FRONTAGE, AND/OR WIDTH REQUIREMENTS

District	Area/Frontage	Dimensional Requirements
RR	Parcels, lots and building sites	
	Area Requirements:	1.5 acres
	Minimum Frontage:	200 feet
	Lot, building sites within an Open Space Community:	
	Area Requirements:	Density of 1.0 dwelling unit per acre
	with water:	density of 1.5 dwelling units per acre
	without water:	density of 1.0 dwelling unit per acre
	Minimum Width Frontage:	100 120 feet

SECTION III.

AMENDMENT OF ZONING ORDINANCE COMPILED SECTION 68.000 OFF-STREET PARKING OF MOTOR VEHICLES. Section 68.000 Off-Street Parking of Motor Vehicles, the heading of Subsection 68.300 Requirements for parking spaces and parking lots and Paragraph G are hereby amended to read as follows:

68.000

OFF-STREET PARKING OF MOTOR VEHICLES

68.300

Requirements for parking spaces, and parking lots and drive-through windows.

Requirements for all parking spaces and parking lots (except those for single- and two-family dwellings, for mobile homes or single- or two-family dwellings in a mobile home subdivision, or for farms) **and drive-through windows** shall be as follows:

- G. Drive through windows. **A minimum of five 10 foot by 20 foot stacking spaces, measured from the serving window, for food service establishments and a minimum of three 10 foot by 20 foot stacking spaces for all other drive-through establishments** for vehicles awaiting service shall be on-site and designed and located so as not to block or impede pedestrian and/or vehicle circulation on the site or on any adjacent sidewalk or street. Stacking spaces shall not be considered parking spaces.

SECTION IV.

EFFECTIVE DATE AND REPEAL. All Ordinances or parts of Ordinances inconsistent with this amendment are hereby repealed. This Ordinance shall take effect upon publication after adoption in accordance with State law.

DEBORAH L. EVERETT, CLERK
OSHTEMO CHARTER TOWNSHIP

April 20, 2016



Mtg Date: April 28, 2016
To: Planning Commission
From: Julie Johnston, AICP
Subject: Any Other Business – Ordinance Amendments

There information provided below is a continuation of the minor Ordinance amendments the Planning Department would like to discuss with the Planning Commission.

Parking Lot Drive Lanes

The Fire Chief has made a request to the Planning Department to present an ordinance amendment to the Planning Commission requiring all drive aisle widths (regardless of traffic direction) within parking lots to be 24 feet. The current ordinance language requires 24 feet for two-way and 20 feet for one-way traffic. The request stems from the size of their fire truck and the attached equipment when it is completely deployed.

From our research, we have determined the total width of the fire equipment utilized by the Oshtemo Fire Department to be 18 feet. Research was conducted of neighboring jurisdictions and jurisdiction that have similarities to Oshtemo Township to compare drive aisle widths. The Zoning Administrator found the follow information:

Parking Lot Drive Aisle Lane Widths

Jurisdiction	Minimum Circulation Aisle Widths	Fire Lane Standards
Canton Township	22' wide for 90° parking, gradually decreasing down to 12' wide for parallel parking arrangements.	Access lanes leading to multi-unit residential buildings required. Up to 25' wide for two-way and 20' for one-way. Designated fire lanes required on site plans, but no dimensions are dictated.
Cascade Township	Maximum of 24' wide for 75° to 90° two-way parking arrangements, decreasing to 12' wide for one-way.	None listed.
City of Grand Rapids	Maximum width of 26' for 90° parking arrangements, decreasing down to 16' for parallel parking. Flow direction not a factor.	Required to be shown on site plans. No dimensions are dictated.
City of Kalamazoo	No requirements listed in the zoning ordinance. Staff attempts to adhere to the "industry standards" of 24' wide for two-way circulation and 20' wide for one-way circulation.	None listed.

Jurisdiction	Minimum Circulation Aisle Widths	Fire Lane Standards
City of Parchment	25' for two-way 90° parking, gradually decreasing down to 12' for 0° one-way parking.	Must be shown on site plans for temporary uses/events, but no dimensions are dictated.
City of Portage	75° to 90° parking arrangements require 22' wide aisles. The minimum width gradually decreases with other schemes, down to 12'.	Required per fire chief's discretion for any given site. Width also to be dictated by fire chief.
Delta Township	24' wide for two way 90° parking, gradually decreasing down to 12' for one-way parallel parking.	None listed.
Grand Rapids Township	24' wide for 90° two way parking, gradually decreasing down to 12' wide for parallel parking arrangements.	None listed.
Kalamazoo Township	90° parking arrangements require 24' wide aisles. The minimum width gradually decreases with other schemes, down to 16'.	May be required per the site plan review process. No specific dimensions or locations given.
Milford Township	26' wide for 90° parking, gradually decreasing down to 12' wide for parallel parking arrangements. Flow direction not a factor.	None listed.
Texas Township	90° parking arrangements require 24' wide aisles. The minimum width gradually decreases with other schemes, down to 15'.	None listed.
Village of Schoolcraft	90° parking arrangements require 25' wide aisles. The minimum width gradually decreases with other schemes, down to 12'.	None listed.
Village of Vicksburg	25' wide for two way and 20' for one-way 90° layouts, gradually decreasing with other arrangements, all the way down to 13'.	None listed.
West Bloomfield Township	24' wide for 90° parking, gradually decreasing down to 12' wide for parallel parking arrangements.	Required to be shown on site plans. No dimensions are dictated.

As can be seen, most communities have a 90 degree parking drive aisle width of 24 to 26 linear feet and this dimension diminishes as parking angles decrease. Some one-way and parallel parking scenarios are reduced to a 12-foot drive aisle. In addition, a small number of communities require a “fire lane” to be shown on the site plan, but most don’t require a specific dimension for this lane.

Staff’s primary concern with this request is the increase in asphalt on a site. The change in the code would require all lanes to be 24 feet in width but the Fire Department would not need to access all parking aisle

drive lanes on the site. We would therefore be requiring additional asphalt in areas where it may not be needed. An alternative may be to have the Fire Marshall determine the best location for a fire lane and ensure that this drive aisle meets the 24-foot requirement.

The Planning Commission could consider three possible scenarios to the request, as follows:

1. Maintain the current 20-foot requirements for one-way traffic lanes.
2. Approve the request and require all traffic lanes to be a minimum of 24 feet.
3. Require site plans delineate a fire lane, which would be maintained at 24 feet regardless of the directional traffic of the drive aisle.

Based on the direction received from the Planning Commission, staff will develop new ordinance language for review at the May 26th meeting, if applicable.

Business Research Park Open Space Requirements

During the discussion with Western Michigan University regarding the development of the Business Technology Research Park (BTR) 2.0, concerns were raised about the Business Research Park (BRP) District language related to open space. The current requirement refers to total ground coverage per individual site, as follows:

39.406 Development Standards.

(d) Total ground coverage shall not exceed 50 percent of the individual site.

The difficulty with phrasing the requirement in this way is two-fold, as follows:

1. The Township Zoning Ordinance does not have a definition for ground coverage. While seemingly self-explanatory, ground coverage is defined differently in many ordinances. Some include sidewalks and some do not, some define it as any impervious surface while some just count the building, etc. Without a definition, we would have to count everything that is not naturally occurring on the site, which could considerably reduce the buildable footprint.
2. By regulating through “ground coverage” on individual sites, we are precluding, or making it extremely difficult, to provide dedicated public open space within a BRP development. For example, the current design for BTR 2.0 has approximately 16 acres set aside as dedicated public open space, meaning the land will be owned and maintained by the condominium association separate from the individual buildable sites. Based on the current ordinance language, none of this land could be counted toward the open space requirements of the individual sites. Each individual buildable site would continue to be required to have 50 percent open space, limiting the overall buildable area of each site and the entire development.

Based on these concerns, Planning staff would recommend changing the development standard to the following:

50 percent of the entire development shall be retained as open space. This open space can be developed as dedicated open space that is owned and maintained by an association, or provided on each individual parcel, lot or building site within the development, or a combination of these options. In no case, shall an individual parcel, lot or building site have less than 20 percent open space.

The revised language will provide some flexibility within the regulation to allow each developer an opportunity to plan open space as either dedicated to public use or as natural features on the individual sites. It also provides some continued requirements on each individual buildable site, eliminating the possibility of an entire parcel, lot or buildable site being 100 percent covered.

UPDATE - Existing Signs in the Village Form-Based Code Overlay District

At the March 24th meeting, Planning staff presented a request to amend the Village Form-Based Code Overlay District that would allow the continuation of otherwise prohibited signs on nonconforming buildings until such time as the structure comes into compliance with the Architectural Standards of the Overlay District. Essentially, signs on existing structures that currently do not conform to the Architectural Standards would be allowed to continue, including changing out panels for internally lit box signs, until such time that the building is renovated and comes into compliance with all of the requirements of the Overlay District.

There was extensive discussion at the meeting regarding the desire for compliance with the sign requirements, but acknowledging the significant differences between the Village Core and the East Corridor, South Corridor and Village Fringe. Planning staff is working on revised language that would take this discussion into consideration. In addition, staff will discuss the concerns with the Downtown Development Authority at their May meeting, to have revised language back to the Planning Commission for the May 26th meeting.

UPDATE - Landscape Ordinance

Planning staff has completed the recommended amendments to *Section 75: Landscaping*. Staff has also authored an alternate approach to landscaping for the Planning Commission's consideration. These two amendments are not included in this packet of information because staff wanted an opportunity to create a landscaping plan utilizing both approaches to compare and contrast the options. Also, the creation of a landscape plan will help to provide a visual outcome of the Ordinance regulations. These plans are currently in the process of being developed and will be ready for the May 26th meeting.

Thank you.