

**ADA TOWNSHIP PLANNING COMMISSION
MINUTES OF THE FEBRUARY 20, 2014 MEETING**

A meeting of the Ada Township Planning Commission was held on Thursday, February 20, 2014 at 7:00 p.m. at the Ada Township Offices, 7330 Thornapple River Dr., Ada, MI.

I. CALL TO ORDER

Meeting was called to order by Chairperson Korth at 7:00 p.m.

II. ROLL CALL

Present: Commissioners Jacobs, Easter, Butterfield, Lowry, Korth, Lunn, Leisman.

Also present: Planning Director Ferro.

III. APPROVAL OF AGENDA

Korth announced that the Planning Director has requested the Bieker Special Use Permit request for a heliport be removed from the agenda, with the applicant's consent, and postponed until the March 20th meeting.

Motion by Jacobs, supported by Easter, to approve the Agenda, with removal of the Bieker special use permit request. Motion passed unanimously.

IV. APPROVAL OF MINUTES OF JANUARY 16, 2014 MEETING

Korth stated there was an incomplete sentence in the draft minutes on page 6 concerning a comment he made.

Ferro suggested postponing action until later in the meeting when he could retrieve his meeting notes.

V. PUBLIC HEARING

None.

VI. UNFINISHED BUSINESS

Site Plan Review, revision to site plan for Skyevale Site Condominium, to permit access through the site condominium to 1 single family home site located outside the condominium boundary, Scott Lancaster

Ferro stated Mr. Lancaster is the developer of the Skyevale Site Condominium, and also owner of a home and condo unit in the development. Ferro stated Mr. Lancaster is proposing to create a driveway easement across the unit that his home is located on to access a new home site. He stated the new home site would be a "metes-and-bounds" described lot, not part of the condominium itself, and it would be accessed through the condominium private road network. Ferro stated since the original condominium plan was subject to site plan approval by the planning commission, the addition of a new lot to be accessed through the condominium is, in essence, an expansion of the site plan, and also requires approval of a modified site plan by the planning commission. He stated action was postponed last month to obtain legal counsel input, which is in your packets. Ferro stated legal counsel concluded the condominium documents grant reserved rights to the developer to access land through the condominium that's located outside the condominium, and there does not appear to be any conflict between the condominium statute or the condominium documents and Lancaster's proposal to access a building site located outside the condominium through the condominium. Ferro stated at last month's meeting there was a conflict between the Lancaster proposal and our private road rules, which place limits on the total number of lots

that may be accessed by a private road that has only one connection point to a public road. Ferro noted that the number of home sites in Skyevale already exceeds that limit, which was enacted after the original Skyevale site plan was approved. Ferro stated the applicant submitted a zoning variance application to be granted a variance from conformance with that limit, and that was approved by the Zoning Board of Appeals within the last month.

Tom Amon, Warner, Norcross & Judd, representing Scott Lancaster, stated his firm submitted a letter on behalf of the developer after the last meeting, and he is here to ask for approval. He stated he doesn't believe it's necessary to require that the condominium documents be amended to address the applicant's commitment to sharing in private road maintenance costs. Amon stated that a condition requiring a private road maintenance agreement is acceptable to them.

Ferro pointed out that the expansion of the allowable building envelope on Unit 13 of Skyevale by adding an adjacent triangular parcel of land located outside the condominium boundary to the site plan has been removed from the site plan, and that aspect of the proposed plan has been withdrawn by Mr. Lancaster, and is no longer part of the applicant's application.

Ferro added that two items of written correspondence on the application were both received today - one message in support of the application from Jamie and Catherine Ackerman, 951 Skyevale Drive, and a support message from Bill Beecher, who owns Unit 8 in Skyevale.

Jane Marchesan, fiancé of Bill Beecher, 830 Skyevale Drive, stated she lends her support to this request. She stated she believes there is no impact to the condominium residents with this proposal; that the driveway being requested will not be an additional cost to the condominium owners, and there will be no additional traffic going through the condominium itself. She stated she supports this request.

Mark Zylstra, 1456 Cramton, stated one of his concerns is how the association would be expected to collect the expenses of maintaining the road. He stated he doesn't have any objection to what Mr. Lancaster's attorney said, but he has had other people from the association tell him that Mr. Lancaster has stated he was planning on adding that lot to the association.

Zylstra stated another issue has to do with the limit of 15 lots in the private road rules, and the criteria in the rules stating that the limit is 15 unless it has been established that there is an excessive amount of grading and removal of existing vegetation that would adversely affect the character and appearance of the development. He stated we're at 28 lots now, where do we stop. What's the point in having an ordinance if it doesn't mean anything. Zylstra also asked who would enforce the payment obligation toward maintenance of the road.

Korth asked Ferro if he had the minutes of the Zoning Board of Appeals meeting that would give us the rationale of the criteria that the Zoning Board of Appeals goes through with respect to deciding on a variance request. He stated it's useful for us because we do bump into this from time to time when something we're working on has a variance request.

Ferro stated the standard that the Zoning Board uses in determining whether to approve a variance is what's termed "practical difficulty" – whether there physical circumstances that impose a practical difficulty on the applicant. The standard that they use is not the standard that Mr. Zylstra referred to, which is a standard that the Planning Commission can use to increase the limit from 15 to 20; so it's not the same standard that's used by the Zoning Board, so there was no reference to that standard in the Zoning Board's deliberations.

Bill Cullen, a neighbor to the Lancaster's, stated he supports Dr. Lancaster's request. He believes it would be the easiest solution all around.

Korth stated the applicant has requested a little bit different recommendation than what the Township attorney recommended with respect to the agreement between this new property owner and the actual condo association.

Ferro stated he spoke to legal counsel about that matter late this afternoon, and she stated her primary reason for suggesting that a master deed amendment be required was to establish the applicant's responsibility for contributing to private road maintenance and repair costs, but that a contractual agreement between the applicant and the condo association would achieve that same purpose; so she had no objection to substituting a contractual agreement being required instead of an amendment to the master deed.

Ferro stated that with regard to enforcing the collection of private road maintenance cost shares, it becomes a function of the contractual agreement between the parties; it's not something that involves the Township whatsoever. Ferro stated we do want to look at the agreement to see that it contains binding provisions, enforceable provisions that are enforceable by the parties to the agreement to ensure that Lancaster contributes as if he were one of the condo unit owners, has the same obligation that the condo owners have towards the private road upkeep costs.

Leisman stated he likes the idea of amending the actual condo documents for exactly the reasons Mr. Zylstra brought up, because then they're all on the same page and they're all using the same mechanism for maintaining the road. He stated maybe we could make it a condition that it either be an amendment to the master deed or a satisfactory contractual agreement that is reviewed by the Township attorney before it's recorded.

Ferro stated he believes we could borrow language from the condominium documents concerning the enforcement of condo unit owner's payment obligations, for use in a private road maintenance agreement.

Jacobs asked Leisman if he was referring to recording the contract.

Leisman stated if a private road maintenance agreement is used, it should be recorded before they would go ahead with the addition.

Ferro stated, yes, it should be a recorded agreement that runs with the land.

Motion by Leisman, supported by Easter, to approve the revised site plan, subject to the condition that the owner of the "future Lancaster estate" parcel identified on the site plan is legally bound to share in the costs of operating, maintaining, repairing and replacing the private road system, including the entry gate, in the Skyevale condominium, in the same manner and extent as condominium unit owners. This legal obligation shall be accomplished either by an amendment to the condominium master deed or through a private road maintenance agreement between the owner of the "future Lancaster estate" parcel and the condominium association. The legal instrument used shall be subject to approval by the Planning Director and Township attorney, and shall be recorded with the Register of Deeds prior to Township approval of the land division creating the "future Lancaster estate" parcel shown on the site plan.

Motion passed unanimously.

VII. NEW BUSINESS

Final PUD Plan, Clements Mill West Condominiums, 33 Detached and Attached 2-Family Condominium Units, 372 Spaulding Ave SE, Parcel No. 41-15-31-201-056, West Michigan Development Company

Mick McGraw, Eastbrook Homes, stated this property is the last remaining phase of the Clements Mill development. He stated the site was originally designated for apartments, but was changed to condominiums when the Stone Falls apartment project was approved. He stated the original plan had 57 units, and they are now proposing 34 total units, so it's much less dense. McGraw stated he believes the current plan better fits the site and the marketplace. He stated each home would be customized to buyers' preferences, with respect to the interior and a bit to the exterior.

McGraw stated that he has some dissatisfaction with the Township engineer's recommendation that a portion of the existing sanitary sewer that crosses the site be re-located, and he is hoping to meet next week to discuss and resolve that. He stated the issue regarding minimum distance between buildings can be taken care of with a change to the settlement agreement. McGraw stated he has no problem with widening of the existing stub street that will access the condominiums.

Ferro stated the overall Clements Mill development is subject to the terms of a lawsuit settlement agreement reach in 1997. He stated that a previous plan for this site was approved in 2007 for 57 condominium units in 3-to-6 unit buildings, but this approval never resulted in any construction.

Ferro stated the current plan reduces the density to 33 units, with a different home style proposed. Ferro stated there are "zero-step" at-grade units proposed on the west end of the property, and on the east end of the property next to the pond are combination single-family and two-family buildings that would have walk-out basements. Ferro noted there was a sidewalk included in the previous 57-unit plan in front of the townhomes, which he believes should be added to this plan.

Ferro noted that the minimum distance between buildings shown on the current plan, at 16 feet, conflicts with the 20-foot minimum separation distance required by the settlement agreement for condominium buildings on this site. Ferro stated that he had no objection to the 16-foot distance, and noted that the minimum setback requirements for the single-family portion of the Clements Mill development allows 16 feet separation between homes. He stated the rationale for the 20-foot separation for condominiums and apartments is to minimize fire risk. He noted that the units proposed in the current condominium layout are more like single-family units in terms of size, which makes the 16-foot distance acceptable.

Leisman asked which buildings have the 16 foot issue, is it all of them.

Ferro stated no, not all of them.

McGraw stated they asked for 16 feet as a minimum, and wish to have flexibility for design options on each home, such as a grand master bathroom, that would reduce the separation distance.

Jacobs asked if the settlement agreement is the same one that involves the Title Company property.

Ferro stated yes.

Jacobs asked if he recalled why we said it wouldn't be amended again.

Ferro stated we were concerned that multiple amendments is contrary to the normal zoning process that involves public input, and we wanted to avoid having future amendments.

McGraw stated he believes this would be the final amendment, since it is the end of the project, and it's a minor change.

With regard to the sanitary sewer, Ferro stated the proposed plan places at-grade buildings 10 feet away from a 20-foot deep existing sewer, and our engineer is concerned that this proximity makes it impossible

to perform any future repairs to that sewer. The engineer believes the least expensive way for the applicant to address this conflict is to re-locate a portion of the sewer.

McGraw noted that the buildings are located outside of the existing sewer easement, so he believes his proposal is legal. He stated he recognizes we need a solution, but wants to talk with the Township about alternative ideas he has.

Ferro stated a couple of other recommendations in his staff report are that no parking signs should be installed on the emergency access lane, the 18-foot wide stub-street that would be used to access the 33 units should be widened to 22 feet, and that a pedestrian/bicycle route through the site should be provided to complete the connection that has always been planned through the entire Clements Mill development.

Korth stated he believes the needs of walkers should be addressed with a separate path, instead of having to walk in the middle of a road, and suggested the applicant work with the Planner on a solution.

Ferro asked if the Commission wished to take action the application tonight. He stated he has some concern with attempting to come up with the wording of approval conditions on the spot.

Leisman stated he would be more comfortable with postponement, so that the Commission could see a revised plan that addresses the items we have discussed.

Ferro asked if the consensus of the Commission was to resolve the 16-foot separation distance with another amendment to the settlement agreement.

Jacobs stated her main concern with the previous amendment was getting the settlement agreement recorded and getting the proper parties as signatories. Leisman stated he prefers the current plan with smaller building sizes, and that if holding to a 20-foot separation results in fewer, larger buildings, he would support an amendment to the settlement agreement.

Leisman asked if it would be helpful if as part of our tabling we express that we would like to see a way to make 16 feet work.

Ferro stated it might be helpful to getting Township Board approval of another amendment.

Motion by Leisman, supported by Jacobs, to postpone action, and also recommend that the settlement agreement be amended to permit a minimum separation distance between buildings of 16 feet instead of the currently-required 20 feet.

Motion passed unanimously.

VIII. STAFF/COMMITTEE/COMMISSION MEMBER REPORTS

Schedule Public Hearing on Proposed Capital Improvements Plan, 2014-2020

Ferro stated the Capital Improvement Plan Committee met recently and reviewed proposed projects, and fund projections for all of the various Township segregated funds, and he will have a draft document for Commission members next week.

It was moved by Leisman, supported by Lunn, to set the public hearing date on the Capital Improvements Plan update for the March 20 meeting.

Motion passed unanimously.

Proposed Schedule for Update of Master Plan to Incorporate Village Design Plan

Ferro stated that preparing and adopting an amendment to the Master Plan to incorporate components of the Village Design Plan would be a several month process, due to provisions of state law, some which involve opportunity for adjacent communities to review and comment.

Korth suggested a Commission work session to begin this process, and look closely at the Village Plan.

A work session meeting was set for March 7th at 3:00 p.m. at the Township office.

Draft Zoning Ordinance Amendment to Permit “Caretaker” Residential Units in Industrial District

Ferro stated he did not yet have a completed draft for the Commission to review.

IX. PUBLIC COMMENT

Michael Homier, 2977 Mela Via Court NE, President of homeowners’ association, stated he knows the heliport application was removed from the agenda, but he is not sure whether he can attend the March meeting. He stated the Mela Via subdivision lies directly south of the subject property, and without exception none of his neighbors have any objection to locating the heliport on Mr. Bieker’s property.

Homier stated in terms of noise, he doesn’t know how many times the helicopter has come and gone from there; his understanding in talking with Mr. Bieker is that take-offs and landings are not permitted during the hours of 10 pm and 7 am. He stated in his experience the gun club on Pettis Ave. is far more disruptive than the helicopter is. Homier also stated that with respect to the Master Plan, there is a shorter, 42-day timeframe for adjacent community comments on amendments to Master Plans provided in the state law, which is shorter than the 63-day timeframe mentioned by Ferro.

APPROVAL OF MINUTES

Ferro stated that Korth’s comment on page 6 of the draft minutes was to the effect that neighbors already seem to have a good idea of what the noise impacts of helicopter operations are on the site, based on their comments earlier in the meeting.

The consensus of the Commission was to amend the minutes to reflect this.

Motion by Easter, supported by Lowry to approve the minutes as revised.

Motion approved unanimously.

X. ADJOURNMENT

Motion by Jacobs, second by Easter to adjourn the meeting at 8:30 p.m.

Motion passed unanimously.

Respectfully Submitted,

Susan Burton, Township Clerk

SB/dr