

NELSON TOWNSHIP
Special Planning Commission Meeting
Nelson Township Municipal Building
2 Maple Street
Sand Lake, Michigan 49343

Wednesday, August 17, 2016
7:00 P.M.

MINUTES

The regular Planning Commission meeting was called to order at 7:00 p.m.

Commissioners Present: Hoffman, Stolk, McKown, Wall, Litwinchuk, and Covell.

Commissioners Absent: Grifhorst.

Also Present: Zoning Administrator Jerry Gross, Township Attorney Ross Leisman, Dan Larabel from Edwin Allen Homes, and the Township residents who signed the attendance sheet attached to these minutes.

Approval of Agenda: McKown proposed that the agenda be amended to allow those who had not voiced their concerns before or had new information a chance to speak. A motion was made by Stolk, and seconded by Litwinchuk, to approve the August 17, 2016 agenda as amended. Yes – 6, No – 0.

**Unfinished Business: Proposed OSPUD “White Pine Ridge”
Edwin Allen Homes, 18 Mile Road and Shaner Avenue**

Commissioner McKown recapped what has been presented to the Planning Commission at previous meetings. He stated there is a high level of concern about the water drainage issues imposing a hardship to neighbors, the township and the county. There are also concerns about any benefit to the Township, as well as whether or not White Pine Ridge fits the intent the Planning Commission had in mind when it created the OSPUD zoning.

Commissioner McKown then opened up the floor for comments allowing new information or comments from those who had not previously voiced their concerns.

McKown read a letter from Loretta Lee dated August 15, 2016, which was received in the Nelson Township offices on August 17, 2016. That letter is attached to the minutes filed in the Clerk’s office.

Carl Lee, 6340 18 Mile Road, stated that the revised plans show one drain moving all of the water to Shaner. His calculation of the open space, with a deduction of the basin, is 17.74 acres. Actual space calculates to 8.5 acres, not 10. He did some frontage calculations stating that one has 64 and others have 72.

Mike Link, 14390 Shaner, stated that he has a culvert in front of his house and his front yard still floods. He reports that a neighbor south of him has flooding and his sump pump can't keep up. He lives half a mile from the proposed development.

Patty Prawdzik, 14585 Shaner, said she has a culvert that has never had water in it, but is concerned that it will once the development goes in.

Dave Gilson, 14550 Shaner, after reviewing the information presented by Edwin Allen and Prein & Newhoff, feels that there are tentative issues that won't be dealt with until later, and he wants to make sure the Township is following those. He feels the biggest issue is drainage and is concerned that the adjacent property owners aren't going to have any recourse once the development is in. He doesn't want to see a repeat of what happened on Redder Drive.

Mary Stidham, 14216 Shaner, restated that when the water gets to her driveway it stops because there is no culvert going north/south.

Loretta Lee, 6340 18 Mile, wanted to know if this was being developed under the Condominium Act of 1978 and/or the land division platting. She talked to the Drain Commission and states that if it is built under the Condominium Act, the Drain Commission will have no authority other than if they are requested by the development. She is concerned the developer won't have to follow guidelines.

Attorney Leisman explained the process and options available to the Planning Commission. The property owner has a right to request PUD rezoning and a right to go to the Township Board. The Planning Commission's job is to make a recommendation to the Township Board to adopt the rezoning and preliminary plan with or without conditions.

Dan Larabel, Edwin Allen Homes, then thanked the Planning Commission for granting the special meeting. He stated that he reviewed the Prein & Newhoff correspondence. Edwin Allen cannot control the current water issues, but moving forward, all of the water within the PUD property will stay within the boundaries. It will also result in 17 less acres of water flowing from the current 60 acres. Additional storm swales were added to the revised plan so the basin doesn't fill up and the swales were moved to the property units to provide more open space.

Mr. Larabel also spoke to Tom Stressman at the City of Cedar Springs who was unwilling to provide something in writing, but does not have a problem with the development. The City of Cedar Springs is more concerned with heavy industrial or commercial impacts.

The Kent County Health Department letter clarified what type of soils is onsite. They have approved conventional types of septic systems sized in accordance with regulations.

Mr. Larabel read Section 4.3D of the draft Master Deed which provides clear language that if something were to happen with the storm water system, the Township or Drain Commission can step in to create a special assessment district. There is also talk about starting a

seed fund with developer contribution that the association can use in the event problems arise in the future.

He then addressed the Planning Commission's intent when the OSPUD rezoning was created. Edwin Allen is not looking to change the zoning classification. The OSPUD creates open space to preserve the grass and woodlands currently there. The development by right comparison plan removes that open space and the outcome is essentially the same but removes the area that everyone can use. If this OSPUD is rejected, the developer will move forward with development by right. Regarding engineering details, there are construction plan details to work out as far as pipe sizes and such. There is nothing in the Prein & Newhoff letter that he is concerned about.

Hoffman stated that the language in Section 4.3 of the Master Deed definitely needs to be there. Larabel said that there are a number of details that require that the basin will be maintained during construction, stabilized, and sustainably maintained after that.

There were questions and discussion between the Commissioners and Larabel regarding the swales and water flow. Right now the water crosses the property in a sheet flow. After development, the water will be funneled into a ditch with check dams and diverted to its natural flow. The Commissioners are concerned that moving the water from sheet flow to the proposed diverted flow will increase the velocity of the water and concentrate it in one area instead of spread out throughout the entire area. Larabel stated several times that if it was a problem Prein & Newhoff would have raised concerns about it in their correspondence.

Larabel also confirmed that there are collection spots for yard drains in Units 1-4 and basins will be graded ~~high~~ low enough to catch those. He also stated that the land is so sandy that few things will grow. The sand will infiltrate the water quickly and the design is far less impactful than what is envisioned.

There was then talk about the two 100-year flood events and concern that if that happens it will flow onto someone's property. Larabel feels that the chance of this happening is remote, and if it does happen, everybody in the area will be impacted, not just the neighbors by the OSPUD.

Commissioner McKown questioned if it was appropriate to have drainage going across two properties that are not part of the OSPUD. Larabel confirmed that there will be a 30-foot wide drainage easement recorded that will run with the land.

Stolk is concerned about the recreational facilities and usable space. Larabel stated that the association can cut a path through the open space if they wish. He also stated that when they build a development, the ordinance is the only tool they have to meet the requirements because they cannot predict how the Planning Commission will react.

Larabel stated that the lots along Shaner that were divided from the original OSPUD parcel were done because not everybody wants to be in a PUD association.

Larabel confirmed to the Commissioners that maintenance of the area would be established by the developer and eventually taken over by the association. There were questions about who would do the inspection and a request that the Township receive a copy of the yearly inspections. There were also comments and concerns about who would serve on the association board and what would happen if they failed to act or were disinterested.

There was talk about yearly mosquito control, a surety bond for issues, the slope, and flattening of the swales to make them more user-friendly to cross. Larabel was amenable to changing the slope to 4:1 and flattening the bottom of the swales to 6 feet, but added that some vegetation and trees would be lost potentially impacting visibility.

Larabel also offered a matching amount for a 433 agreement between the association and drain commission to fund future maintenance needs in an amount of about \$1,000. After that, the Master Deed would provide authority to set up a special assessment district.

Attorney Leisman then gave clarification about forms of ownership under the Condominium Act and Land Division stating that the form of ownership is different where there are individual lots by land division or platting and site condominium is one deed. He explained that Townships cannot discriminate about the type of ownership. The Developer can propose zoning under the SFRL district or they can request it under PUD. Here, they have chosen PUD. If the Planning Commission and Board do not approve the PUD, they could still achieve development under traditional zoning with any of the land ownership forms.

There was then general discussion between the commissioners about several of the items discussed above, including the missing page 3 of the plans related to drainage.

Attorney Leisman confirmed that the final construction plans don't really deviate from the approved preliminary plan and just provide more detail related to construction. If there is a concern, it should be addressed now by condition.

Commissioner McKown then took a straw poll regarding the development:

- Stolk: Likes the open space but doesn't like the drainage problems. He doesn't know how they are going to be addressed if they have a right to build there. You have to take care of the water somehow.
- Wall: Big concern is the water. He truly believes that these sites will not produce any more water than it did before. He has faith in our engineer and Rossien that the water in this development will go into the basin to slow it down and hold it there. His concern is how the water gets across the property. If the water is a county problem, then he believes that it isn't the developer's problem. He thinks the OSPUD is a good property and is more upset with the stand alone parcels. He feels there is a problem with the ordinance that allows row parcels and an OSPUD split out of the same property.
- Litwinchuk: The people of the Township don't think this is going to improve their quality of life. It is going to make it harder with this kind of drainage problem.

- McKown: Feels the other option provides the Planning Commission with less of an opportunity to control parameters.
- Covell: The drainage is the main issue. He didn't hear people say they don't want all of those people there. He likes Wall's proposal with the drainage situation.
- Hoffman: The water is the biggest issue. She suggested that this be tabled to include conditions and have Attorney Leisman rewrite the ordinance with conditions.

There was then talk about the seed money for the maintenance and whether that could be structured for the water issues.

David Gilson, 14550 Shaner, then expressed concerns about how altering the course of the water showed drainage onto his property. The development behind him increased water onto his property and he is convinced this development will do the same. He doesn't know how to resolve that – lawsuits? He is also concerned that there is no plan for the water after it leaves the development. This water will flood his driveway.

Hoffman then made a motion, supported by Stolk to table approval of the preliminary plan; to have Attorney Leisman rewrite the ordinance adding conditions regarding the swales, mosquito control, annual inspections sent to the Township, bond and fees defined for drainage maintenance, and the drainage easement over the Shaner stand alone parcels; a subcommittee will be formed to review the all documentation prior to the next meeting – the subcommittee will be comprised of Commissioners Wall and Stolk, Township Resident David Gilson, Township Engineer Gritters, Dan Larabel, and potentially a representative of the Kent County Road Commission. Yes – 6, No – 0.

Comments from the Commissioners. Commissioner Hoffman stated that she will not serve another term on the Planning Commission when her term is up on November 20, 2016. McKown thanked her for her service.

Extended Public Comments.

Patty Prawdzik, 14585 Shaner, thanked the Planning Commission for trying to do the best they can for the neighbors. Mary Stidham seconded that statement.

Loretta Lee, 6340 18 Mile, noted that the infiltration basin is undersized and the surveyor makes note of that on the side of the print.

Adjournment. Stolk, seconded by Wall, moved to adjourn the meeting at 8:43 p.m.

The next regular Planning Commission meeting will be held on September 21, 2016 at 7:00 p.m.

Christine Witt
Recording Secretary