

**MINUTES
PARK TOWNSHIP
PLANNING COMMISSION**

Park Township Hall
52 152nd Street
Holland, MI 49424

Regular Meeting
April 10, 2019
6:30 P.M.

CALL TO ORDER:

Chair Pfof called to order the regular meeting of the Park Township Planning Commission at 6:30 P.M., held in the Township Hall at the Park Township Office.

ATTENDANCE:

Present: Terry DeHaan, Dennis Eade, Rosemary Ervine, Diana Garlinghouse, David Kleinjans, Denise Nestel, Jeff Pfof

Staff: Greg Ransford, Planner, Dan Martin, Legal Counsel

APPROVAL OF AGENDA:

Pfof noted #6 on the agenda, Development Inquiry, is deleted.

Motion by Ervine, supported by Garlinghouse, to approve the agenda as amended.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

APPROVAL OF MINUTES:

Motion by Eade, supported by Ervine, to approve the March 13, 2019 Regular Meeting Minutes as submitted.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

APPROVAL OF EXECUTIVE SESSION MINUTES:

Kleinjans had one question about the Executive Session minutes.

Martin advised the Chair the Planning Commission could go into a Closed Session to review the minutes and the proposed modification pursuant to Section 8(h) of the Open Meetings Act to discuss materials that are exempt from disclosure under state law by virtue of Section 7 of the Open Meetings Act.

Kleinjans moved, supported by Ervine, to enter into to a Closed Session pursuant to Section 8(h) of the Open Meetings Act to discuss the minutes of the prior meeting's closed session, which are exempt from disclosure under Section 7 of the Open Meetings Act.

Roll Call Vote:

Nestel, aye; Kleinjans, aye; Ervine, aye; Pfof, aye; Garlinghouse, aye; DeHaan, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried.

The Planning Commission entered into a closed session at 6:35 P.M

Nestel moved, supported by Kleinjans, to reconvene the Regular Meeting.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

The Planning Commission reconvened the Regular Meeting at 6:38 P.M.

Old Business

A – The Reserve on Lake Macatawa – Planned Unit Development Final Plan

Pfof said there is no Public Hearing scheduled at this meeting. All further written comments will be entered into the public record if anyone wishes to submit written comments to the Township Office. He advised that the Planning Commission may or may not vote on this agenda item at this meeting. The Park Township Board will hold a public hearing for public input once the Planning Commission submits its recommendation for approval or denial to the Board. He thanked everyone in the audience for their input at the past two meetings.

Ransford provided an update of the revisions submitted by the developer at the request of the Planning Commission. Copies of the revised plans, which reflect the revisions made pursuant

to the requests of the Planning Commission during its meeting of March 13, 2019, were shared with the Planning Commission. They include:

- 1 – Open space has increased with the reduced density of units from 85 to 75
- 2 - Two additional rows of trees to be preserved have been included along the lakeshore between the second and third row of units
- 3 - A survey of the trees has been completed for those trees between the second and third row of units
- 4 - Units 1-19 have been relocated to the east
- 5 - The number of proposed boat slips has been reduced to 30
- 6 - Clubhouse was relocated to the east
- 7 - The pathway access to the water was modified
- 8 - The internal drive was modified
- 9 - Copies of the lakeshore tree plan and wetland report have been provided
- 10 -Copies of the new grading and utility plans have been provided

Ransford added that the landscape plan has been reviewed in coordination with the site plan and tree preservation plan. The Planning Commission has received a copy of the revised landscape plan.

Peter Engles, President of Covenant Development, addressed the requests of the Planning Commission and the residents. He said his team has further reduced the number of units and boat slips, and has asked Project Engineer Jason Vander Kodde to make the adjustments. The revised plan reflects the reduction of ten units (down from 85 to 75) and the number of boat slips to not more than 30. The lakeshore trees and tree canopy have been an important part of the adjustments in the PUD plan. The project ensures that the Planning Commission and public concerns have been implemented to the best of the developer's intentions.

Vander Kodde provided a brief overview of the original plan. He then reviewed the enhanced final PUD plan. They have moved the first row of homes further from the lakeshore resulting in a setback from 78 to 272'. They have also moved the second row of homes further east which allows distances from the shore from 304' to 454'. This change protects the view of the bay and reduces grading and preserves the natural topography. This helped to preserve the large canopy of trees in this location. The next significant enhancement was to move the third row of homes more to the east and further from the lakeshore. It accomplished the goal of preserving a large stand of mature trees. It also provides more open space in the project. The pool and clubhouse were relocated. This reduced the amount of grading and both are further from the waterfront.

DeHaan asked how far they moved the second and third rows of units.

Vander Kodde responded.

He shared copies of the Lakeview tree protection plan with the Planning Commission.

Engles closed Covenant's presentation with remarks regarding the revised plan. He is confident that the revisions provide a lakeview canopy of trees and greater protection of the natural topography. He believes The Reserve will be a welcome community for Park Township.

Pfost thanked the community for their input, and Covenant for listening to concerns and for their cooperation in satisfying the requests of the Planning Commission and the public. Meeting the density numbers has been important. He expressed concern about holding the line. The process shouldn't be degraded to lessen our standards. We should not compromise the methodology and the process. He referred to the chart of General Intent and Purpose of PUDs prepared by staff for the Planning Commission's use in its review.

Garlinghouse asked why MDEQ didn't do a site survey.

Pfost said no more than 30 slips are proposed in the application. None of the construction or fill will enter a wetland area, therefore, there is no need for a MDEQ determination in this case.

Nestel observed there is a broader perspective on the part of residents and how it affects Park Township. Pine Creek Bay is an important part of the community and it is obvious there is a real awareness of what it means as a legacy for the future.

Ervine thanked the public for their input and the developers for their patience and follow-up to requests.

Pfost recommended the Planning Commission review the standards in the form of questions presented for consideration by Ransford and Martin:

PUD Standards Criteria – Sec. 38-363 -

1 – Does the proposed PUD allow a mix of uses and facilities and open space compatible with existing and planned use on nearby properties?

All agreed it was compatible with existing and planned uses on nearby properties. Nestel asked how much property will be accessible to the general community. Engles said the four acres along the lakeshore will be accessible to the residents of the development.

2 – Does the proposed PUD encourage land development that preserves natural conditions and resources such as wetlands and forests?

Garlinghouse asked how trees will be protected during construction. Engles said fences would be installed around trees to be saved. She also asked if there will be a tree replacement program.

Legal Counsel for Covenant, Dave Caldon, said accountability will be transferred from the developer to the owners and condo rules based on conditions of approval and Township ordinances. DeHaan asked for the distinction between preservation and protection. Caldon

said they have committed to no removal of trees in the Tree Preservation area or that is identified as a protected tree by the GPS geotags without Township permission. Nestel asked for clarification of the new tree plan. Are they committed to saving the 70 trees that are tagged?

Engles said this was based on what trees would be preserved. There may be other trees saved in that area. She also asked if the plan shows existing trees. Engles said the plan shows that and it also shows the minimum number of trees along the shore area that will be saved.

Eade said he had specifically looked at the canopy of trees and observed the trees are identified by a blue metal tag to be preserved. He noted the lakeshore trees numbered 38. Engles confirmed this is the minimum amount of trees that will be saved.

DeHaan said the developer has done a great job on tree preservation. Will the trees around units be preserved and is there a plan? Engles said he has a plan for those areas. He hasn't identified trees to be saved on a site by site basis but will do so once the footprint of the foundation of the units has been determined.

Nestel asked if there will be any fill put on trees that are there. Engles said no.

3 – Does the proposed PUD provide for regulation of lawful land uses?

It was agreed this PUD was an acceptable authorized use of cluster development. The proposed PUD has a mixed use of single family residences and duplexes, along with a clubhouse and pool facility for residents.

4 – Does the proposed PUD provide for single or mixed use development and is compatible with the character of the area?

Pfost asked if it was compatible with the goals of the Master Plan. The proposed PUD has a mixed use of single family residences and duplexes, along with a clubhouse and pool facility for residents. It was agreed that the proposed PUD was compatible with the character of the area, which is low-density single-family residences.

5 – Does the PUD protect floodplains and wetlands from filling?

It was agreed the developer has assured this protection of the floodplains and wetlands.

6 – Does the PUD preserve and maintain the mature woodlands, fields and meadows and create a sufficient buffer area?

It was agreed it was in line with the Township's vision and quality of life. Nestel questioned this. The Master Plan wants low residential density. Is it quality of life for the residents of Pine Creek Bay? The Master Plan places a premium on natural assets.

Ervin said it depends on how you look at it. It depends on what your needs are. DeHaan said this plan is doing that.

Pfost asked Legal Counsel, Dan Martin, to comment on the nine criteria under **Development Requirements for All Uses in Ordinance Sec. 38-366.**

Martin said the nine criteria listed in Section 38-366 of the ordinance is used to make the determination of what flexibility from the lot area, width, setback requirements, and similar zoning requirements would be granted for a PUD for all uses. The criteria to be used in making these determinations include:

- 1 – Number, location, size and type of dwelling units
- 2 – Type, location and amount of nonresidential uses
- 3 – Proximity and impact of the PUD on adjacent existing and future land uses
- 4 – Preservation of existing vegetation or other natural features on the site
- 5 – Topography of the site
- 6 – Provision of public and/or community water, sanitary sewer and storm sewer
- 7 – Access for emergency vehicles to all buildings and areas
- 8 – Provisions for pedestrian circulation, recreational amenities and open space
- 9 – Traffic circulation and safety

Martin noted the Planning Commission must consider the nine criteria when exercising its discretion to determine what amount of flexibility you want to give the developer from the generally applicable zoning requirements in the R-3 zoning district, and stated that they require careful consideration.

Nestel referred to Criteria #3 and #4 and said she wasn't confident these are met.

Pfost noted the developer has gone above and beyond toward preserving trees to the extent possible in response to Planning Commission concerns.

Nestel said she was concerned about the wetlands. She isn't sure what the developer has shown them and asked about the significance of some of the assurances of the developer.

Pfost asked for the relevance to the Reserve since there is no activity regarding a wetlands area on the property.

Martin said if there are actions by the developer that go against the PUD approval, such as violating the conditions of approval to comply with the site plan and preserve trees or protect the wetlands, then the Township would have authority to petition the Circuit Court to issue an injunction as part of the municipal civil infraction process. What we are looking at is this plan – not hypotheticals. If the developer doesn't follow the proposed plan they would be in violation of the approval, which counts as a violation of the ordinance.

Nestel asked if we can make a condition about no dredging.

Martin said if there should be any dredging in a wetlands area it would require a MDEQ permit.

Engles said there was a letter from the MDEQ regarding the Villas on any violations that occurred. He noted there was no violation and asked Nestel to clarify about her concern over the protection of the wetlands.

Nestel recalled the developer said they would fill the wetlands area.

Engles said they would not fill, only clear underbrush if it was necessary and remove any trees that aren't in the protected area.

DeHaan asked what would preclude inadvertent invasion of any wetlands during construction activity. Will they fence off such areas?

Engles said the area would be fenced off to prevent this.

Garlinghouse asked about development impacting trees.

Martin said there is a balancing act here and the person owning the property has the right to do what he wants on that property within the legal requirements. These criteria are used in trying to provide a balance between the Township's concerns and the developer's right to reasonably develop the property.

Pfost said we look at how the developer has been responsible in runoff prevention, etc. and weigh this with what are the acceptable criteria.

Density consideration -

Pfost noted the number of units has been dropped to 75.

All agreed it is better than the allowable 92, and that the density is compatible with the surrounding neighborhoods.

Section 38-369 – Dedicated Open Space consideration –

1 – Does the dedicated open space preserve natural resources, features, wooded conditions, bodies of water, and wetlands?

Nestel questioned the lakeshore condition on the recommendation for approval with regard to the trees along the lake.

Martin said he understood there are four acres of dedicated open space located along the lakeshore, in addition to the open space located around the perimeter of the property that serves as a buffer.

Nestel said this application is not part of the record. We need to be diligent this is in the record.

Martin said all of the materials submitted will be part of the record, including not only the final PUD plan and the binder of Public Comments.

Pfost referred to illustrations numbered T1 (preservation of trees) and T3 which shows dedicated open space.

Caldon said they are consistent with the ordinance.

It was agreed there was consensus on dedicated open space for this standard.

2- A portion of dedicated open space may be required to be located along public road frontage abutting the site.

DeHaan asked about Wisteria Road and the buffer of trees on the south edge. How will that be preserved? Does the fence represent the property line?

Vander Kodde responded that the sidewalk is a deviation request according to the Ottawa Road Commission. The developer intends to wind the sidewalk around the mature trees and two to three feet along the fence row. Those trees will be maintained by the Road Commission. There will be no impact on the trees or the fence row. If the Road Commission will not allow the deviation, the developer will ask the Township if they want to keep the sidewalk. The developer thinks it's a public benefit to keep the sidewalk. If the Road Commission won't allow the deviation the developer will remove it from the process. The fence is part of the historic right-of-way according to their survey.

Caldon said as a condition of approval if the Road Commission requires trees to be removed then the Township could come back and the developer will abide by the Township decision.

– The depth of this area shall be recommended by the Planning Commission, as approved by the Township Board, and shall be not less than 30 feet and shall include the road right-of-way

There was consensus this was acceptable.

3 – If the site contains a lake or other body of water the Township Board on recommendation from the Planning Commission may require a portion of the dedicated open space to abut the body of water

There was consensus it does.

4 – Dedicated open space areas shall be linked with adjacent open spaces, parks, paths where practicable

There was consensus this was not an issue.

5 – Grading in the dedicated open space shall be minimal to preserve existing topography

There was consensus this was acceptable.

6 – No more than 50% of dedicated open space should be recreational.

There was consensus this was acceptable.

7 – The dedicated open space shall be available and usable for all residents of the PUD. safe pedestrian access shall be provided.

There was consensus this was acceptable.

8. The dedicated open space is designed for residents of the PUD but it shall not prohibit non-PUD residents from utilizing accessory areas provided rules are set forth in open space agreement.

Martin clarified this is standard although the interior space of the development is designed to be used primarily for residents.

9. Noncontiguous dedicated open space.

This is not applicable to this PUD.

Sec. 38-373 Procedures -

Martin introduced these provisions. The Planning Commission may require an Environmental Impact Assessment.

With regard to the Planning Commission review of the final PUD development plan, the report has been prepared for a recommendation if that should be the case.

Nestel asked what would be involved in an Environmental Impact Assessment.

Pfost summarized what this would be. Contamination from previous industrial activity, harmful activities in use of the land, and provisions in a regulatory sense would be considered. The Planning Commission was not presented with any evidence of site contamination. He doesn't think it is warranted in this instance.

Sec. 38-373 Review of Standards of Approval –

1 – Will the PUD will result in a substantial benefit to users of the project?

The benefit is the access to water, etc.

2 – Will the PUD increase the need for public services and facilities and will be a burden on surrounding lands of natural environment?

It was agreed there was not a burden on the land or environment. There was not a need for increased public services with no impact on land. Kleinjans said this will be an impact on the lake. Garlinghouse shared this concern.

3 – Is the PUD compatible with the Master Plan and the zoning ordinances?

There was consensus this was acceptable.

4- Does the PUD not result in adverse effects upon adjacent lands and will be compatible with character of the area?

Nestel said she was concerned with the natural environment. She asked Martin if we can introduce language regarding the preservation of the wetlands.

Martin said he could write that language and have it be a condition considered by the Board.

Pfost asked about access to the water. In consideration of the goals and objectives of the Master Plan how do we allow people to access Pine Creek Bay and yet limit access to preserve the bay?

DeHaan said the reduction of no more than 30 boat slips will help address the problem on the bay. The impact to the bay will be the design and construction of the slips. A no wake zone should be restricted further out into the bay.

5 – Does the PUD protect the floodplains and wetlands from filling?

The developer has assured this will not occur.

6 – Does the PUD preserve and maintain mature woodlands, field and meadows and create a buffer to protect residential and agricultural conflicts.

There was consensus this was acceptable. There is no agricultural area on the property.

7 – Does the PUD leave scenic views unblocked as seen from public road rights-of-way?

Martin said the Master Plan has a goal of retaining rural character. This property is not rural.

8 – Does the PUD protect the rural roadside character?

There was consensus this was not applicable here.

9 – Does the PUD provide pedestrian walkways so pedestrians can walk safely?

Martin noted there is public access and there is a public right-of-way. On road ends, at Lake Michigan a pedestrian can walk on the shoreline. However, the public doesn't have the right to walk north and south along Lake Macatawa to other properties as that land is not held in the public trust.

10 – Does the PUD minimize alteration of natural site features from lots, buildings, and roadways.

Martin offered a distinction for pedestrians accessing private property between the lake and the bay.

11 – Does the PUD adequately provide public utilities and services?

There was consensus this was acceptable.

12 – Does the PUD comply with applicable federal, state, county and township laws and ordinances?

There was consensus the developer was in compliance.

13 – Is the PUD designed such that each phase is complete in and of itself prior to proceeding with additional phases?

There was consensus this is not a phased development.

Nestel moved, supported by Ervine, to recommend the Final PUD Plan application for approval by the Township Board with the following conditions:

1. Except as expressly modified by the Final Development Plan and these conditions, the Development must comply with all applicable requirements of the Park Township Zoning Ordinance, as well as all other applicable federal, state, and Township laws, ordinances, rules, regulations or requirements. Any proposed modification of the approved Final Development Plan that is considered a minor amendment pursuant to Section 38-375, as may be amended, shall require review and approval by the Township Zoning Administrator or his/her designee. The Township Zoning Administrator is granted the authority to refer any proposed modification to the Planning Commission for review and approval.
2. The Development shall return to the Planning Commission for review when any change to the layout impacts the preservation of any tree identified within the Tree Preservation Plan Sheet T-1, the Lakeshore Tree Protection Plan Sheet T-2A, Sheet T-3A , and Sheet T-4A.
3. Pursuant to Section 38-376 of the Ordinance, the Board shall consider whether a performance guarantee for project infrastructure is required and, if so, in what amount.
4. Any major change to the Development shall require an amendment, as provided in Section 38-375 of the Zoning Ordinance, as may be amended.
5. Compliance with the requirements of the Township Engineer, the Ottawa County Water Resources Commissioner, the Ottawa County Road Commission, and any other applicable regulatory agency. In the event of any modification to the Development as a result of any staff or regulatory agency requirement as part of the agency's regulatory approval process, the modification will be subject to review by the Planning Commission for the Planning Commission's approval as a minor change if the modification constitutes a minor change as described by Section 38-375 of the Township Code of Ordinances; if the modification does not constitute a minor change, then the modification will be subject to the review and approval process of an approved PUD as set forth in Section 38-375 of the Township Code of Ordinances (i.e., resubmission to the Planning Commission for a formal amendment will be required and the amendment will be processed in the same manner as an original application for PUD approval).
6. The Wisteria Lane sidewalk shall be constructed to avoid the existing mature trees within the road right-of-way, as authorized by the Ottawa County Road Commission. In the event the Ottawa County Road Commission denies the request of the applicant to vary the sidewalk, the applicant shall return to the Planning Commission to review the trees that would need to be removed for construction of the sidewalk. The Planning Commission may remove the Wisteria sidewalk on the basis of tree preservation.
7. The Township Attorney will work with the applicant's attorney to create reasonable performance standards to ensure the protection of the natural resources on the Property,

including but not limited to the wetlands (in particular the flora and fauna within the wetlands), the tree preservation areas (in particular the numerous individual trees identified by GPS as well as the trees located within the tree preservation areas), and any other existing natural resources that the Board reasonably determines need to be preserved and protected while allowing the reasonable development of the Property. If the Developer elects to proceed with the Development, by doing so the Developer shall be deemed to have accepted and agreed to comply fully at all times with all of the terms, conditions, and provisions of this Report of the Planning Commission.

8. These conditions shall be binding on the Developer and all successor owners or parties in interest in the Development. The Developer shall, at the Developer's sole cost and expense, record a document with the Ottawa County Register of Deeds/Clerk to inform potential purchasers of any of the Property involved in the Development that the Development is subject to a planned unit development approved by the Township, the conditions and regulations of which may be reviewed by any interested person in the Township Office. The Developer shall submit to the Township a copy of the recorded document within sixty (60) calendar days after approval of the Development by the Township Board.
9. If the conditions and the Development plan conflict, the stricter provision controls.
10. The Developer will not seek to obtain approval from the state and federal regulatory authorities to construct more than three (3) new boat docks. In no event shall there be more than thirty (30) boat slips regardless of the number of docks, and each boat slip shall not exceed thirty (30) feet to accommodate a boat no greater than twenty-eight (28) feet in length, as offered by the applicant.
11. The sea wall shall not be extended beyond its existing condition.

Kleinjans asked for assurance about financial penalty regarding the replacement of trees.

Martin noted violation of the conditions would result in a court penalty such as a municipal civil infraction, as well as an injunction to stop continuing violations. You could impose a different penalty to create a more significant deterrent. The Township Board could do this and would recommend an amount to ensure the trees will be preserved. The Planning Commission could recommend a financial condition regarding the trees and the Township Board can decide whether to do it or not and set the amount.

Kleinjans asked if there was a conflict between the plan and a condition imposed by the Township Board what would prevail – the Township Board decision?

Martin said a boilerplate condition could be imposed.

Kleinjans asked about ownership transfer.

Martin said a boilerplate condition would be applied here.

Kleinjans asked if all utilities are underground. That was confirmed.

Kleinjans asked about restrictions in hours for construction.

Martin said the Planning Commission could make a recommendation for the Township Board to consider.

Engles said they were open to restricted hours during the week. Their construction schedule is usually not planned on weekends.

Martin noted that The Villas restricted construction between 8PM and 7AM.

Kleinjans asked that 30 slips officially be a part of the plan.

Martin said it could be a condition that there be no more than 30 boat slips. The slip would be 30' in length. The boat length would not be more than 28.'

Kleinjans asked if the seawall would not be extended. The developer confirmed it would not.

Kleinjans asked if there would be any dredging.

Engles said he didn't know for sure. He did not anticipate any dredging.

Ransford requested clarification on the motion: dedicated open space standards are acceptable, and the first standard regarding zero step design and access to the water are acceptable. Did the Planning Commission concur with these standards?

Pfost said it was important to make zero step design available to everyone including the handicapped. All agreed with both clarifications.

The Planning Commission requested that any modifications required by the Road Commission or the Water Resources Commission should be returned to the Township for approval.

Roll Call Vote:

Nestel, aye; Kleinjans, aye; Ervine, aye; Pfost, aye; Garlinghouse, aye; DeHaan, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried.

Pfost requested a brief recess at 9:14 P.M.

Kleinjans moved, supported by DeHaan, to recess for ten minutes

Voice Vote:

Ayes 7, Nays 0. Motion carried.

The Planning Commission reconvened at 9:23 P.M.

B. Site Plan – Kin Coffee and Craft House – located at 1200 Ottawa Beach Road

The applicant seeks site plan approval for a coffee shop and upstairs apartment within the C-1 Neighborhood Business District.

Ransford introduced this agenda item. The applicant had brought a revised plan in March. The items regarding the building ordinance have been satisfied. The greenbelt property to the west should be discussed. The remaining items concern pedestrian and vehicular traffic safety. There is a need to improve the access according to the Road Commission as well as the bike path.

Matt Zimmerman, on behalf of the applicant, addressed the standards. They have complied and the discrepancies in the zoning ordinance have been met in the site plan. There are other issues which are not in the standards, which he contends as follows:

1 – Road access – there are two access points. The Road Commission doesn't allow two access points. They do not believe they have the authority to close one of the access points. They have regulations and they concluded that the change to the property isn't required by their new standard. The fact is that the Township ordinance doesn't affect the two access points. There is nothing in the ordinance that explains if they are too close, if they have to be paved, or drained. If the Township imposes conditions there is no standard. If the ordinance says defer to the Road Commission then you need to defer to their decision.

2 – Reciprocal Easement – there is nothing in the ordinance to require the owner to have an agreement with a neighbor to have a joint access. The neighbor doesn't agree to have a joint access. Is this a reasonable condition to impose?

3 – Bike Easement – The Township Manager may recommend now is the time to put in the bike path. If the Township decides to construct the path in the easement we need to negotiate the terms of how that easement is carried out. There are options he can address with the Township Board regarding the bike path. They can be happy with a condition with the site plan approval.

4 - The last item is the greenbelt on the west side of the property. This particular property has been used for commercial property since the 1970s. There is no ordinance regarding a greenbelt for parking adjacent to a residential district. The ordinance allows continuation of a nonconforming use. He offers a workable compromise to put in additional landscaping to achieve the purpose of the ordinance provision. If the property to the west is used for residential purposes, they would comply with the 10', or move to

have ordinance amended, or seek a variance. The intent for the provision doesn't exist. It's not used as residential use.

Pfost asked Martin regarding changing the use.

Martin said changing the use triggers the site plan review. He cited the applicable ordinances

Sec. 38-103-1 and Sec. 38-105. He explained regarding traffic control when reviewing the site plan gives you the authority to look at the two access points to the road. The Ottawa County Road Commission stated the property along Ottawa Beach Road is on a crowded primary road. The configuration of the drive would not be allowed due to visibility and safety and other concerns. Their recommendation is to use the shared driveway and eliminate the left drive. However, the Road Commission doesn't have the authority to require changes to the driveway. If the Township requires it as a condition the Road Commission would support it. The Planning Commission has the authority regarding a reasonable right-of-way. The standards should articulate clearly what the conditions are. What is necessary for traffic control is not as specific as what the Road Commission requires.

Nestel asked what is the practical issue. Ottawa Beach Road has significant traffic so two access points poses traffic problems.

Martin said you have the authority but you don't have the obligation to make the change at this time. This is an opportunity to consider the change in use and make the change in the traffic safety features if you deem it necessary.

Garlinghouse asked if one drive could enter the property and the other function as an exit.

Pfost said if we can prevent a problem why can't we do it. Can't the Township, the applicant, and the Road Commission work on a reasonable solution?

Martin said it could be a site plan condition of approval to work out the problem with all three entities and solve the traffic problem where safety is a concern.

Applicant, Phil Kennedy, said he thought signs with arrows might work. He asked about a drive-through.

Martin said this would be a special use and it would require a change in the site plan.

Ransford said two drives might not work for a drive-through. There is a lot of traffic to consider.

Kennedy said there are two drives on the property line. His drive could be labelled to differentiate from the neighbor's driveway.

Kleinjans asked what is the concern with the bike path. There is one on the other side of the road.

Ransford said the path is not clearly delineated. It would make the path clearer so pedestrians wouldn't have to cross an apron or cross Ottawa Beach Road.

Pfost asked what is the concern regarding the path. He said put the path in. Is it reasonable to put the path in?

Ransford said there is a gap in the path at this property. It would be difficult to delineate it. You could remove the sign and the pavement then stripe it. If it would work it would be a solution.

Pfost asked if the Township Manager had an opinion on this issue.

Ransford said the Township Manager thought it was a favorable proposal for the Township Board. He wants to fix the problem. Ransford said, from his perspective, the preferred approach is to close the west entry and relocate the sign. There would be a clearer delineation of the grass area and the pathway.

Zimmerman said they are separate issues - the easement and the drive. Both easements could be striped. The access drives could be striped. If the bike path gets moved the condition would be that the landscaping would come out. The Township would have to move the sign. The owner would honor the bike path.

The Planning Commission agreed this could be a reasonable condition. The Township will pay for the removal of the sign and construction of the path. Pfost asked Martin if the Township would do this.

Martin said it would involve the following: the location of the easement is set, the path can't go off the easement unless the second easement were granted, and the sign would have to be removed. The path change would be at the Township's expense.

Pfost asked if we have to approve a change of use.

Ervine doesn't want to be remiss regarding the safety concerns.

Garlinghouse agreed something should be resolved to make this workable.

DeHaan is concerned regarding the Township's liability in doing nothing.

Martin said there is no liability. If the bike path is outside the roadway there is governmental immunity so there is no liability.

Mrs. Kennedy said they just want an entrance and exit.

Pfost asked if there is consensus.

The Planning Commission looked at the standards:

1 - Whether review by the Ottawa County Road Commission shall be required by the Planning Commission.

The opportunity is present to take care of the problem to facilitate the business in this request. All agreed.

2 – Whether review by the Ottawa County Water Resources Commissioner's office should subsequently be required.

3- Establish a reciprocal easement and the related document for future connection to the west property, reviewed and approved by the Township legal counsel.

Ransford said this is what might occur in the future.

4- Establish a reciprocal easement and the related document for future connection to the east property, to the extent possible given the currently shared access, reviewed and approved by the Township legal counsel.

5- Tree Preservation

6- Site Plan Standards provided by Section 38-103 - Ransford said all the standards are met in his opinion.

The drive-through could be a condition of approval, but the applicant said that is a future possibility only.

Pfost said this is a complicated property and issue.

Nestel observed there are many variables.

Pfost moved, supported by Nestel, to approve the site plan with the following condition that there will be no drive-through included on the property without additional site plan review by the Planning Commission.

Roll Call Vote

Nestel, aye; Kleinjans, aye; Ervine, aye; Pfost, aye; Garlinghouse, aye; DeHaan, aye; Eade, aye.

Ayes 7, Nays 0. Motion carried.

PUBLIC COMMENT

Pfost opened Public Comment at 10:27 P.M.

Pfost closed Public Comment at 10:27 P.M.

ANNOUNCEMENTS

The next meeting date is May 8, 2019.

ADJOURNMENT

Kleinjans moved, supported by Nestel, to adjourn the Regular Meeting at 10:28 P.M.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall
Recording Secretary
April 13, 2019

Approved: May 8, 2019