

**MINUTES  
PARK TOWNSHIP  
PLANNING COMMISSION**

Park Township Hall  
52 152<sup>nd</sup> Street  
Holland, MI 49418

Special Meeting  
October 25, 2018  
6:30 P.M.

**CALL TO ORDER:**

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

**ATTENDANCE:**

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

Staff: Howard Fink, Township Manager, Gregory Ransford, Staff Planner, Dan Martin, Legal Counsel

Chair Pfof suggested moving Public Comment to the beginning of the agenda.

**APPROVAL OF AGENDA:**

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

Voice Vote:

Ayes 7, Nays 0. Motion carried.

**APPROVAL OF MINUTES:**

Kleinjans noted two corrections on pages 2 and 3.

Motion by Ervine, supported by Kleinjans, to approve the October 10, 2018 Regular Meeting Minutes as corrected.

Voice Vote:

Ayes 7, Nays 0. Motion carried.

**PUBLIC COMMENT**

Pfost opened Public Comment at 6:36 P.M.

Laurie Siebert, representing the Beachwalk Condominium Association, said she was happy to hear about the agreement regarding placement of trees along the backlot line. She also asked about potential impact on the proposed road. Instead of having a wave in the road could it be straightened?

Betty Vandenberg of Oak Grove Resort said the residents are not opposed to this project. They have concerns about the landscaping. They would not like to be hemmed in by a fence. There is also a concern regarding screening. It would be better to have the landscaping done immediately rather than wait for three years. This could affect the resort's business during the summer if the screening were not installed. They would like to see the times of construction be firmly established and have all of these points in writing.

Pfost closed Public Comment at 6:41 P.M.

Ransford introduced the agenda item. As background, Ransford provided a brief overview of the Beachwalk Cottages PUD Amendment – landscaping plan. This was approved by the Board in late summer. There have been concerns about tree removal which have led to this meeting.

The removal of trees on the site resulted in a Stop Work Order from the Township. The tree removal, particularly along Ottawa Beach Road, was a result of three storm water detention areas required by the Ottawa County Water Resource Commissioner's Office. The Township asked the applicant to submit a revised landscape plan to the Planning Commission for review and approval prior to lifting the Stop Work Order since it was a modification of the approved plan.

As a result of this Stop Work Order, the applicant has submitted an amended landscape plan. About 34 trees in combination were to remain or be planted along Ottawa Beach Road. The applicant has proposed the same amount of trees as well as additional landscaping. The applicant has also worked with the property owner regarding a line of trees on the west property line. The stop order may be lifted if the plan is approved as amended.

Pfost asked Ransford if this is the objective for the Planning Commission to approve or deny the amended landscape plan.

Ransford said with regard to the previous approved plan some of the mature trees are gone. The applicant has, therefore, submitted the amended plan for the review of the Planning Commission. It is up to the Planning Commission to recommend approval of the amendment, but suggests they provide direction to the applicant rather than a denial in an effort to remedy the change.

Pfost asked the applicant for comment.

Paul Yared, Legal Counsel for Beachwalk Homes, provided an overview of the events of the last three weeks including Beachwalk's position. The Township issued a Work Stop Order for two reasons according to the Township Legal Counsel: 1) failed to comply with the PUD as it was approved, and 2) there were misrepresentations made to the Planning Commission and the Township Board. In his opinion this order was unnecessary and caused undue expense and delay. Beachwalk followed the plan approved by the Planning Commission and the Township Board: to build a perimeter row of trees, install utilities, prepare footprint site plans and the common areas. A lot of trees needed to come down for the common areas and site plan. There was a misperception by neighbors and the Township when trees came down before the landscaping was installed. The developer said he would have to take down trees for site improvements. The Township asked for submission of a revised plan and the applicant has submitted one.

He reviewed the timeline: Looking at the communications with several agencies, when the Water Resource Commission, the County Road Commission and the utilities provided their requirements, these were sent to the Township Engineer, Mr. Burd, and Manager on August 23. On the 27<sup>th</sup> the Township Engineer advised the Board of Public Works he had no comment on the relocated sewer line. He did comment about the expense of removing trees along the road which was required by the sewer line. It was the County Road Commission that required the removal of trees that Beachwalk wanted saved. A few days following the Township Engineer contacted the Developer's Engineer, Mr. DeGroot, and stated he had reviewed these plans with the Township's Zoning Administrator. The Zoning Administrator said no further approval was required. On August 28 revised utility applications for permits were sent to Park Township and were signed by the Township Manager and mailed to DEQ. On Sept 25 Mr. Burd was provided with updated construction plans for the pre-construction meeting. Based on all these communications, Beachwalk thought the site plan was approved. At no time after that were they informed that further Township approval was required.

The tree removal would have occurred the next day. Beachwalk has done everything the Township requested. As a result of the Stop Work Order Beachwalk has lost three weeks of construction time. The contractor will have to halt work on this site if construction cannot continue. He asked that the Stop Work Order be rescinded and that the Planning Commission approve the amended site plan.

Don DeGroot of Exxel Engineering, civil engineers for the Beachwalk project, reviewed the process following Township approval. Following approval he met with the Township engineer, Holland Board of Public Works and the Ottawa Road Commission. He had previously met with the County Water Resources Commissioner regarding storm water management and the requirements of their standards because of the water table.

He met with the Road Commission regarding the sanitary sewer. They said the stub was extended outside the right-of-way and didn't accept it. He then proposed an alternative which was rejected. The plan that was submitted on July 19 with comments was revised and submission for final approval was done. The Water Resources Commissioner reviewed the plan, particularly the infiltration areas along Ottawa Beach Road. As a result the three infiltration basins required removal of trees, along with the sanitary sewer. The trees between Ottawa Beach Road and the bike path had been a good idea but the Road Commission did not allow that. They understood the importance of those trees along Ottawa Beach Road but the agencies involved needed to approve the plan regarding storm water management and the trees had to be removed. They tried to minimize impact to the site but the utility providers ultimately had the final decision. Once the plans were submitted the city permits were issued.

Mr. Burd called de Vries regarding the issue about tree removal. There were some revisions made to the plan as a result. Individual unit lots were then cleared which caused concern by residents.

Tim Hitson, Doug DeHaan's partner in this development, assured the Planning Commission that the principals in this project do what they say they are going to do. Their intent in this project is honorable. They were surprised at the reaction regarding the clearing that was done because of the utilities requirements. They made the decision to do the clearing at one time which was less expensive. They are concerned about the unusual parcels around the property line and the challenges they present. The principals have tried to accommodate the neighbors at the rear of the property. They have planted 8-12' pines and hardwood trees to placate their concerns. The campground is also a challenge. Some units are next to their property line. There is a barn against the property line and they have asked about a fence as a possibility. They have a significant encroachment on both sides of the property. A fence would make sense or planting a row of trees. There is significant encroachment on the Beachwalk property line and a fence would make sense. They have made every effort to shield the neighbors with the plans for this development.

Pfost asked if approval of the site plan included the fence.

Hitson said it did not. He added the plan is to construct the pavilion, front, pool house and perimeter next spring. This will not be a three year plan – they want to do it as soon as possible. The landscaping around the individual units will follow.

Doug DeHaan spoke to his application request. The process has been frustrating to him both as a resident of Park Township and having built \$30 million of real estate in Ottawa County and

\$29 million in Park Township. His partner will reside in this development. He intends to build a first class development. He regrets assaults to his reputation and integrity and is offended at being tried in the court of perception. He has \$300,000 budgeted in landscaping for this project including an additional \$50,000 for the front entrance. When the Water Commission wanted to put in the retention ponds he got confirmation and were ready to proceed. Before he could get a building permit he was told he had to have an amended landscape plan. The Stop Work Order was a wrong move in his opinion.

He heard from Mrs. Vandenberg regarding the time of construction. They have made accommodation regarding timing and held off in summer for neighbors (7-6 in resort season and 7-8 in off season). He tried to explain it to the staff. He felt he wasn't treated respectfully. He has been in this business for 35 years and wants to have the opportunity to continue to complete his plan for this project.

He reviewed the plan that was submitted to the Planning Commission. The plan included drone pictures of the property showing clearing of trees and what trees will remain. He described the nature of the property when he purchased it. Many of the trees had split trunks and would be an endangerment to the future design of the property. In the revised plan he has replaced many of the original trees with new plantings. He reviewed the landscape drawings as well and described the plan for future plantings. Before some of these trees are installed they will need a water source so the planting will have to wait until spring. He concluded by saying he did not want the three retention ponds which area responsible for the significant changes for the landscaping but they will make the best of it:

He concluded by saying he was concerned about the Park Township customer service he has experienced.

Nestel thanked DeHaan for the landscape plan he provided for review and the validation of the amended landscape plan. She asked if the fence would be part of the amended plan.

Ransford clarified that if the developer wanted to add a fence later it would be a minor amendment.

Hixson said it was undetermined at this time whether they add a fence.

Ervine said the plan was well developed. She asked if this was necessary – didn't the developer try to do what he was advised to do. Why do we find ourselves in this position?

Nestel understood the Planning Commission thought the addition of the retention ponds was not part of the approved PUD.

Pfost explained staff has determined there has been a site plan change. Because of the PUD ordinance, when there is a change in a site plan, it has to return to the Planning Commission. The important point is that we *conditionally* approved the site plan based on the Water Resources Commission's advice.

Fink added that in his opinion there were some inappropriate comments made. This meeting is part of the process to resolve this situation. The bottom line is that the Planning Commission and the Township Board must approve the site plan. Subsequent utility issues provided contingencies for this site plan. When the site plan was provided to regulatory agencies changes were made relative to their requirements. This immediately changed the landscaping of this site plan. This meant a major change in our ordinances that had to come back to the Planning Commission for review and approval. The Township was not provided with information following these changes. Ransford has e-mails asking for the changes two weeks prior to discovery. Therefore, there was concern on the part of the staff regarding the impact of the regulatory agencies' decisions. Park Township needed to see what the changes looked like. When Park Township was notified of the changes Fink requested a meeting with the engineer and asked to "get on the same page." At that point there was concern regarding many areas on the site compared to what had been approved in the original PUD site plan. Did the developer follow the process and how do we move forward to provide clarity and rationality? The Park Township staff was met with extreme resistance from the developer. The Work Stop Order was issued at that point. He said any change must come back to the Planning Commission. He has made efforts to clarify the process for the future so this confusion doesn't occur in the future.

Nestel agreed it has been a learning experience. She thanked the developer for the very clear landscape plan.

Pfost suggested for the future we look at a tree ordinance which could provide some guidelines. Pfost asked Ransford if he found this amended application in approvable form.

Ransford said the amended plan is ready for approval. The same number of trees on Ottawa Beach Road that were provided in the originally approved plan have been replaced and there has been enhancement up front. The developer has addressed several of the concerns of the neighbors. In terms of what has been presented, it is approvable.

Pfost said the developer says that landscaping and screening will be addressed by spring. How do we prevent an ambiguous timeline. Objectively, how do we clarify the criteria for a prescriptive plan?

DeHaan said they should have a water plan by June 30, 2019 so trees can be planted.

Garlinghouse asked if the burden of the screening for the campground shifted to the campground. Do we need tree counts in the future to ensure retention of trees? Should trees be grandfathered into a future agreement?

Pfost explained no two projects are ever the same. In this situation, the Drain Commissioner's decision was in conflict with Park Township's approval of the PUD. The necessary removal of trees came into conflict with the original understanding of the PUD. At what point do we place objective criteria into the ordinance to cover every situation. Should we reconsider conditions

placed into the PUD process. In this situation during construction things changed. It's a balance in every case.

Fink said there is a significant difference in the PUD and a contractual relationship between the Township and the developer. The change in the PUD process allows a back and forth between the developer and the Planning Commission. The PUD process is designed to be a negotiation. In the future, with regard to the PUD process how do you remove the ambiguity?

Kleinjans said if we allow a future amendment for a fence it goes against approval of the PUD process.

Martin said the Planning Commission can approve if the developer wants to put in a fence rather than the Zoning Administrator making the decision.

Kleinjans asked about changing the road on the south side.

Martin said it would require a major amendment to be approved by the Township Board. The Planning Commission would not make that decision.

Garlinghouse asked if we can require the developer to plant a specific number of trees.

Martin said they are required to put those in before the occupancy permit is issued. Alternatively, a letter of credit can be requested to certify this will be done.

Martin said the landscape plan is a visual interpretation. There are contractual statements regarding trees that will be included in the plan.

Nestel asked if specifics are included in the plan regarding the size of the trees.

Ransford said the specifics are mentioned in the amended plan.

DeHaan said when you order trees there is always a range, e.g., 10-12'.

Martin said you can require a financial guarantee or letter of credit if the Planning Commission deems it appropriate. As a reminder, what the Planning Commission is to do is approving a revised landscape plan.

Ransford noted the northeast entrance and access to the bike path, for verification, the bike path originally was intended to go straight, and avoid the right-of-way.

Kleinjans moved, supported by Ervine, to approve the landscape plan as presented with the following conditions: the road, perimeter landscaping (does not include Ottawa Beach Road), and utilities will be completed by June 30, 2019. Installation of a fence will require future approval by the Planning Commission.

DeHaan asked about the timeline for the retention basin after the infrastructure is in place.

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The Engineer said water main and storm sewer will be in place, then the infiltration basins will be installed independently of the landscaping and will be in place prior to the road paving.

Kleinjans asked if the bike path issue be included in the motion.

Martin advised against including the bike path in the motion.

**Roll Call vote:**

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

Ayes, 7; Nays 0. Motion carried.

**ANNOUNCEMENTS**

The next meeting will be November 14, 2018. An agenda item may be Coastal Condominiums. Ransford said with regard to Coastal Condominiums if the Planning Commission wanted to consider the alternative to review the final plan and any modification. They have preliminary approval only. As a final PUD we must have a Public Hearing. We must have something substantial about their final plan. Fink said you have to ask, from a footprint standpoint, about the report from the Drain Commission – we need to know if they are requiring a pond and where it will be located. This must be shown prior to any Planning Commission final approval. The Planning Commission concluded a review by the Ottawa County Road Commission and Ottawa County Water Resources Commissioner's office is necessary prior to final plan review to at least acknowledge that the design will likely comply with their requirements.

Kleinjans said we should have some response from the Drain Commission.

**ADJOURNMENT**

Kleinjans moved, supported by Ervine, to adjourn the Special Meeting at 8:35 P.M.

**Voice Vote:**

Ayes 7, Nays 0. Motion carried.

Respectfully submitted,

Judith R. Hemwall  
Recording Secretary  
October 27, 2018

Approved: