



To: Park Township Board
From: Howard Fink, Manager
Date: 02/04/21
Re: Boat Dock Application to EGLE / Reserves on Lake Macatawa

Executive Summary

On Tuesday, January 26, the board and I were made aware that Covenant Development submitted a boat dock application to EGLE for the Reserves on Lake Macatawa Planned Unit Development. Staff has reviewed the conditions the board imposed on the PUD approval and discussed the issue. Following staff deliberation, I authorized a letter to be sent to EGLE informing them of the conditions set forth in the PUD approval (letter and document attached), particularly calling out Paragraph 10 on Page 8 towards the end of the document dealing / discussing the conditions on the approved boat slips etc. As of this meeting, Township staff is informing EGLE representatives of the PUD approval and the conditions on that approval, without formally taking any position on the Developer's application to EGLE (which, according to our Planner, is considered incomplete by EGLE at this time). If the board wishes to object to the application on behalf of the Township, any deliberation among a quorum of the board members needs to occur at a board meeting held in compliance with the Open Meetings Act, with any specific objections documented and voted on by the Board of Trustees. If the board decides it necessary and appropriate, then additional correspondence can then be sent to EGLE following the next board meeting. Please do not interpret staff's position (notifying EGLE of the PUD approval conditions without making a formal objection) that a violation of the PUD conditions would not occur (if the complete application were submitted to EGLE). I believe this is a policy decision that needs to be determined by the Board of Trustees.

Budget Impact and Funding Source

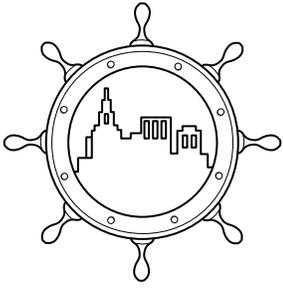
N/A

Legal Review

Recommend that legal counsel review the issue before any action is taken by the Board.

Manager Recommendation:

This is a policy decision. My recommendation, as stated above would be to review any legal and or jurisdictional issues before acting.



Fresh Coast Planning

950 Taylor Avenue, Ste 200
Grand Haven, MI 49417
www.freshcoastplanning.com

Gregory L. Ransford, MPA
616-638-1240
greg@freshcoastplanning.com

Lindsay R. Mohr, MPA
248-990-3525
lindsay@freshcoastplanning.com

Julie Lovelace
616-914-0922
julie@freshcoastplanning.com

Brian Werschem
231-206-4821
bwerschem@gmail.com

Joshua Crane
State of Michigan
Department of Environment, Great Lakes, and Energy
State Office Building 5th Floor
350 Ottawa Avenue, NW, Unit 10
Grand Rapids, MI 49503

[VIA EMAIL ONLY: cranej3@michigan.gov]

February 3, 2021

Re: The Reserve on Lake Macatawa Condominium Planned Unit Development (PUD) – EGLE
Submission ID: HP3-TH59-GQAHF

Dear Mr. Crane:

Our planning firm represents Park Township, Ottawa County, regarding land use development approvals within the Township. As you are aware, on May 23, 2019, the Reserve on Lake Macatawa Condominium Planned Unit Development (“the Development”) was approved by the Park Township Board of Trustees. This approval includes a marina to accompany the residential units within the Development. We are enclosing a copy of the PUD approval for your convenience.

We recently obtained a copy of the application received at your office, Submission ID HP3-TH59-GQAHF, for the marina. Please note that Condition number 10, located on Page 8, of the enclosed report, addresses the Township conditions related to the marina and boat slips.

If you have any questions or require additional information, please feel free to contact me anytime.

On behalf of Park Township,



Gregory L. Ransford
Principal

Enclosure

cc: Park Township Planning Commission
Park Township Board of Trustees
Howard Fink, Park Township Manager

**THE RESERVE ON LAKE MACATAWA CONDOMINIUM
PLANNED UNIT DEVELOPMENT
REPORT of the PARK TOWNSHIP BOARD**

Pursuant to Section 503(6) of the Michigan Zoning Enabling Act and
Section 38-373(j) of the Park Township Code of Ordinances
May 23, 2019

Background

Developer: Covenant Five, LLC (a Michigan limited liability company, whose registered agent is Peter S. Engles, and whose registered address is 6119 28th Street, SE, Suite 2A, Grand Rapids, Michigan 49546-6956)

Property: approximately 39 acres located generally along the eastern shore of Pine Creek Bay on Lake Macatawa, and at 186 South Division Avenue, 168 South Division Avenue, and 679 Wisteria Avenue. The Property is identified as tax parcel numbers 70-15-25-280-012 (approximately 38.5 acres), 70-15-25-280-013 (approximately 1/3 acre), and 70-15-25-280-015 (approximately 1/3 acre). The Property is currently zoned in the R-3 Low Density Single-Family Residence District.

A portion of the first parcel (Tax Parcel Number 70-15-25-280-012), consisting of approximately 4.8 acres, is subject to a planned unit development known as "The Villas on Lake Macatawa" that was previously approved by the Township at the request of Covenant Developments, LLC (a different limited liability company with the same registered agent and registered address as Covenant Five, LLC). This 4.8 acre portion of the property included within the Villas PUD may not have any new buildings, structures, or uses permitted without first amending the Villas PUD.

Original Preliminary Plan: The Developer filed an application with the Township for planned unit development approval of "The Reserve on Lake Macatawa." The Preliminary PUD Site Plan dated October 29, 2018, proposed 86 residential units (a combination of single-family and two-family condominium dwellings, though an alternative preliminary site plan showed 86 single family condominium dwellings), along with a clubhouse, swimming pool, designated open space and tree preservation areas.

Density Calculation: Following the formula set forth in Section 38-367 of the Park Township Code of Ordinances, the Developer's engineer determined that the permitted density for a planned unit development project on the property would be 92 units. The Township Planner agreed with the density calculation. Planning Commission members raised concerns that the density calculation may have been incorrectly computed, and the Planning Commission Chair requested the Township Zoning Administrator to independently calculate the density of the

project consistent with Section 38-367. The Township Zoning Administrator's calculation was as follows:

- a. Determine Gross Site Acreage = 39.1312 acres
 - Parcel 70-15-25-280-012 = 38.4293 acres
 - Parcel 70-15-25-280-013 = 0.3499 acres
 - Parcel 70-15-25-280-015 = 0.352 acres
- b. Subtract all existing wetlands, creeks, streams, ponds, lakes, other water bodies, floodplains, critical dunes, and slopes of 20% or greater = 2.46 acres to be subtracted
- c. Subtract acreage devoted to nonresidential uses (except for areas proposed for, but not limited to, parks, playgrounds, and open space, which are not subtracted; area devoted to facilities proposed to be used for community buildings, indoor recreational facilities, and similar facilities, which are considered nonresidential uses, were subtracted) = 0.11 acres to be subtracted
- d. Subtract acreage restricted by Villas PUD = 4.84 acres to be subtracted
- e. Determine Net Buildable Acreage = 31.7212 acres
(39.1312 gross acres – 2.46 – 0.11 – 4.84 = 31.7212 net buildable acres)
- f. Determine density by minimum lot size required in current zoning district = 92 units R-3 = 15,000 square feet per buildable lot
Multiply 31.7212 net buildable acres x 43,560 sq ft per acre = 1,381,775.472 sq ft
Divide 1,381,775.472 sq ft / 15,000 sq ft = 92.1183648 total units

Planning Commission Review and Recommendation: The Planning Commission reviewed the Preliminary PUD development plan and made recommendations to the Developer, consistent with and pursuant to Section 38-373(e) of the Park Township Code of Ordinances.

The Developer submitted a Final PUD Plan for the Project and requested a special meeting of the Planning Commission. The Planning Commission scheduled a public hearing to be held on February 25, 2019, to consider the proposed Final PUD Plan for the Project. Unfortunately, the notice of public hearing as mailed and published in the *Holland Sentinel* did not include the existing street addresses of the three parcels comprising the Property, as is required by Section 103 of the Michigan Zoning Enabling Act. See MCL 125.3102(4)(b). The Township therefore re-noticed a public hearing for the application consistent with and as required by State law, with the public hearing to be held at the next regularly scheduled meeting of the Planning Commission on March 13, 2019. The Planning Commission nonetheless held an advisory public hearing at its February 25, 2019 special meeting, since individuals who received the notice that was technically defective came to that special meeting. Everyone wishing to speak on the application was permitted to do so at that special meeting held on February 25, 2019.

The Planning Commission held a public hearing on the application at its March 13, 2019 regular meeting, with proper notice having been provided as required by law. The Developer had reduced the density by one unit, from 86 to 85 units. Everyone wishing to speak on the application was permitted to do so. Following the public hearing, the Planning Commission

carefully reviewed the proposed Final PUD Plan, asked questions of the Developer, and made many comments. Many concerns and comments raised related to the density of the Project, the trees to be preserved (especially trees along the shore of Pine Creek Bay), the protection of the wetlands, the number of boat slips, and the protection of the existing topography. After approximately four hours into the meeting, the Planning Commission unanimously approved a motion to postpone further action on making a recommendation to the Board until the Planning Commission's April 10, 2019 meeting.

Following the March 13, 2019 public hearing, the Developer and its representatives diligently negotiated with the Township's legal counsel to address many of the concerns raised at the Planning Commission's public hearing on the Final PUD Plan. The Developer subsequently revised the Final PUD Plan by, among other things, making the following changes to address the concerns raised at the public hearing:

- Further reduced density by 10 units, from 85 down to 75 units
- Increased open space, added protected open space along the eastern shore of Pine Creek Bay
- Added guaranteed protection of specific "mature, old-growth" trees (identified by GPS geo-tag), adding two additional rows of such trees to be protected and preserved along the lakeshore between the second and third row of units
- Relocated Units 1-19 further to the east to increase the setback from Pine Creek Bay in order to accommodate the preservation of trees and increased open space along the lake
- Relocated the clubhouse further to the east to increase the setback from Pine Creek Bay
- Reduced the number of proposed boat slips by 10, from 40 down to 30 boat slips
- Revised the grading and utility plans

The Planning Commission carefully reviewed the revised Final PUD Plan submitted and went through the standards and criteria contained in the Zoning Ordinance, as reflected in the Planning Commission's detailed minutes from its April 10, 2019 meeting. Following extensive discussion on the application, Trustee/Planning Commission liaison Nestel moved, supported by Planning Commission member Ervine, that the Planning Commission recommend that the Township Board grant planned unit development approval for the Project, with 11 specific listed conditions. These are reflected in both the minutes of the Planning Commission's April 10, 2019 meeting and in the formal Report submitted and signed by Planning Commission Chair Pfost.

After receiving the Planning Commission's Report and recommendation, the Township scheduled a public hearing to be held by the Township Board at its regularly scheduled May 9, 2019 meeting. Proper notice of the public hearing was mailed and published as required by State law.

Final Development Plan: The Final Development Plan, which is on file at the Township Hall, includes the Reserve on Lake Macatawa Planned Unit Development Final Site Plan booklet,

Project No. 160686, dated April 19, 2019, which includes multiple pages of letters, memorandums, calculations sheets, tree preservation and landscaping site plans, conceptual renderings and floor plans, final Planned Unit Development plans, signage details, lighting details, and legal documents.

The Final Development Plan also includes Sheet 3A dated 3/12/2019 titled Number of Dwellings; replacement Sheet L-2A dated 4/10/2019, titled Final P.U.D. Landscape Plan; replacement Figure No. 4 dated 4/10/2019, titled Final P.U.D. Parking Plan and; the Reserve on Lake Macatawa Planned Unit Development Final Site Plan supplemental booklet, Project No. 160686, dated April 3, 2019, which includes a letter dated April 3, 2019 from David T. Caldon of Varnum regarding the Reserve on Lake Macatawa – Revised Final PUD Development Plan (2 pages), a Calculation Summary Sheet (2 pages) dated January 24, 2019, a memo dated March 27, 2019 from Elise Hansen Tripp, PWS regarding Wetland Assessment (5 pages with supporting documents), an updated Tree Preservation Plan Sheet T-1 dated 4/3/2019, a Lakeshore Tree Protection Plan Sheet T-2A, Sheet T-3A , and Sheet T-4A dated 4/10/2019, an updated Final P.U.D. Site Plan Sheet C-3 dated 4/3/2019 (replaces original Sheet C-1 from the January 24, 2019 booklet) and, a Final P.U.D. Grading and Utilities Plan Sheet C-4 dated 4/3/2019 (replaces original Sheet C-2 from the January 24, 2019 booklet).

Conclusions and Basis for Decision

The Township Board held a public hearing on the Final PUD Development Plan for the Project at the Board's regularly scheduled meeting on May 9, 2019. Everyone wishing to speak on the application was permitted to do so at that meeting. Following extensive discussion, including review of the standards and criteria contained in the Zoning Ordinance, the Township Board made the following findings and conclusions.

Division 8 Objectives

The objectives of Article III, Division 8 of the Zoning Ordinance have been met for the Development. Specifically, the proposal:

- (1) allows a mix of uses, structures, facilities, housing types and open space that are compatible with existing and planned uses on nearby properties;
- (2) encourages land development that, to the greatest extent possible, preserves natural vegetation, respects natural topographic conditions, and preserves natural resources such as wetlands, forests, flood plains, natural drainage patterns, agricultural lands, wildlife habitat and other natural site features;
- (3) provides for the regulation of lawful and reasonable land uses not otherwise authorized within the Zoning Ordinance;

- (4) provides for single or mixed-use developments which respect the goals and objectives of the Zoning Ordinance and the Park Township Master Plan;
- (5) encourages the provision of open space and the development of recreational and other support facilities in generally central locations or within a reasonable distance of all dwellings or uses; and
- (6) implements the vision of the Park Township Master Plan in order to provide a high standard of quality of life, varied housing options, and richness of natural assets.

Dedicated Open Space

The standards within Section 38-369 of the Ordinance are met regarding the dedicated open space, as provided in the Development.

Standards for Approval for Planned Unit Developments

The Standards for Approval for Planned Unit Developments provided in Section 38-373(i) of the Park Township Code of Ordinances have been entirely satisfied for the Development. Specifically;

- (1) The PUD will result in a recognizable and substantial benefit to ultimate users of the project and to the community, and the benefit would otherwise be unfeasible or unlikely to be achieved, with particular but not limited regard to the zero-step design and access to the water.
- (2) The PUD will not result in a significant increase in the need for public services and facilities and will not place a significant burden upon surrounding lands or the natural environment, unless the resulting adverse effects are adequately provided for or mitigated by features of the PUD as approved.
- (3) The PUD will be generally compatible with the Master Plan and consistent with the intent and objectives of this Chapter 38, Article III, Division 8 and the Zoning Ordinance.
- (4) The PUD will not result in significant adverse effects upon nearby or adjacent lands, and will be generally compatible with the character of the surrounding area.
- (5) The PUD will protect all floodplains and wetlands from filling except as approved for essential services or recreation amenities.

- (6) The PUD will preserve and maintain mature woodlands, fields, pastures, and meadows; and create sufficient buffer areas to minimize conflicts between residential and agricultural uses.
- (7) The PUD will leave scenic views and vistas unblocked or uninterrupted, particularly as seen from public road rights-of-way, insofar as practicable.
- (8) The PUD will protect the rural roadside character where desirable.
- (9) Pedestrian walkways will be provided so that pedestrians can walk safely and easily throughout the site.
- (10) The individual lots, buildings, roadways, and open space areas are designed to minimize the alteration of natural and environmental site features.
- (11) The PUD will be adequately served by public utilities and services such as police and fire protection or public or on-site community water or sanitary sewer.
- (12) The PUD shall be in compliance with all applicable federal, state, county, and Township laws, ordinances, and regulations.
- (13) The PUD is designed so that each phase is complete in and of itself, in terms of services, facilities and open spaces, and so that each phase contains all of the features necessary to ensure the protection of natural resources and the health, safety and welfare of the users of the PUD and the occupants of the surrounding area.

Decision

A motion was made by Trustee Jacob and supported by Clerk Keeter to conditionally approve the final development plan for The Reserve on Lake Macatawa Condominium Planned Unit Development (“the Development”) pursuant to Article III, Division 8 – Planned Unit Development of the Park Township Zoning Ordinance (“the Ordinance”). The motion passed unanimously.

Conditions

The conditions that the Township Board imposed with respect to the approval of the Development as a Planned Unit Development are as follows:

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

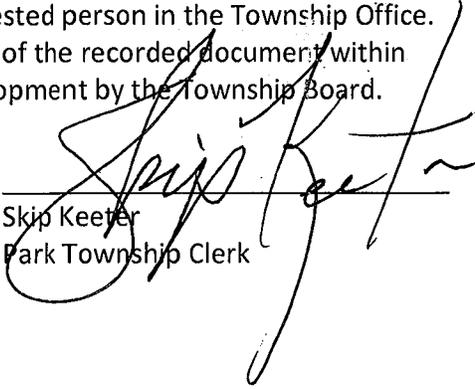
Zoning Ordinance, as well as all other applicable federal, state, and Township laws, ordinances, rules, regulations or requirements. Any proposed modification of the approved Final Development Plan that is considered a minor amendment pursuant to Section 38-375, as may be amended, will require review 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 must 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. The Developer must notify the Township Manager at least 24 hours before commencing any tree removal on the property; the Township will have the discretion, but not the obligation, to have a representative of the Township on-site to observe and monitor the tree removal process.
3. Landscaping for the Project should include native vegetation and native plants; the Developer will emphasize this to the contractor installing the landscaping for the Project and may vary from the landscape plan accordingly, and submit a revised plan to the Township for the Township's file. The Developer must plant a minimum of 50 deciduous hardwood trees that are at least four to six feet (4' to 6') in height, which must be scattered around the eastern portion of the Property. The Developer may add additional landscaping and planting for supplemental screening or other purposes, including within the tree preservation areas, provided that any such additional landscaping or planting does not involve the removal of any tree(s) required to be preserved.
4. Pursuant to Section 38-376 of the Ordinance, the Developer must provide a performance guarantee for project infrastructure as required in the form, manner, and amount acceptable to the Park Township Manager but not to exceed the amount necessary to install the infrastructure as determined by the Township Engineer. The performance guarantee must be issued by a bank or financial institution authorized to do business in the State of Michigan. The amount of performance guarantee may be reduced on a monthly basis in accordance with the infrastructure being completed and in place at that time, as verified by the Township Manager.
5. Any major change to the Development will require an amendment, as provided in Section 38-375 of the Zoning Ordinance, as may be amended.
6. The Project must comply with all applicable 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 Zoning Administrator or the Planning Commission for 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).

7. The Wisteria Lane sidewalk must be constructed to avoid the existing mature trees within the road right-of-way, as authorized by the Ottawa County Road Commission's conceptual plan approval. In the event the Ottawa County Road Commission denies the request of the applicant to vary the sidewalk, or requests additional trees to be removed, then the applicant will return to the Planning Commission to review the additional trees that would need to be removed for construction of the sidewalk.
8. The Township Attorney worked 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 the performance standards, which shall be incorporated by reference.
9. Except for work on essential services, all construction, including excavation for, and the erection, demolition, alteration or repair of any building, and the excavation of streets and highways, shall not be permitted between the hours of 8:00 p.m. and 7:00 a.m., notwithstanding Section 22-102 of the Code of Ordinances. In addition, during the construction of the Project, no exterior work shall be permitted on Sundays.
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, as noted below and as offered by the applicant. In no event will there be more than (24) boat slips regardless of the number of docks permitted. The maximum size of boats may be as follows: eight (8) boats up to 24 feet (24') in length; eight (8) boats up to 26 feet (26') in length; and eight (8) boats up to 28 feet (28') in length. All boats must be owned and registered to an owner of a unit within the Reserve PUD. No on-site boat maintenance facility will be permitted. No personal watercraft will be permitted in any slip. No gas docks will be permitted on the property.
11. The sea wall shall not be extended beyond its existing condition.
12. If the conditions and the Development plan conflict, the stricter provision controls.

13. 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 Board. 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.



Skip Keeter
Park Township Clerk