

MINUTES

Cascade Charter Township
Planning Commission
Monday, May 20, 2019
7:00 P.M.

ARTICLE 1. Chairman Sperla called the meeting to order at 7:00 P.M.
Members Present: Johnson, Katsma, Krieter, Lewis, Noordyke, Pennington, Rissi, Moxley, and Sperla
Members Absent: None
Others Present: Community Development Director, Steve Peterson and those listed on the sign in sheet.

ARTICLE 2. Pledge of Allegiance.

ARTICLE 3. Approve the current Agenda.

Motion was made by Member Lewis to approve the Agenda. Supported by Member Pennington. Motion carried 9 to 0.

ARTICLE 4. Approve the Minutes of the May 13, 2019 meeting.

Motion was made by Member Johnson to approve the minutes of May 13, 2019. Supported by Member Rissi. Motion carried 9 to 0.

ARTICLE 5. Acknowledge visitors and those wishing to speak to non-agenda items.

Mr. Kerry Gorsuch (3044 Thornapple River Drive) came forward to state that he lives at the bottom of the creek where the sediment sand from Roundhill and Thornapple Creek is drained to. Mr. Gorsuch stated that it deposits into the bayou where his boat lift is, and is filling up fast. Mr. Gorsuch did state that at draw down he does have to move as much sediment out of the way as possible in order to lower his boat lift to get his boat on it. He then stated that he feels it is a losing battle, and something more needs to be done to control the erosion better. Mr. Gorsuch then states that he has been in front of the Township Board regarding this mater as well.

Mr. Judd Rohde (3087 Thornapple River Drive) came forward to read a letter written by his father, Mark Rohde. The letter states that four years ago he conducted an analysis, code review, and presentation to the Planning Commission regarding the then proposed Roundhill PUD. Mark Rohde states that he has over four decades of experience as a Michigan registered civil engineer. Mr. Rohde states that at that time, there were two State of Michigan law violations in the design that should have prevented its approval, and that attorneys (including representation from Varnum) confirmed these violations in writing. He then states these illegalities were ignored with no response. Roundhill PUD was approved in spring of 2016. Mr. Rohde states that in July of 2017, his request from the Planning Department for a copy of the drawings was denied.

Mr. Rohde claims that Roundhill PUD made no requests for an Amended PUD as violations continued to be documented and sent to the Township in summer and late 2018, and that he had received no response from the Township regarding these violations. Mr. Rohde continues on to say that in the fall of 2018, there was a major breach of the Roundhill property line; sediment flowed onto adjacent properties, into the drains on Thornhills, and into the Thornapple River. The Kent County Road Commission called in Roundhills PUD soil erosion bond, stopped construction, and called in outside help to construct additional sediment barriers to prevent further problems with adjacent properties. Mr. Rohde states that Roundhill PUD does not yet have a soil erosion control plan, which would have prevented this problem. In the spring of 2019, a soil erosion bond was reissued with no amended PUD to the Roundhill PUD. Mr. Rohde continues on to state that the single home that has been built is larger than the approved footprint, and has a three-stall garage instead of the two-stall garage that was PUD approved.

Chairman Sperla interrupted to state that he believes this is related to the Agenda item, and to remind Mr. Rohde that visitor comments are limited to 5 minutes. Chairman Sperla states that he will let Mr. Rohde continue this time.

Mr. Judd Rohde continued to read the letter written by his father, Mark Rohde. Mr. Rohde states that he believes the Planning Commission has no fault in any of these violations, but is the source of the solution, and that they should act accordingly.

Mrs. Cherie Grunske (3056 Thornapple River Drive) came forward to express her concerns regarding the erosion coming from the raw dirt flowing into the bayou from the Roundhill property. She stated that when it rains, mud flows into the bayou, and then water from the river flows backwards and stands stagnant. Mrs. Grunske stated that she would like to see some sort of retaining wall built on the Roundhill property to keep the dirt and sand (mud) on the Roundhill property.

Chairman Sperla stated that municipal bodies do not have jurisdiction over a lake or stream, and that jurisdiction would fall with the Inland Lakes and Streams Act under the Department of Conservation, Department of Natural Resources, and Department of Environmental Quality, nor does the portion of road in question fall under the jurisdiction of Cascade Township.

Mr. Ron McCollum (6660 Old 28th St) came forward to express his concern that this project was approved for a condominium PUD, not site condominium project as it is now being built. Director Peterson clarified that the form of ownership is not what is regulated by the Planning Commission, but things like setbacks and the number and size of units are regulated. Director Peterson did state that Roundhills original presentation was as a condominium. Mr. McCollum again expressed his concern that this is turning from a condominium project into a subdivision. Chairman Sperla stated that it is not a specific structure that is approved, and that legally the structures can take different forms with different characteristics.

**ARTICLE 6. Case #19-3527 Roundhill PUD Amendments- Sentenel Pointe
Public Hearing**

Property Address: 3000 Thornhills

Requested Action: Amend the existing PUD to allow for decks for the single-family portion of the project to extend beyond the approved building envelope, but no closer than 25 feet from the rear property line.

Director Peterson stated that this is the original subdivision plan in the form of a condominium, which is why the building envelopes are identified. Building envelopes identify where buildings and structures can be built. Decks over 30 inches tall are defined as a building and structure, below 30 inches would be considered a patio, which is not regulated. Unit number 8 of Roundhill has been built on and they would like to add a deck, which has actually already been built. This is an after-the-fact enforcement proceeding, Director Peterson stated that the Township will certainly work with an Applicant as they are going through the process for a variance or approval. There has not been a permit issued yet for the deck. Upon submission for approval of the PUD, it was noticed that the deck itself goes beyond the building envelope. Roundhill would like to amend the project to allow for decks only to expand outside of the original building envelope, provided they are not any closer to the normal rear yard setback of 25 ft. Director Peterson stated that the buildings (homes) themselves would stay inside of the building envelope. If approval of this PUD Amendment is suggested, Director Peterson offered that a side yard setback of 10 ft (the normal minimum) be discussed as well.

If the PUD Amendment request is denied, the deck that has been built on Unit 8 will need to be removed, or reduced in size to fit within the approved building envelope.

Director Peterson stated that at the last meeting there was a packet given to the Planning Commission by the neighbors with a list of concerns, some of which have been addressed tonight, and they have also received a letter of support from a nearby person. He then stated that he would like to address bullet points of the large letter to clarify the Townships perspective on these issues.

The first point addressed is the claim there is no soil erosion plan in place. Director Peterson stated that that is untrue, and stated that when a meeting was held with the County Road Commission and Mr. Rohde, that specific question was asked of the County (who has the jurisdiction about soil erosion), and whether or not an active permit was in place. The County stated that everything Roundhill has filed with them is in order. Director Peterson reiterated that the soil erosion permit is where it is supposed to be with the County. Enforcement is up to the County.

The second point addressed is the claim that the PUD site development plan completely changed in construction. Director Peterson stated that he does not find that to be the case, but states the project is not yet finished, so it is not unusual for final grades to be completed until the project is done. If there is something they want to change, they will need to apply for an amendment, or build the project as originally approved.

The third point addressed is the thought that the home size has violated the PUD approval requirements. Director Peterson stated the buildings are limited to the

building envelopes, and they need to stay within those lines. The current home and second home that has been started are both within those envelopes. Director Peterson stated that only minimum house size would be regulated, not maximum as long as it is within the building envelope.

The fourth point addressed is that the recently completed home deck requires Planning Commission approval. Director Peterson agrees, and states that is why they are having this meeting. Approval is needed to be outside of that building envelope.

The fifth point addressed is the PUD mandated landscape buffer cannot be installed as required. Director Peterson stated that is something expected to be completed during final stages of construction, not while construction is still happening.

The sixth point addressed is that the site fill was improperly compacted at the south property unit locations. Director Peterson stated that Mr. Mark Rohdes concern about fill being out for other sites this is something that was discussed with Mr. Rohde when they met. The Building Department was made aware that it was there, and it is up to them whether or not to require any testing.

There was also reference to a letter from an attorney at Varnum that talks about the retaining wall, and a comment was made that that was the Townships attorney. Director Peterson states that although Varnum is the Townships attorney at this time, they were not when that letter was written.

Chairman Sperla asked Director Peterson if there has been any contact with the Department of Natural Resources regarding the concern of soot and materials drifting into the river. Director Peterson states there has not been recently, but the Township Board has sent their engineer out to test the bayou for materials in the past, and tests have come back as mostly organic to the river. Director Peterson then states that a couple of years ago there was a big drain project completed to stabilize a hill near Centennial Park (west of Thornhills, east of the condo project) where it was believed a lot of fill was coming from and flowing into the river. They have both been completed in the past few years.

Director Peterson was asked how far beyond the approved envelope the deck is that has been built onto the complete unit (#8). Director Peterson stated that is well beyond the normal 25 ft setback requirement, and is also beyond the building envelope. He did not have an exact measurement.

Member Moxley thanked Director Peterson for the background regarding the points in the letter for those on the Planning Commission that do not have the history on the project, or were not here when the project was approved.

Member Rissi asked Director Peterson if an extension were to be granted for decks to be built outside of the buildable envelope, would that conflict with the retaining walls being built as construction continues? Director Peterson states that he has had that conversation with the builder, and the builder has indicated there should be no reason

the decks would alter the approved grading plan. Director Peterson stated that that would be a good question for the applicant for the record.

Member Pennington asked for clarification that the decks would be in compliance with the required 25 ft rear yard setback. Director Peterson stated that yes, it would be in compliance with the required setback, and also the 10 ft side yard setback.

Chairman Sperla invited the Applicant to come forward with comment.

Mr. Tom Guisti came forward and introduced himself as one of the developers, general contractor, and builder of the site. Mr. Guisti stated that they were not aware the decks needed to be shown on the original drawing submitted of the individual units. Mr. Guisti stated that the south side of the property (lots 5-10) are walkout lots, so they would require a deck for safety and egress out of the back of the house from the first floor. He then states that they have lessened some of the sloping on the south side of the property and installed some high velocity erosion matting, and soil stabilization seed to encourage growth on the slope in back that is in question. Mr. Guisti stated that Mr. Rohde has expressed from the beginning that he does not want the retaining wall that was approved to be put up, so they are doing what they can to try to keep him happy and not build the retaining wall as he is right behind them. Mr. Guisti stated that they are meeting all of their requirements, and have a storm water operator visit the site once a week or after every rain event to document and report to the DEQ. He continues on to state that the stormwater retention pond has been tested and come back with results as good or better than the original report.

Mr. Guisti stated that the decks are 10 feet deep off the back of the house, and it extends to 13 feet to allow for a landing down to grade. Mr. Guisti believes that this development is a great addition to the downtown area of Cascade, being within walking distance to the library, shopping, and dining in the Downtown District. He states that the first unit was a great success with no comparable properties in the area.

Member Rissi asked Mr. Guisti if he still planned to build the planned retaining wall on the north side of the property if they chose not to put up the wall on the south side. Mr. Guisti stated that they would probably not put the retaining wall up on the north side of the property either, as the grades are not what they thought they would be. Runoff from the library or the units themselves will run to the catch basins. With grading, landscaping, and seeding, Mr. Guisti stated that everything is doing what it is supposed to do.

Mr. Guisti asked what the status of construction currently is. He stated that the first complete property is occupied, the others have not even been listed as of now. They are trying to go easy and keep things contained as best possible.

Member Rissi asked Director Peterson if omitting the retaining walls is a choice Mr. Guisti can make without Staff approval. Director Peterson stated that he would need to see their revised engineering plan and the impact on engineering before he can make that call.

Motion was made by Member Rissi to open Public Hearing. Supported by Member Katsma. Motion carried 9 to 0.

Chairman Sperla invited members of the public to come forward with comment.

Mr. Ken Clapp (6800 Tricklewood Ct.) came forward to express his concern regarding the confusion of adhering to the original plan. He is questioning the removal of the retaining walls, or addition of the deck without prior approval. He then asked Director Peterson if the bayou has been tested for erosion debris since the start of this project. Director Peterson stated that he does not have an exact date of reports, but can look them up. Director Peterson states that conclusions of testing in the past has been a lot of organic fill from the river. Chairman Sperla stated that this information is available to the public through the Freedom of Information Act.

Mr. Patrick Brady (2870 Overlook Summit Dr. SE) came forward and introduced himself as the President of the Homeowners Association of the Bluffs of Cascade. He stated that he has really enjoyed living in Cascade for the past two years, and has seen growth in that time. Mr. Brady states that he became interested after hearing about this project and the concerns of the neighboring owner from his property manager. Mr. Brady states that the builder of this project (Mr. Guisti) built a home for him 17 years ago in Plainfield Township, and has since built hundreds of homes with a reputation for constructing high end homes that bring a lot of value to the areas that they are in. Mr. Brady states that he also believes Mr. Guisti does things right. He continued on to say that he loved their home, and they got a lot of money for it when they downsized to come to Cascade. He states his opinion that its great that a developer and builder took a risk to build on this property and do something different that will possibly increase property values.

Mr. Craig Meurlin (6333 Thornhills) came forward to confirm the home is occupied. Chairman Sperla confirmed that it is. Mr. Meurlin questioned how it had a building permit granted if it was in violation of the PUD, Chairman Sperla answered that a temporary permit can be given subject to the proceeding that is currently being held to amend the PUD. Chairman Sperla explained that applying for an amended PUD makes more sense than applying for a variance in this instance. The PUD will allow for all structures built to have a deck; a variance would have to be done on an individual basis in a separate proceeding with the ZBA. Chairman Sperla explained that if the Planning Commission recommends approval, it will go in front of the Township Board for final approval. Without recommendation from the Planning Commission, the Township Board still has final approval. Mr. Meurlin asked how may temporary building permits the Township of Cascade issues in a year. Director Peterson answered that it is a rare occurrence.

Mr. Jeff Dionne (2984 Thornapple River Drive) came forward to comment that last February he was in front of the Board to ask that his 10 ft side setback be reduced to 7 ft, and it was denied. He then states that the rules are clear in the Township Ordinances to what is allowed. He gives his opinion that leaving the decks off of the initial site plan was missed on purpose, as setbacks are a critical part for any developer, and believes the Township needs more clear, established enforcement. Mr. Dionne states that he will be upset if this PUD does get approved, as he spent four to five thousand dollars

redrawing an initial plan for his home that met the ten ft side setback after being denied a seven ft side setback. Member Katsma asked Mr. Dionne if he was denied by the Zoning Board, or Planning Commission as they have different standards to follow. Mr. Dionne states he was in front of the Zoning Board.

Ms. Aleen Leipprandt (49 Monroe Ave) came forward and introduced herself as an attorney with Hilger Hammond, a law firm in Grand Rapids. She states that she has been retained by some Cascade Township residents, some of whom are adjoining to this development. Ms. Leipprandt states that when the PUD was improved in 2016, it was done so on the basis of a condominium, and the building envelopes were considered also on the basis of a condominium, and how tight things are on the site. The PUD approval process takes into account the necessary perimeter setbacks of building envelopes. She shares her concern that the addition of the decks should not have been missed by the builder, or Staff that approved the original PUD. Ms. Leipprandt then states that the original square footage of these homes would be 2,700 square feet, with a garage of approximately 400 sq ft. She states that these properties are now being advertised as 5,000 square feet, with a three-stall garage. She continues to say that although the building envelope may still be the same, there has been substantial increases in garage size, and cement driveways along with the increase in square footage of the home. Ms. Leipprandt suggests that this Amendment be tabled until the Applicant can submit a new drawing with actual sizes of the decks, and how the decks will relate to the grading, drainage, and green space that was approved in 2016.

Mr. Ron McCollum (6660 Old 28th St) came forward to say that he would like to see changes to a PUD made only with an Amendment. He states that original plan had a detention pond that is now a retention pond, and the changes in the grading on the north and south side to not need retention walls are both changes made without amendments. Mr. McCollum expressed his concern that the project has changed from a condominium site to a sub division development without the proper Amendments, in some cases with Amendments being applied for after changes have been completed.

Motion was made by Member Rissi to close public hearing. Supported by Member Krieter. Motion carried 9-0.

Member Rissi then stated that the developer made a comment about potentially not building the walls. Member Rissi stated that he had previously asked Director Peterson if this was possible, Director Peterson stated that the plan would have to be reviewed and could possibly lead to an amendment. Member Rissi then asked if there was merit in tabling this decision to give Director Peterson an opportunity to meet with the developer in order to add all proposed changes to one amendment. Chairman Sperla then clarified with Director Peterson that there are no other plans to be reviewed at the current time. Director Peterson confirmed.

Member Rissi then suggested the proposed decks need to have a specific size stated in order to be approved, Director Peterson stated that the setback of 25 ft in the rear, and 10 ft on the side is the normal parameter on any lot in the township for decks. Chairman Sperla stated that having more specific size measurements does have merit, however he will not propose that at this time. Director Peterson stated that if the

Planning Commission does decide to request more specifics, you will need to clearly state what items he is looking for in order for the Applicant to produce what Chairman Sperla is looking for.

Member Rissi asked if the addition of the decks is still within the approved building envelope. Mr. Guisti answered that no, it is not. Mr. Guisti stated that the approved building envelope is approximately 52' x 72', and the deck would extend 13' maximum outside of that envelope. Mr. Guisti clarified that the back of the house is 72 ft in width, the deck would run along 25 ft of that width, and extend a maximum of 13 ft further from the structure of the house. Member Rissi suggested that since only one house has been built at this point, the decks on the houses built in the coming future should fit into the approved building envelope. Mr. Guisti stated that would make the houses very shallow in depth. Chairman Sperla asked if this would affect houses on both the north and south side of the development, Mr. Guisti stated that yes, it will.

Member Krieter asked if each house will have a different style and deck style proposed since this is a site condominium, or if each home will follow the same basic plan.

Member Rissi asked about the depth point on Lot 6, and noted that it looks larger than the building envelope. Mr. Guisti stated that it is planned as a walk out, and will have to be modified, especially if anything is done with the retaining wall or grades in the back of the property. Mr. Guisti then stated that nothing can or will be done or changed without approval from the Township Engineer. Member Rissi asked Mr. Guisti if the deck size would need to be larger than 25' x 13'; Mr. Guisti answered no, they would not. Member Rissi clarifies with Mr. Guisti that the decks with the required setbacks would fit within the PUD Amendment Mr. Guisti is asking for today. Mr. Guisti answers that yes, they will fit.

The question was asked from a member of the public if Unit #5 will fit within the required setback. Mr. Guisti answered that yes, it will fit within the required setback after modifications of the depth of the unit, and the same will need to be done with Unit #6. Director Peterson clarifies that when Mr. Guisti mentions he will need to modify the unit, he is not talking about the building envelope, rather the unit placement inside that envelope.

A member of the public states that the completed unit (#8) is outside of the building envelope after the addition of the third stall to the garage. Director Peterson states he has been given different information from the applicant, but can be looked into further if needed.

Chairman Sperla states that a decision needs to be made in this matter. He adds that there can be a yes vote, a no vote, or a vote to table the matter until further information is gathered. Chairman Sperla stated that once a motion is made to table the matter, no further discussion can be held.

Member Rissi stated that there needs to be a solid reason to table, and perhaps that may be to verify whether or not the house is inside of the building envelope. Member

Rissi then adds that he believes the retaining wall issue of the wall(s) either being built or not needs to be further addressed, and a solid decision needs to be made.

Member Pennington states that he believes the dimensions of the decks, and impact to the building envelope needs to be more clearly defined. Member Pennington then also agrees with Member Rissi that the retaining wall issue should be firmly decided on.

Member Katsma asked Mr. Guisti how far along he is with having all of the grades set, and all of the other homes designed. Mr. Guisti state that where the houses sit is at grade, the southern slope of where the retaining wall will either be or not be is the only grading in question at this time. Mr. Guisti stated that all home designs will be the same, although possibly reversed to put garage towards garage. Color schemes may be different.

A member of the public states that he would like to have a survey done of the unit that has been built (#8) since it has not been verified, and since there is no plan for the deck that has already been built on it.

Chairman Sperla states that it is not the Townships responsibility to complete surveys.

Chairman Sperla asks if a motion if ready to be made.

Motion is made by Member Katsma to table this item based on comments heard at this meeting, and the need for further clarification as described below. Supported by Member Rissi. Motion carried 9 to 0.

Director Peterson asks for specifics on what is being asked to be clarified. Member Katsma states better clarification is needed on actual deck size and how it relates to the building envelope, and whether or not the elimination or changes made to the retaining wall will have an impact on grading of the site. Member Rissi states that he would like to add a survey of the lot (#8) that shows the house and the deck as it sits now, with the buildable envelope shown on the survey.

ARTICE 7. Any other business

Chairman Sperla reminds the Commission there is a meeting with the Township Board tomorrow (May 21st) at 5:30 in the same location.

ARTICLE 8. Adjournment

Motion was made by Member Rissi to adjourn. Supported by Member Katsma. Motion carried 9 to 0. The meeting was adjourned at 8:47 p.m.

Respectfully submitted,
Phil Johnson, Secretary