

AGENDA
Cascade Charter Township Planning Commission
Special Meeting
Tuesday, December 14, 2021
7:00 pm
2870 Jacksmith Ave

Public may access the meeting via video conference software Zoom
<https://us02web.zoom.us/j/81143710632>

Meeting ID: 811 4371 0632
By Phone: +1 301 715 8592

- ARTICLE 1. Call the meeting to order
Record the attendance**
- ARTICLE 2. Pledge of Allegiance to the Flag**
- ARTICLE 3. Approve the current Agenda**
- ARTICLE 4. Disclose any Conflict of Interest**
- ARTICLE 5. Acknowledge visitors and those wishing to speak.
(Comments are limited to five minutes per speaker)**
- ARTICLE 6. Review Report and Requested Recommendations from the Round Hill Subcommittee**
- ARTICLE 7. Old Business**
 - Review Revisions to the Planning Commission Bylaws
- ARTICLE 8. Any Other Business**
- ARTICLE 9. Adjournment**

Meeting format

- 1. Staff Presentation** *Staff report and recommendation*
- 2. Project presentation-** *Applicant presentation and explanation of project*
 - a. PUBLIC HEARINGS**
 - i. Open Public Hearing.** *Comments are limited to five minutes per speaker; exception may be granted by the chair for representative speakers and applicants*
 - ii. Close public hearing**
- 3. Commission discussion –** *May ask for clarification from applicant, staff or public*
- 4. Commission decision - Options**
 - a. Table the decision** *d. Approve with conditions*
 - b. Deny** *e. Recommendation to Township Board*
 - c. Approve**

Round Hill Investigation Subcommittee of the Planning Commission

Suggested Recommendations for the Planning Commission

December 12, 2021

#1: The Development Process must be administratively controlled for effective oversight.

- Set forth in writing a defined process for development projects (PUD or not) so that required filings will be made as required and preliminary required actions are completed before building permits issued and proper oversight and responsiveness to citizen complaints occur.
- Have this process be a part of an overall computerized process that includes all requirements, including pre-construction activities, and records their completion; the status of all inspection department permits required and obtained; on-going oversight site visits; citizen complaints and how and when they are responded to; and all reports of non-CCT regulatory agencies (e.g., the KCRC and EGLE). The computerized process chart should be accessible by any CCT department potentially involved in the development (e.g., Planning Department; Inspections Department; Clerk's office (for receipt of approved and/or recorded documents); Finance (for receipt of required performance bonds); as well as all senior management, including the Town Manager, who is ultimately responsible for projects), the Planning Commission and the Board of Trustees.
- No activities beyond preliminary soil testing and other tests that do not disturb the site's overall character (including cutting of trees or changing water runoff patterns) should be allowed until all preliminary actions are completed and entered onto the computer process chart.
- The Township's stormwater ordinance should be enforced (and not left to the KCRC under their SESC process).
- The Ordinances and resolutions approving development projects must be more carefully drafted so that developers do not take advantages of ambiguous requirements to do things (e.g., when to put in retaining walls in Round Hill).

#2: Management of the Development Process: Roles and Responsibilities

- One position should be identified and given responsibility for the control and oversight of the development process. The person filling that position should be approved by the Board of Trustees. It is probably best that the Planning Director be the position required. Whoever holds that responsibility, their authority to approve changes on his or her own authority should be limited so that the development built is consistent with that approved by the Board of Trustees.
- Review and revise Section 21.04 of the Zoning Ordinance for minor changes carefully so as not to allow significant changes without approval by the Planning Commission and the Board of Trustees (as occurred at Round Hill).
- All changes must be noticed to the Planning Commission and the Board of Trustees.

APPENDIX 1

Factual Basis for Suggested Recommendations

Some Key Facts Supporting First Set of Recommended Changes

- Ordinance approving PUD required that it be filed with County Land Records “prior to construction on site.” The ordinance, adopted in March 2016, was filed in January 2020.
- Master Deed was filed on April 27, 2018, more than two years after passage of the Ordinance. It also reflected a site condo not a traditional condo, as approved by the Board of Trustees in 2016,
- Final Site Plan must be stamped ‘Approved’ (and shall be revised to reflect any condition attached to the approval, or changes or corrections required to obtain approval. (Section 21.03 of the Zoning Ordinance)). It should be filed in the permanent records of the Township. No approved original site could be located from the Planning Dept when requested. No stamping of the any site plans occurred.
- Performance bonds from the developer (totaling \$60,000) to protect the township and adjoining residents negotiated in 2015-2016 (with counsel for multiple parties) were never asked for by the Planning Dir. nor delivered by the developer to the Township.
- There were several items required to be done prior to “construction” but the damage to the Rohde’s started with clearing of the site well before any actual construction of houses began and before the water retention systems were built.
- The retaining wall clearly needed on the southeast corner of the site was not completed until 2020, well after significant damage to the Rohde’s had been done by the stormwater, soil and sediment coming from the development.
- Inspections Dept. personnel focus only on what they are specifically inspecting; they do not look for (or even notice) obvious violations of the approved development plan nor mention to others in the Township other things on the project that might be a problem. They are acting as an independent contractor to CCT, just as they do in other jurisdictions.
- Functions outside of CCT are often involved: in Round Hill, the County Road Commission was involved since there was a need for soil and sediment permits. KCRC filed more than 12 notices of violations and inspection reports on Round Hill. They eventually asked the Township, through the Inspections Department, to issue a stop work order on Round Hill and it was issued. EGLE was involved in the Round Hill project as well since some of the sediment from Round Hill found its way into a Thornapple River bayou, and it filed complaints as well. They fined the developer a small amount of money.
- CCT did little, if anything, until the very end when the threat of litigation arose. CCT did place a stop order on the site, although we found no written record of it from the Planning Department files or the basis of it in our review of Planning Department files (which were in an unorganized box).
- No written evidence of any internal after-action review, represented as having occurred, was found.

Some Key Facts Supporting Second Set of Recommended Changes

- Round Hill started as a traditional condo development and ended up as a site condo project without any notice to or approvals by the Planning Commission or the Board of Trustees. None of the changes, including subsequent changes to the lot lines of the site condo, were done with any approvals other than perhaps by the former Planning Director. In reviewing Planning Dept. files, there were no written approvals of changes the Planning Director approved, as required by the Zoning Ordinance. Also, even “minor changes to site plan” must comply with the Zoning Ordinance. Part of the reason for the traditional condo structure was the need for extensive retaining walls, which in a traditional structure would be the responsibility of the Homeowners Association (HOA). In the site condominium structure, the sites on which the retaining walls were built would be ultimately responsible, even if the HOA was nominally responsible.
- Section 21.03 of the Zoning Ordinance also requires that all conditions attached to the approval of a site plan, or changes or corrections be placed on a revised site plan before it is marked ‘Approved.’ In Round Hill, (1) some of the units were built outside the building envelopes set forth in the drawings for the project, (2) no building permit for the deck on Unit #8 was obtained prior to its construction; (3) the developer did not adhere to the approved site engineering. This led to the request for a new Ordinance (the third ordinance) in June 2020.
- There is no current procedure or process (or even anyone given responsibility) for enforcement of the development process or for dealing with project-related citizen complaints. Mr. Rohde filed numerous complaints without receiving any relief, thus forcing him to sue the develop and CCT.
- The Ordinances must be more precisely drafted. Terms and timing required for some actions in the Ordinance must be more precisely defined. There were failures in the drafting of the Round Hill Ordinance. Two example: (1) What is “construction” which defined the date for certain actions to occur? Is clear-cutting the site (leaving it vulnerable to water and soil and sediment runoff onto neighbor’s property, as well as into the county drain system and the river) “construction”? (2) There was no set date set for completion of the retaining walls in the ordinance. Some of those required were essential components of the stormwater and soil and sediment retention plan, yet the retaining walls were not part of the “Facilities” as defined in [the \[SESC permit\]](#).

CASCADE CHARTER TOWNSHIP PLANNING COMMISSION

BYLAWS

Adopted on _____, 2021

ARTICLE~~RULE~~ 1: AUTHORITY AND SCOPE

These bylaws are adopted by the Cascade Charter Township Planning Commission ("Planning Commission") pursuant to the Michigan Planning Enabling Act, 2008 Public Act 33 (MCL 125.3801 et seq.), as amended, ~~as well as Chapter 23 of the Cascade Charter Township Zoning Ordinance.~~ In cases where these bylaws are in conflict with the Cascade Charter Township Zoning Ordinance, the Zoning Ordinance shall prevail.

ARTICLE~~RULE~~ 2: CREATION AND MEMBERSHIP

2.1 Creation. Pursuant to the Michigan Planning Enabling Act (Act 33 of the Public Acts of 2008, as amended) and the Michigan Zoning Enabling Act (Act 110 of the Public Acts of 2006, as amended), the Cascade Charter Township Board of Trustees confirmed the establishment of the Cascade Charter Township Planning Commission by resolution and ordinance with the powers and duties set forth in the Michigan Zoning Enabling Act.

2.2 Members. The Planning Commission shall consist of nine (9) members representing ~~all~~ major interests present in the Township. Members shall be appointed by the Township Supervisor of Cascade Charter Township with the approval of the Township Board.

- a. All members must be residents and qualified electors of the Township.
- b. One (1) member of the Township Board must be appointed to the Planning Commission.
- c. One member of the Planning Commission must be appointed to the Township Zoning Board of Appeals. However, the person who is the

Planning Commission Member-Zoning Board of Appeals member may not vote on the same matter voted on as a Planning Commission member.

2.3 Chairperson, Vice Chairperson, and Secretary. At the first meeting in January, the Planning Commission must select a chairperson, vice chairperson, and secretary from among its members, and must create and fill other offices and committees as it considers advisable by a majority of the quorum present at the meeting. The term of each office is 1 year, with eligibility for re-election for no more than 2 consecutive terms. The Township Board member is not eligible to be selected as an officer.

- a. Chairperson. The Chairperson presides at the public meetings of the Planning Commission, appoints committees, subject to Planning Commission approval, and performs other duties as may be ordered by the Planning Commission.
- b. Vice Chairperson. The vice chairperson is authorized to serve as chairperson if the chairperson is absent. If there is a vacancy in the office of chairperson, the vice chairperson shall fill the vacancy for the unexpired term and the Planning Commission shall fill the vacancy in the office of the vice chairperson the remainder of the unexpired term.
- c. Secretary. The secretary (or authorized designate) must execute all documents in the name of the Planning Commission. The Planning Director shall serve as the recording secretary and is responsible for the minutes of each meeting and must provide for permanent keeping of all documents of the Planning Commission at the Township Hall. All communications, petitions, and reports addressed to the Planning Commission must be delivered or mailed to the secretary (or the secretary's authorized designate).

2.4 Compensation. Members of the Planning Commission shall be compensated for their services as provided by the Township Board.

ARTICLE~~RULE~~ 3: TERMS OF OFFICE; VACANCIES

3.1 Terms of Office. Except for members of the Planning Commission first appointed under MCL 125.3815, Planning Commission members shall be appointed to three-year terms and shall hold office until his or her successor is appointed (except for the member representing the Township Board, whose term shall expire with his or her term on the Township Board).

3.2 Vacancies. If a vacancy occurs on the Planning Commission during a term for reasons including, but not limited to death, disability, resignation or removal, or the Planning Commissioner is no longer a resident and registered elector, the vacancy shall be filled for the unexpired term in the same manner as provided for an original appointment.

3.3 Removal from Office. The Township Board may remove members from the Planning Commission for misfeasance, malfeasance, or nonfeasance in office upon written charges and after a public hearing. To initiate this action, the Planning Commission shall make a recommendation for removal to the Township Board, and shall specify the reasons for removal. ~~Failure to attend three consecutive regular meetings or miss more than 50% of the meetings within a twelve-month period shall be considered nonfeasance in office. To initiate this action, the Chair shall prepare a memo requesting the Commissioner to resign. If the Commissioner does not resign, the Chair shall submit the memo to the Township Board to request that the Commissioner be remove for nonfeasance in office.~~

ARTICLE~~RULE~~ 4: RESPONSIBILITIES AND AUTHORITY

4.1 Responsibilities. The Planning Commission must perform all of the actions required by law, the Township Zoning Ordinance (including but not limited to Chapter 23), and other applicable rules and regulations.

4.2 Requirements for Action. A majority of the Planning Commission shall constitute a quorum for the transaction of ordinary business and all questions which shall arise at their meetings shall be determined by a vote of the majority of the members of the Planning Commission attending any meeting where a quorum is present, unless Michigan law provides otherwise. If a decision of approval is not obtained or in the event that the vote results in a tie, then the matter being considered shall be deemed to have been denied.

4.3 Voting Procedure.

- a. Motions before the Planning Commission may be restated by the chairperson before a vote is taken. The name of the person making the motion and its supporter shall be recorded.
- b. Voting shall be by voice vote. All motions or resolutions resulting in Township expenditures shall be by a roll call vote. All members present are required to vote unless excused for reasons of a conflict of interest, as noted in Section 23.03(5)(b) of the Zoning Ordinance and these Bylaws.
- c. Action by the Planning Commission on any matter for which a public hearing is required shall not be taken until the public has had the reasonable opportunity to address the Planning Commission.
- d. A member may be allowed to withdraw from the entire remainder of a meeting by majority vote of the remaining members present for any good and sufficient reason other than the member's desire to avoid voting on matters to be considered at the meeting. A motion to allow a member to be excused from voting or excused from the remainder of the meeting is in order only if made by or at the initiative of the member directly affected.

4.4 Conflict of Interest.

- a. A conflict of interest is described in the Planning Commission Rules of Conduct exhibit.~~shall include, but is not limited to, a matter pending before the Planning Commission in which:~~
- ~~1) The member has a direct financial interest in the outcome of the matter at issue;~~
 - ~~2) The matter at issue involves the member's business or place of employment;~~
 - ~~3) Participation in the matter might violate the letter or spirit of a member's code of professional responsibility;~~
 - ~~4) The member has such close personal ties to the applicant that the member cannot reasonably be expected to exercise sound judgment in the public interest; or~~
 - ~~5) Participation would violate a rule or regulation adopted by the body involved.~~
- b. ~~Before participating in a decision, hearing, or casting a vote on a matter on which a Planning Commission member may reasonably be considered to have a conflict of interest, the member must publicly disclose the potential conflict of interest to the Planning Commission.~~
- e. ~~The member is disqualified from voting on the matter if a conflict of interest exists and a majority vote of the remaining Planning Commission members concludes that a conflict exists. The member shall not attempt to exert his or her personal influence with respect to the matter, either at or outside the meeting. The presence of the disqualified member at the meeting shall not be counted in determining the presence of a quorum for purposes of the vote on the matter presenting the conflict of interest. The member's ineligibility to vote shall be reflected in the minutes of the meeting.~~
- d. ~~If the member is an applicant submitting an application, contract, transaction or any other matter to the Planning Commission, the member~~

~~may be present in the meeting room during the discussion to make a presentation and answer questions.~~

~~e. If a member plans not to attend a meeting at which he or she has reason to believe that the Planning Commission will act on a matter in which the member has a conflict of interest, he or she shall disclose to the chair of the meeting all facts material to the conflict of interest. The chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.~~

~~f. Failure of a member to disclose a potential conflict of interest as required under these bylaws and Michigan law and disqualify himself or herself from the vote constitutes malfeasance in office, which may result in disciplinary action including censure, reprimand, removal, dismissal, or discharge.~~

ARTICLE RULE 5: MEETINGS

5.1 Meeting Schedule.

a. Regular Meetings Regular meetings of the Planning Commission shall be held on the first and third Mondays of each month at a time and place as determined by the Recording Secretary unless cancelled or rescheduled by the Planning Commission. When the regular meeting day falls on a legal holiday, the Planning Commission may select a suitable alternate day in accordance with the Michigan Open Meetings Act. At the Planning Commission's first meeting in December, the Recording Secretary shall submit to the Planning Commission a proposed meeting schedule for the upcoming year. At this meeting, the schedule shall be approved as submitted or amended to reflect the changes directed by the Planning Commission.

b. Special Meetings. A special meeting of the Planning Commission may be requested by any Planning Commissioner or the Recording Secretary. The Recording Secretary shall send written notice personally, by mail (if time is sufficient), or any other electronic means, including facsimile, text or email, of a

special meeting to Planning Commission members not less than 18 hours before the meeting.

5.2 Meetings. Planning Commission meetings, subcommittee meetings, and hearings will be held in compliance with the Open Meetings Act.

5.3 Notice of Meetings. Notice of all public meetings must be posted pursuant to the Open Meetings Act.

5.4 Agenda. A written agenda outlining the order of business for all regular or special meetings may be developed by the Planning Director then amended and approved by the ~~and the~~ Planning Commission Chairperson. The agenda may be supplemented or re-ordered by the Planning Commission during a meeting, provided the same does not violate ~~complies with~~ any applicable law.

5.5 Public Participation. A member of the public may speak at public meetings or the public hearing part of a meeting of the Planning Commission in accordance with procedures adopted by the Planning Commission. The following procedures apply:

- a. Time for public comment must be provided at each Planning Commission meeting. Additional time for public comment may be scheduled at the end of any meeting, if necessary in the discretion of the Planning Commission.
- b. Individuals wishing to speak are requested to provide the person's name and address.
- c. Persons must be recognized by the Chairperson before speaking and may be limited by the rules of the Planning Commission.
- d. No person may speak more than once during public comment (excluding any comments made at a public hearing).
- e. Persons addressing the topic of a scheduled public hearing are encouraged to present their remarks during the public hearing portion of the meeting.
- f. Public comments shall be directed to the Chairperson.

- g. The Planning Commission will generally not respond to public comments, but reserves the right in its sole discretion to make inquiries, correct factual errors or provide any other information it deems appropriate. Where appropriate, The Planning Commission will make a good faith effort to respond to questions in a timely manner at its discretion.

ARTICLE ~~6~~ 7: ATTENDANCE AND QUORUM

6.1 Quorum. A majority of the members of the Planning Commission appointed and serving constitute a quorum for purposes of transacting business of the Planning Commission and the Open Meetings Act. Each member of the Planning Commission has one vote.

6.2 Attendance. Members of the Planning Commission who are absent from more than three consecutive, regularly-scheduled Planning Commission meetings or more than 50% percent of the regularly-scheduled Planning Commission meetings in a calendar year are subject to review and possible recommendation for removal to the Township Board. Exceptions may be made if absences are due to the conduct of other business as authorized by the Planning Commission or are excused by the Planning Commission. The following procedures must apply:

- a. A member of the Planning Commission must notify the Planning Commission Chairperson of an anticipated absence as far in advance of the meeting as possible, stating the reason for such absence.
- b. The Chairperson may postpone or reschedule a meeting in the event a quorum will not be present.

ARTICLE ~~7~~ 8: RECORDS

7.1 Meeting Records. Minutes must be maintained for all Planning Commission proceedings, including evidence, information and data relevant to each case under consideration, resolutions, transactions, findings, voting by members, determinations, and final disposition of each case.

7.2 Maintenance of Records. Minutes of each Planning Commission meeting must be filed with the Township Clerk and must be available to the public. Minutes of closed sessions must be maintained separately and not disclosed to the public, except upon court order. A writing prepared, owned, used, in the possession of, or retained by the Planning Commission in the performance of an official function must be made available to the public except where exempted by the Freedom of Information Act.

ARTICLE ~~8~~ 8: COMMITTEES

8.1 Formation of Committees. The Planning Commission may establish committees to meet the needs and objectives of the Planning Commission and must specify the number of members, terms of appointment, functions, goals, and projected time periods for such committees. The Planning Commission may appoint advisory committees outside of its membership.

8.2 Public Notice. Notice of the formation of committees, their purpose, membership, and meeting schedule must be posted at the Cascade Charter Township Hall. All meetings and meeting records must be open to the public as required by the Open Meetings Act or the Freedom of Information Act.

8.3 Accountability and Records. Committees must be accountable to the Planning Commission. Records must be maintained for all meetings. Reports and recommendations must be submitted to the Planning Commission in writing.

8.4 Discharge of a Committee. A committee may be discharged from its responsibilities by a majority vote of the Planning Commission.

ARTICLE ~~9~~ 9: PERSONNEL

The Township Board, in consultation with the Planning Commission, may employ a zoning administrator, planning director or other personnel or consultants, contract for services of planning and other experts and technicians, provide support staff,

