

MINUTES

Cascade Charter Township Planning Commission
Monday, August 17, 2009
7:00 p.m.

- ARTICLE 1.** Chairman Robinson called the meeting to order at 7:00 p.m.
Members Present: Hammond, Lewis, Logue, McCarthy, McDonald, Robinson, Sperla, Waalkes.
Members Absent: Pennington (excused)
Others Present: Township Planning Director Peterson, Recording Secretary Hern and Members of the Public.
- ARTICLE 2.** Chairman Robinson led the Pledge of Allegiance to the Flag.
- ARTICLE 3.** **Approval of the Agenda for the August 17, 2009 Planning Commission Meeting.**
Chairman Robinson requested a motion for the approval of the August 17, 2009 Agenda.
- Motion was made by Member Lewis and supported by Member Waalkes to approve the Agenda as presented. Motion carried unanimously.**
- ARTICLE 4.** **Approval of the Minutes from the July 20, 2009 Meeting.**
Chairman Robinson asked if there were any corrections to the July 20th Minutes or requested a motion for approval.
- Member McDonald noted on Page 7 in the last paragraph, second sentence the word “animate” should read as “adamant.”
- Member Waalkes noted that he was an excused absent from the meeting, he is currently listed as unexcused.
- Motion was made by Member McCarthy and supported by Member McDonald to approve the July 20, 2009 Minutes as corrected. Motion carried unanimously.**
- ARTICLE 5.** **Case # 09-2973: Terhorst - Burwood (PUBLIC HEARING)**
Address of Property: 8600 28th Street SE
Requested Action: The Applicant is requesting an amendment to the Burwood P.U.D. Ordinance. This amendment would remove the requirement to construct the clubhouse with the pool, the walking paths and the tennis court.
- Planning Director Peterson noted this case is before the Planning Commission for a recommendation to the Township Board.

The last sentence highlighted by Staff “to ensure these are installed, the Developer has agreed to post a bond under a letter of credit in an amount agreed to by the Township that would guarantee that the club house, the pool, the walking paths, tennis courts are installed after the eleventh lot sells...”

Planning Director Peterson noted some of the current Commissioners were on the Planning Commission when the plan was approved in 2006. It is not uncommon to establish “triggers” for improvements to take place within a development and this project had more amenities than other recent developments.

The Developer has already installed the walking trails.

The Developer is now requesting that the trigger, or requirement, for the installation of the amenities, when the eleventh lot is sold, be removed. The Developer has indicated that with this economy, they are having a difficult time selling the lots; only one (1) has been sold. The owner who has bought the lot has consented to these changes in the P.U.D. The Developer would like the amenities to be permitted and then constructed, if the Homeowners association wants to.

Staff has had discussions with the Developer and suggested they move the deadline to when the eleventh lot is developed. The Developer noted that the buyers might not want to put the money upfront for the amenities since they might not be installed for a long period of time.

Planning Director Peterson also noted in his report that the Township probably would have approved the development with the seventeen (17) lots and open space without the amenities. He noted there was some concern regarding all of the amenities in open space.

The Commissions’ role is to provide a recommendation to the Township Board. Staff suggests, given the nature of this request, it could go right to the Township Board and would not have to come back to the Planning Commission to review the text language.

The Applicant is present this evening for any questions the Planning Commission might have.

Member Lewis notes that the Township has had issues in the past with promised amenities not being installed and therefore, the requirement of when the amenities are installed has been established, not just for this project but also for others in the past and for those in the future.

Member Lewis noted that the Applicant is going through some very difficult times and negotiations were held when the plan was first presented to the Commission and is willing to work with the Developer.

Member McDonald clarified that none of the homes have been built so far and Planning Director Peterson said that is correct; one (1) lot has been sold. Member McDonald noted that the lot owner is in favor of the change.

He asked for clarification of Staff's report on Page 2 in the sixth paragraph where it states "...modifications to a P.U.D. are permitted but it does require an ordinance..." and Staff is suggesting that the Township could do this with only a text amendment to this specific P.U.D.? Planning Director Peterson said that this was correct

Applicant Terhorst noted that his son started the project and in today's economy, the lots are not selling due to the high cost of the lots.

Member McDonald confirmed with Applicant Terhorst that he is requesting to remove the stipulation that the pool, the clubhouse and tennis court construction be left to the Association to decide when and if the amenities should be installed. Applicant Terhorst said he wishes to let the Association decide. The amenities would be installed as shown on the Site Plan but let the Association decide when. Member McDonald asked how many members would belong to the Association to make that decision, eleven or seventeen? Applicant Terhorst said the Association could decide when there are enough people to pay for it, but the association is already established when you buy a lot.

Chairman Robinson asked if the people who move into the development decide they do not want the amenities, what would happen to the space and Applicant Terhorst said they would leave it as open space.

Member Logue asked if the Developer is currently escrowing funds from the sale of each lot towards putting in the amenities? Applicant Terhorst said that currently, there is \$80,000 that is put into escrow, \$50,000 from the buyer and \$30,000 from the Developer; the total projected cost for the amenities is approximately \$800,000. Member Logue asked if they would still maintain an escrow and the Applicant said that there would not be an escrow and if the Association wants to pay for the amenities, they could, either way they are paying for the amenities but

holding \$50,000 in escrow for amenities that might not be installed for a long time is a challenge to do when the economy is so bad. He would like to eliminate the escrow as it increases the cost of the lots and let the seventeen owners decide if they want the amenities and they will pay for them. The Site Plan has already been developed and approved, the Association can build them if they would like.

Motion was made by Member Lewis and supported by Member McDonald to open the Public Hearing. Motion carried unanimously.

Planning Director Peterson reported that the Township did not receive any phone calls or letters regarding the case.

Motion was made by Member McDonald and supported by Member Lewis to close the Public Hearing. Motion carried unanimously.

Member Waalkes noted in Staff's summary of their report, their perspective is that the project would have been approved for the seventeen lots without the amenities. The one lot owner supports the amendment and believes of removing the language entirely from the P.U.D. regarding the eleventh lot being the trigger to install the amenities and allowing the seventeen homeowners decide on the use of the open space. He understands the need for the requirement of setting a deadline for promised amenities, however, in this case, only one (1) lot has been sold and the owner has agreed to the amendment. He supports removing the requirement entirely.

Member McDonald served on the Planning Commission when this case was first presented to the Commission. He said there was a lot of discussion regarding the open space usage and he supports removing the requirement regarding the installation of the amenities. If the Applicant's original site plan showed the space as undeveloped open space, the Planning Commission would have approved it and since the one lot owner agrees with the amendment, he is in support of it.

Member McDonald would like it to be very clear that the open space remains as open space and if amenities are to be installed, they must adhere to the approved site plan. Planning Director Peterson said that if the Association wanted to develop something else in the open space, the request would have to come before the Planning Commission for approval to do so.

Member Lewis asked that if the amendment is recommended for approval it needs to be communicated clearly to the potential buyers and Planning Director Peterson said it is recorded in the P.U.D. and hopefully the buyers/sellers are reviewing the P.U.D. that lists the requirements for the development. Member Lewis noted that the ordinance should reflect that an Association could be formed and make these decisions themselves. Planning Director Peterson suggested adding something as simple as "...that these amenities can be constructed per the Association's approval..." but not establishes a trigger as to when and would be a permitted use within the development but not a required one.

Member Hammond asked if the Developer changed the clubhouse, added square footage, etc., would they have to come back to the Planning Commission and Planning Director Peterson said it would for a major change.

Member McDonald asked what constitutes an Association? Can the Township develop the amount of members? Planning Director Peterson said typically, the Developer owns the majority of lots and the association is formed by the Developer and eventually the lot owners have more votes than the Developer.

Motion was made by Member Waalkes and supported by Member McDonald to forward a favorable recommendation to the Township Board to amend the Burwood P.U.D. Ordinance removing the amenities of the pool, clubhouse, tennis court and the requirement of a installation trigger and allow the Association members to decide when to install.

ARTICLE 6.

Any Other Business.

Chairman Robinson noted that on January 1, 2011 the International Building Code, which he understands the Township is under, all single family, townhouse and two-story homes would be required to have sprinkling systems. The approximate cost per home is \$3,000 - \$5,000 and asked Staff if the Planning Commission has to do anything? Planning Director Peterson said the Building Department is aware of these issues and monitors all relative legislation.

Chairman Robinson asked if the Building Department come speak to the Commission regarding this issue.

Member Sperla requested a Burton Park update. Planning Director Peterson said he has been told by the Township Manager that it is on hold until some of the issues can be worked out.

Member Lewis asked how committees were going in meeting with Williams & Works and Planning director Peterson said the two (2) committees have been formed for Farmland Preservation and Centennial Park.

They have developed the text for the Farmland Preservation and Staff has gotten Centennial Park text through their Association and is being reviewed by the Township Attorney currently. Once the text has been reviewed, the Committees will meet and review the documentation.

Member Sperla asked if any of the construction projects in the Township are any closer to being completed, there does not seem to be a lot of activity. Planning Director Peterson noted the Township has approximately four projects that have stalled and he has not heard anything from the developers regarding future progress.

ARTICLE 9.

Adjournment

Chairman Robinson requested a motion for adjournment.

Motion was made by Member Sperla and supported by Member Waalkes to adjourn. Motion carried unanimously and the meeting was adjourned at 7:47 p.m.

Respectfully submitted,

John Sperla, Secretary

Lisa Hern, Recording Secretary