



DEXTER TOWNSHIP

PLANNING COMMISSION

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ANNE WILLIAMS,
SECRETARY
HANK BYMA
NORWIN LESSER
WILLIAM SMITH
MICHAEL HOWARD
KIM JORDAN,
RECORDING SECRETARY

REGULAR MEETING OF THE PLANNING COMMISSION Tuesday, December 6, 2005 7:30 PM

Present: John Shea, Chairman; James Gorenflo, Vice Chair; Michael Howard, Township Board Representative; Hank Byma and Norwin Lesser.

Also Present: Mark Eidelson, Land Plan, Inc.

Absent: Anne Williams, Secretary.

The meeting was called to order at 7:35 PM

I. Approval of Agenda - Motion by Gorenflo, supported by Howard, to approve agenda as submitted. Carried.

II. Approval of the Minutes of November 22, 2005, Motion by Gorenflo, supported by Byma, to approve as amended. Carried.

III. Public Comment –

- 1) Fred Klink, 14425 Waterloo Rd., - Concerned with traffic impact on Waterloo road.
- 2) Rick Erickson, 20911 Waterloo Rd., - Concerned with traffic impact on Waterloo road.
- 3) Robert Lyjak, 21410 Waterloo Rd., - Noted that he owned twelve acres near West Lake. He is mostly concerned with the number of units being proposed and the environmental impact it would have on the area.

John Shea noted that the planning commission received a letter, dated November 29, 2005, from Mr. Widmayer stating his concern with the overuse of common use district (CU). Mr. Shea noted that a copy could be obtained from the file.

IV. Action Items –

1. West Lake Hills, Consideration of finding for denial

Shea gave an overview of the remand request from the Zoning Board of Appeals dated October 11, 2005. John stated that, the Zoning Board Members remanded the application back to the Planning Commission to document its findings of fact underlying their July 26, 2005 resolution denying the amended preliminary site plan application. They requested that the Planning Commission provide a written report of their findings by December 7, 2005.

Jamie Gorenflo excused himself from the discussion on West lake Hills findings because he was not in attendance at the July 26, 2005 Planning Commission meeting when the denial was approved.

Commissioners reviewed and discussed their findings of July 26, 2005, and a draft resolution of findings. Each member reiterated their reasons for the denial of the amended preliminary site plan at that meeting.

Norwin Lesser restated that his biggest concern was the traffic impact this development would have on Waterloo Road and the environmental impact on the area. He is very concerned with the potential of contamination from the

nearby Chelsea dump. Additionally, Mr. Lesser commented that West Lake is by no means a recreational Lake and should not be used as one.

Mike Howard restated and agreed with Mr. Lesser that the traffic and environmental impacts would be a significant impact.

Hank Byrna commented that it was frustrating to the Planning Commissioners that their concerns, discussed with the applicant in connection with its initial preliminary site plan application, were not addressed by the applicant in its amended application. Additionally, he reiterated his concern about the impacts the proposed grading, cuts, and fill would have on the environment.

John Shea joined in the concerns described by the other PC members, and noted that other issues of concern at the July 26, 2005 meeting were the proposed CU district that would serve only two-thirds of the development, and the lack of a pedestrian circulation system.

Motion by Byrna, supported by Lesser, to adopt the following resolution for West Lake Hills Condominium, "Findings" Underlying July 26, 2005 Denial of Preliminary Site Plan Application, dated December 6, 2005.

John Shea read the resolution.

**West Lake Hills Site Condominium
"Findings" Underlying July 26, 2005 Denial of Preliminary Site Plan Application**

December 6, 2005

Whereas on February 14, 2003, the applicant, Willow Creek Hills, LLC, submitted its initial application for preliminary site plan approval of a 90-unit residential subdivision; and

Whereas on August 26, 2003, the Planning Commission tabled the application and by motion on September 2, 2003 requested the applicant to provide additional information, and also to present an amended site plan showing reconfigured interior road alignments and revised grading plans in the manner discussed at the August 26 meeting; and

Whereas on May 18, 2005, the applicant submitted its amended preliminary site plan application; and

Whereas on July 26, 2005, the Planning Commission denied the applicant's amended application for preliminary site plan approval; and

Whereas the applicant appealed the Planning Commission's decision to the Zoning Board of Appeals, which body remanded the matter back to the Planning Commission with the request that the Planning Commission submit to the ZBA a statement of its findings that underlay its decision to deny the preliminary site plan application; and

Whereas the Planning Commission's review of this preliminary site plan application was governed by Dexter Township's Zoning Ordinance, Township Ordinance No. 10, as amended, in effect at the time of the applicant's submittal of its initial preliminary site plan application on February 14, 2003 (i.e. not governed by the current ordinance); and

Whereas the Planning Commission, on the advice of counsel, has determined that only those Commissioners whom deliberated on July 26, 2005 should participate in the adoption of the findings requested by the ZBA;

Therefore be it resolved that the Planning Commission members whose names appear at the end of this document hereby adopt the following statement of findings:

Finding Number 1: The applicant has not adequately assured the Planning Commission that the proposed development can be accommodated by Waterloo Road.

A) Ingress and egress to and from the proposed development would be entirely from Waterloo Road, a narrow,

poorly drained, and in part tree-choked gravel road.

- B) The applicant presented a traffic study indicating that, at full development, its proposal for 90 residential dwelling units would add 941 vehicle trips per day ("vpd:") to the anticipated 418 vpd that otherwise would occur on Waterloo Road.
- C) Although the applicant estimated that the traffic would flow eastbound and westbound in equal proportions, the Township's engineering consultants concluded that the bulk of that traffic likely would travel westbound, due to school district boundaries and the fact that the closest major public thoroughfares are located to the west.
- D) The applicant has proposed that upgrading Waterloo Road to the level of a "well maintained gravel road" will adequately address the potential adverse impacts of its proposed development. However, the applicant has not presented a formal proposal for accomplishing same. More important, the Township's engineering consultants disagree, and in addition, the Planning Commission understands that traffic engineering standards employed by the Washtenaw County Road Commission likewise do not consider gravel roads adequate where traffic can be expected to approach and exceed 1000 vpd.
- E) Sections 9.01 and 9.08 of the Zoning Ordinance instruct the Planning Commission to assure that a proposed development "in relation to access streets shall be safe and convenient." Sec. 9.08 also instructs the Planning Commission to assure that a proposed development "not be harmful to existing ... uses in the immediate area and the vicinity."
- F) Given the information provided in the traffic study and the Township's consultants' evaluation of that information, the Planning Commission is not assured either that Waterloo Road can safely and conveniently serve the proposed development, or that the proposed development will not be harmful to existing uses due to the significant adverse impacts to Waterloo Road that can be expected from the proposed development.

Finding Number 2: The applicant has not adequately assured the Planning Commission that surface and groundwater contamination generated by the proposed development will not adversely impact West Lake, and on-site and surrounding wetlands.

- A) The proposed development has significant wetlands on its site and adjacent to it, and also borders West Lake.
- B) On August 26 and September 2, 2003, the Planning Commission advised the applicant that it was concerned about the impacts that such a large development would have on the lake and wetlands. The Planning Commission requested that the applicant present "a lake impact study addressing the potential impact a development of this character may have on West Lake and the sources of such impacts, and proposed design measures to eliminate or minimize such impacts. This study should address both surface water and groundwater concerns." (Emphasis added.) The Planning Commission also requested that the applicant submit a hydrogeologic study that addressed "the potential for groundwater transmission of septic drain field leachate to West Lake and/or the wetlands."
- C) The applicant did not submit any information for the July 26, 2005 Planning Commission meeting regarding the surface water impacts of the proposed development on the lake or the wetlands, either identifying those impacts or proposing mitigation measures. At that meeting, Planning Commission members noted, for example, that surface water is known to cause erosion, and to carry contaminants in stormwater runoff not collected by the development's drainage system, both of which could adversely impact the lake and wetlands, but without the information requested of the applicant the Planning Commission could not assess those potential impacts or any other potential surface water impacts from the proposed development.
- D) The applicant did submit a hydrogeologic study concerning groundwater quality, its susceptibility to contamination, and its potential impacts on the lake and wetlands, which study was reviewed by the Township engineering consultants. Those consultants concluded that a shallow unconfined aquifer existed on the site and, contrary to the applicant's assertion, there was potential hydraulic connectivity between the wetlands (and hence the lake) and that unconfined aquifer. Moreover, because of the lack of data submitted by the applicant, the Township's engineering consultants could not review or evaluate potential impacts on lake or wetlands levels

from the proposed development.

- E) Section 9.01 of the Zoning Ordinance instructs the Planning Commission to consider the conservation and protection of natural resources in considering site plan applications, and specifically emphasizes Planning Commission review for "uses, buildings and structures that can be expected to have a significant impact on natural resources" Also, as noted above, Sec. 9.08 instructs the Planning Commission to assure that a proposed development "not be harmful to existing ... uses in the immediate area and the vicinity."
- F) Given the applicant's failure to provide any information identifying potential surface water impacts of this 90 unit development on the lake and wetlands and mitigation proposals for same, and given further the information provided in the hydrogeologic report regarding groundwater and the Township's consultants' evaluation of that information, the Planning Commission is not assured that the lake and wetlands will not be adversely impacted by the proposed development or that such impacts will not be harmful to existing uses.

Finding Number 3: The applicant has not adequately assured the Planning Commission that the proposed development will not adversely affect existing wells.

- A) All existing homeowners and agricultural operations in the vicinity of the proposed development are dependent on wells for all water uses, which wells draw from a groundwater aquifer or aquifers.
- B) On August 26 and September 2, 2003, Planning Commission identified concerns that the proposed development could adversely impact existing users' water supply, and requested that the applicant submit a hydrogeologic study "addressing the characteristics of local groundwater conditions as they pertain to the availability of an adequate supply of potable water to serve the project while not undermining the integrity of existing local wells"
- C) While the applicant submitted a hydrogeologic study that concluded proposed wells would not adversely impact existing wells in the vicinity, the Township's engineering consultants concluded that "[i]t was not clear on how the cone of influence was calculated."
- D) The proposed development is only ¾ mile east of the Old Chelsea Dump, which was identified by the applicant's hydrogeologic consultant as "representing a potential to adversely impact groundwater quality at the subject site." The applicant subsequently submitted information to the effect that the dump had not impacted the groundwater at the site, and concluded that the dump had a relatively low potential to impact the site. The Township's engineering consultants were not so sanguine about the potential, pointing out that the drift aquifer beneath the dump is unconfined and the direction of groundwater flow combined with insufficient or nonexistent protective clay could facilitate future groundwater contamination on the site.
- E) Section 9.01 of the Zoning Ordinance instructs the Planning Commission to consider the whether a proposed development will be harmonious with adjacent and neighboring uses, and whether public health will be impacted. Also, as noted above, Sec. 9.08 instructs the Planning Commission to assure that a proposed development "not be harmful to existing ... uses in the immediate area and the vicinity."
- F) Given the applicant's failure to provide sufficient information identifying impacts on existing wells, and the potential for groundwater impacts from the Old Chelsea Dump, the Planning Commission is not assured that the proposed development will not generate adverse groundwater impacts or that such impacts will not be harmful to existing and future uses.

Finding Number 4: The application continues to involve excessive grading, cuts and fills, which exacerbates environmental and conservation concerns, threatens existing uses, and is contrary to previous assurances provided by the applicant.

- A) The applicant's initial proposed preliminary site plan contemplated the recontouring of the entire site in order to build interior roads that would not follow the natural terrain. The proposal would result in, among other things, the elimination of virtual all natural topography, the loss of at least 11 acres of trees, and the construction of a

wetlands crossing.

- B) On August 26 2003, the Planning Commission advised the applicant that it was concerned about the impacts the proposed grading, cuts and fills would have on the environment and existing natural resources due to erosion and the loss of integrity the wetlands, and the loss of trees. The applicant agreed that it could alter proposed grades to more closely follow existing topography, eliminate the wetlands crossing by utilizing cul-de-sacs, and save more trees.
- C) On September 2, 2003, when the Planning Commission adopted the motion seeking additional information from the applicant, it included the requests that the applicant provide "[a]n updated road alignment showing all proposed cul-de-sacs, and a more accurate depiction of road grades and elevations in coordination with existing topography to minimize cut and fill," and also "[a] clear graphic indication of the boundaries of existing tree stands (but not individual trees) and their general character by average size, species, and condition, and the anticipated boundaries of existing tree stands upon completion of grading and road construction."
- D) The amended preliminary site plan and accompanying reports submitted by the applicant on May 18, 2005 continues to reflect excessive grading and fails to incorporate any of the assurances given in response to the Planning Commission's previously communicated concerns (including the promised elimination of the wetlands crossing). The amended plans and reports either entirely ignore the previously-tendered assurances (e.g. failing to even discuss the cuts/fills issues, the concerns about existing topography, the loss of trees, or the applicant's assurances to mitigate same), or brazenly recasting its assurances as mere agreements to "look into" the issue and then rejecting the fix. The most egregious example of the latter involves the wetlands crossing, regarding which the applicant's consultant states: "There was no request to provide cul-de-sacs. The request was to look into the matter. The applicant has done so and chooses not to pursue the use of cul-de-sacs."
- E) Section 9.01 of the Zoning Ordinance instructs the Planning Commission to consider the conservation and protection of natural resources in considering site plan applications, and specifically emphasizes Planning Commission review for "uses, buildings and structures that can be expected to have a significant impact on natural resources" Sec. 9.01 also instructs the Planning Commission to consider the whether a proposed development will be harmonious with adjacent and neighboring uses. Sec. 9.08 instructs the Planning Commission to assure that a proposed development "not be harmful to existing ... uses in the immediate area and the vicinity."
- F) The excessive grading and recontoring of a site, the unnecessary disturbance of wetlands, and the unnecessary clearing of trees and other vegetation, impacts natural resources at best, threatens environmental degradation at worst, and is disharmonious with surrounding uses. The applicant failed to honor its agreement to mitigate these impacts.

Finding Number 5: The applicant proposes a CU district that would serve significantly less than the entire proposed development, which is inconsistent with zoning ordinance standards and will likely result in overuse of the CU district.

- A) The proposed development contemplates 90 dwelling units.
- B) The proposed development also contemplates access to West Lake via a Common Use ("CU") district. However, the land and lake frontage proposed to be set aside for the CU district is not large enough to accommodate use by owners of all 90 units. Instead, under Zoning Ordinance standards, only 67 unit owners lawfully could use the CU district.
- C) The Zoning Ordinance standards are intended to prevent the overuse of a CU district and the adverse impacts on waters, wetlands, and other natural resources, as well as on surrounding existing uses, that accompany overuse.
- D) Section 9.01 of the Zoning Ordinance instructs the Planning Commission to consider the conservation and protection of natural resources in considering site plan applications, and specifically emphasizes Planning Commission review for "uses, buildings and structures that can be expected to have a significant impact on natural resources" Sec. 9.01 also instructs the Planning Commission to consider whether a proposed development will be harmonious with adjacent and neighboring uses. Sec. 9.08 instructs the Planning Commission to assure that a

proposed development "is consistent with all regulations of this ordinance."

- E) The Planning Commission does not believe that a developer or condominium association reasonably can enforce a regulation that limits access to a CU district by only some unit owners, and believes that such a proposal is inconsistent with the spirit and intent of the CU district regulations.

Finding Number 6: The amended application does not incorporate a pedestrian circulation system, which omission creates a public safety hazard.

- A) The amended preliminary site plan has no proposed pedestrian circulation system, notwithstanding the previously expressed concerns of the Planning Commission on this issue at the August 26, 2003 meeting and in its September 2, 2003 motion requesting additional information.
- B) Section 9.08 of the Zoning Ordinance instructs the Planning Commission to assure that "the movement of ... pedestrian traffic within the site ... shall be safe and convenient."
- C) This development (the largest ever considered in the Township) anticipates significant pedestrian and vehicular traffic, and the lack of a pedestrian circulation plan is unsafe.

John Shea, Chair	Yea <u>x</u>	Nay ___
Hank Byma	Yea <u>x</u>	Nay ___
Mike Howard	Yea <u>x</u>	Nay ___
Norwin Lesser	Yea <u>x</u>	Nay ___

Resolution. Carried 4-0

2) Consideration of Zoning Ordinance Revisions –

Mark Eidelson gave an overview of his memo, dated October 20, 2005.

Commissioners discussed and concurred with Marks draft.

Commissioners discussed adding "Sale of Vehicles, Recreation Vehicles, and Boats" back into the zoning ordinance to better police the sale of vehicles. They concurred with Steve Piatt's new proposed Article 18.26, but agreed township attorney should review before further consideration. Additionally, commissioners requested Mark Eidelson draft new language for proposed amendments to Article 17.05, Open Space Requirements for OSCs.

Commissioners agreed to schedule a public hearing, no later than March 2006, to consider these two amendments.

3) Natural Features Ordinance Discussion –

Tabled to January 3, 2005.

V. Concerns of Commission Members, Ordinance Administrator, Supervisor, and Recording Secretary-

Hank Byma commented on a time line for preliminary site plans.

John Shea updated the commissioners on the status of the Multi Lakes Sewer district expansion.

VI. Public Comment -

Rick Monier, 13535 Island Lake Rd., - asked if the township could establish a performance bond for developers defaults? Additionally, he thanked the commissioners for their hard work.

Bill Harter, 3750 Shagbark – concerned with the traffic impacts on Waterloo Road and more developments coming into the area.

VII. Future Agenda Items -

Tuesday, December 27, 2005

- 1) Lindemann Farms Site Condominium, Final Site Plan and Special Use Community Sewer System

Tuesday, January 3, 2005

- 1) Election of the Planning Commission Officers, Article IV
- 2) Review Provision of Dexter Township Planning By-Laws, Article IX
- 3) Natural Features Ordinance Discussion
- 4) Consideration of Zoning Ordinance Revisions

VIII. Adjournment - Motion by Gorenflo, supported by Byma, to adjourn at 9:50 PM

Respectfully submitted,

Kimberly Jordan, Recording Secretary

Hank Byma, Acting Secretary