

**ANN ARBOR CHARTER TOWNSHIP
PLANNING COMMISSION MEETING MINUTES
Township Hall – 3792 Pontiac Trail
September 9, 2023 7:30 P.M.**

I. ROLL CALL

Present: John Allison
Richard Bunch
Peter Kotila
Randy Perry
Karen Mendelson

Absent: Lee Gorman

Also Present: Township Attorneys Sinead Redmond and Debari Gordon Lehman,
Township Engineer Eric Humesky, Township Planner Sally Elmiger,
Building Official and Zoning Administrator Peter Pace, Planning
Assistant Jennifer Morris, Supervisor Diane O’Connell

II. CITIZEN PARTICIPATION

Reserved time for citizen participation on agenda items only. Call the Township office for reserved time at 734-663-3418 before noon on the day of the meeting. Public comment regarding non-agenda items is at end of the meeting.

Bill Burlingame, 4004 E. Joy Road, said that he had spoken about 3D electric fencing a couple of months ago. He emphasized that 3D fencing is the 21st century way of farming, and 3D fencing was already used throughout the Township and the County. 3D fencing was effective not only for keeping cattle in, but for keeping deer out, and was the preferred method for controlling sheep and goats. Many U-Pick farms use 3D fencing. Michigan State recommends this type of fencing. Tractor Supply on Whitmore Lake Road has an entire section devoted to 3D fences. Mr. Burlingame recommended that the Planning Commission take another look at 3D fencing.

II. APPROVAL OF MINUTES

August 7, 2023 Draft Ann Arbor Charter Township Planning Commission Meeting Minutes

MOTION by Allison, support by Bunch, to approve the August 7, 2023 regular meeting minutes as submitted. Motion carried unanimously by voice vote.

MOTION by Allison, support by Bunch, to add approval of August 28, 2023 master plan workshop minutes to the agenda. Motion carried unanimously by voice vote.

MOTION by Allison, support by Mendelson, to amend and approve the August 28, 2023 workshop minutes as follows:

- 3rd paragraph, change to read: *“The discussions began on Plymouth Road and Hogback Road property that is zoned and master planned for single family residences on one acre lots or larger, but for which higher density proposals have been presented.”*

- 5th paragraph, 2nd line, delete: ~~and the cost vs. text~~
- 6th paragraph, change to read: “Northeast of Township used to be farmland; now residential properties exist on Warren Rd., Dixboro Road, and Pontiac Trail. 1300 acres of farmland are preserved in the Township. Ann Arbor was the second township in the state to pass a PDR millage.
- 7th paragraph, change to add: . . . Gelman plume situation, the condition of the aquifers. . . .
- 8th paragraph, correct where these occur: ~~Koleta~~ Kotila, ~~Kunkle~~ Kunkel, The Green Things Farm

Motion carried unanimously by voice vote

IV. COMMUNICATIONS

August 21, 2023, Ann Arbor Charter Township Board of Trustees Meeting

V. PUBLIC HEARINGS

A. Private Roads and Planned Unit Developments (PUD) Zoning Ordinance Amendment

Township Planner Elmiger explained that a PUD is reviewed by the Township Board after the Planning Commission makes a recommendation. During the PUD process, both boards look at road design for compliance with the current private road standards. Therefore, the need to also obtain a Private Road Permit is redundant.

Township Planner Elmiger had drafted ordinance amendments to the Private Road ordinance and PUD ordinance. These amendments had been shared with Township staff, and comments had been received from the Township Engineer and Utilities Director that are now included in Sec. 50-32.

The PUD provisions are part of the Zoning Ordinance, which requires the Planning Commission to hold a public hearing, and make a recommendation to the Township Board.

In contrast, the Private Road provisions are part of the Township’s General Code. The General Code is under the purview of the Township Board, and not the Planning Commission. However, draft amendments to Section 50-28 had been included in tonight’s packet, and could be part of tonight’s discussion.

The proposed amendment to Sec. 74-542 of the Zoning Ordinance modified the PUD ordinance to eliminate the need for someone who gets a PUD to also get a private road permit, thus eliminating the redundancy with the Private Road provisions in the Code.

Chair Kotila opened the public hearing for this item. Seeing that no public indicated they wished to speak, Chair Kotila closed the public hearing and brought the matter back to the Commission for discussion and/or a motion.

In response to a question, Township Planner Elmiger explained that in cases where private roads are constructed that are not part of a PUD, the applicant would still be required to get a private road permit under the general code. The private road would be part of site plan approval, whether or not that particular site plan would be reviewed by the Commission.

The Commission thought the proposed changes eliminating redundancy made sense, but other than that had no comments regarding the proposed changes to Article II, Private Roads.

MOTION by Perry, support by Allison, to recommend approval to the Board of Trustees the amendment to Sec. 74-542. – PUD regulations, as proposed this evening.

Motion passed unanimously by voice vote.

VI. NEW BUSINESS

A. Vice-Chair vacancy

MOTION by Kotila, support by Mendelson, to appoint Rick Bunch to serve as Planning Commission Vice-Chair until the next election of officers, scheduled for January 2024.

Motion carried unanimously by voice vote.

VII. OLD BUSINESS

Motion by Kotila, support by Bunch, to move Maple Ridge Site Plan Review up on the agenda to be Agenda Item VII.A., and to change Fences and Gates, Language revision, to be Agenda Item VII.B.

Motion carried unanimously by voice vote.

A. Maple Ridge Site Plan Review

Applicant presentation

Buzz Silverman, manager of the Maple Ridge Development Group, was present on behalf of this request for final site plan review, including the request for major/minor determination for a change in lot layouts from what they were illustrated on the Preliminary Site Plan.

Jim Eppink, Director of Planning, and Project Engineer Matt Bush, Atwell, were also present.

Mr. Silverman expressed pride in the Maple Ridge project, which will result in almost 100 acres of dedicated open space/parkland, and almost 80% dedicated open space on the developed portion of the site.

Utilizing a handout *Maple Ridge: A Luxury Residential Neighborhood*, dated September 7, 2023, the development team highlighted the following information:

- The RED Equities team had been working on this project for several years. The Township Board granted preliminary site plan approval and PUD approval for this project on September 9, 2021.
- Maple Ridge is just under 160 acres of land, located just south of Warren Road along Whitmore Lake Road.
- Consistent with the approved preliminary site plan and approved PUD, the northern 98.5 acres is intended to be deeded to the Township.

- The southern area of about 50 acres will be developed into a luxury residential neighborhood. RED Equities was proposing 57 single family homes, with an average home lot area of about 17,000sf. The minimum lot size is 96' wide X 140' deep. In the curved areas the sizes will vary a little more.
- RED Equities/Maple Ridge was requesting a change in side yard setbacks. The preliminary site plan showed side yard setbacks to be equal on both sides of the building envelope – 20' on each side. The applicants were proposing to amend those setbacks to have 10' on one side and 30' on the other side, still resulting in a total side yard setback of 40'. Making this change gave enough room for the homes to have side-loaded garages. The driveways would not be stacked, but would be evenly spaced throughout the neighborhood.
- Each of the 57 homes will have individual wells. The applicants had provided a comprehensive hydrogeology study, which has been reviewed by Township staff and has now been submitted to the County.
- The project proposed a private wastewater treatment system in the northeast corner of the development, with an easement running through the donated land.
- EGLE (Michigan Department of Environment, Great Lakes, and Energy) has jurisdiction over the private wastewater treatment system, and has issued approvals and permits for its construction.
- Many of the items in the Planner's and Engineer's review letters were technical in nature, and those letters had been reviewed with the Planner and Engineer. The applicant's written responses are in the packet.

The applicants said that they were available to answer questions and were requesting final site plan approval.

In response to a question from Commissioner Bunch, Mr. Eppink explained that during the early stages of this project it was determined that the property soils on the southern end of the property did not support individual septic systems. After a thorough analysis of the entire site, the conclusion was that the area in the northeast section had sand that perked very well, and was the preferred location for a community septic system, which would in effect be a mini municipal system for this development. The private wastewater system has to meet the same standards that a city system has to meet.

An independent company will operate, monitor and maintain the system, and will report back to the State on a weekly, monthly, and annual basis.

The system will be almost entirely underground, and will be located about 800' off the road. There will also be heavy landscape buffering, and the system area will be fenced with a decorative fence. A couple of vents and a small maintenance building will be above ground.

Consultant reports

Referencing her August 30, 2023 (revised) memorandum, Township Planner Elmiger gave the background and review for this application for final site plan approval:

Major/minor determinations relative to requested changes from the Preliminary Site Plan included:

- As already mentioned, before the Final Site Plan was submitted to the Township, the applicant requested a change in layout on some of the lots that were illustrated on the Preliminary Site Plan. The change reduced the side yard setbacks on one side of those lots to accommodate side-entry garages. However, the total of both side yard setbacks remains at 40'. The Planning Commission needs to make a determination as to whether this change is a major or minor change to the plan. The change in the setback does not represent a deviation from the Zoning Ordinance.
- A second change to the preliminary site plan was a request to have two signs along Whitmore Lake Road. Sec. 74-835(3) permits one sign for each public street frontage identifying a residential development. The Planning Commission could approve the second sign as a deviation from the ordinance, given that it would not be considered a "major" change to the PUD. The applicant has asked the Planning Commission to approve two signs as a "minor" change, since the project site technically abuts two streets, and a sign for each street would be permitted if a driveway were located on the second street.

Other outstanding issues listed in the memorandum were deferred to the Township Engineer for review and approval.

Referencing his September 1, 2023 memorandum, and noting this was the fourth engineering review for this project, Township Engineer Humesky gave the engineering review for the Maple Ridge Final Site Plan, highlighting the following:

- Regarding drinking water, each individual lot will be served by an individual well. These wells are under the jurisdiction of the County Health Department, and a hydrogeologic study has been provided, reviewed, and approved by the Health Department.
 - During the preliminary site plan process, residents raised concerns about the potential impact of these wells on the aquifer. During conversation, the County Health Department said they have no concerns with the ability of the aquifer to supply this development, with no impacts to surrounding neighbors. OHM also had its hydrogeologist analyze the study that was provided, and using the applicants' assumed maximum usage found there would be no discernible impact to any wells surrounding the area. Then, under even more conservative analysis, assuming the driest possible summer in 20 years when irrigation would be at its highest, when water would be drawn at three times the rate than the applicants assumed with their maximum flow, the impacts to the surrounding wells were still very minimal. One or two nearby wells to the south would feel a small impact, which is reasonable under this assumed scenario, and most other wells barely felt any impact at all.
 - Regarding concerns from Barton Hills Village about their wells, none of the scenarios analyzed showed the Barton Hills wells experiencing any impact from this development.
- Regarding the private wastewater system, all wastewater from the homes will flow to a single pump station on site that will be privately maintained. This private wastewater system is under the jurisdiction of the EGLE Part 22 Groundwater Discharge Permit, which has already been issued, meaning that EGLE has reviewed the discharge parameters and found them to be acceptable.
 - No odors are anticipated. However, there is reasonable buffering between the site and nearby homes, and the applicant has agreed to propose an odor control system in the final design.

- The private wastewater system has not yet been designed in detail. The final design shall meet all requirements of the Township's private wastewater system ordinance, and will fall under the jurisdiction of the Board of Trustees, who will issue a private wastewater system permit.

Project Engineer Bush said that they were in process of finalizing the design, which should be complete and ready for review by the end of September.

- The September 1 Engineer's review contained quite a few detailed comments on the pump station; those comments can be handled administratively. One item that was not on the previous review involves placing the pump station control panel within a small building to allow improved maintenance and temperature controls of the VFDs (Variable Frequency Drives), with the proposed light mounted on the well side of the building. This item has been strongly recommended by the Township Utilities Director.
 - Township Engineer Humesky pointed out the proposed location of the building.
 - A generator backup power is provided.
 - The building will likely be about 5'X10', and will allow room for storing the plans, backup parts, etc.
 - The homeowners' association will hire someone that will maintain and use the facility.

Township Engineer Humesky also addressed the outstanding items in the Planner's review; the outstanding engineering items in that review had been resolved.

Township Attorney Redmond said the next step will be a resolution approving the final site plan. There is an approved PUD for this project; the development agreement is still in progress, and will incorporate final engineering details.

Commission discussion

- Regarding the requested change in setbacks:

In response to questions, the applicants explained that:

- If homes were built to their full building envelope, ~~they would still be 40' apart~~ they would be at least 20' apart. There was no situation in which building envelopes were not less than only 20' (10' side by side setbacks) apart. This design could not be changed without returning to the Planning Commission for a site plan amendment.
- It came out in conversation that the site plan did show there were some building envelopes that would be closer than 40' apart, specifically, but not limited to, in the cul-de-sac areas, such as between lots 11 and 12. Lots 51 and 52 were not in a cul-de-sac, and the building envelopes were shown as both being placed with the narrow side abutting the common lot line.

Township Planner Elmiger pointed out that the PUD ordinance does not specifically address side yard setbacks, except that single family dwellings must be at least 10' apart. If there were 10' setback on adjoining lots, that would be twice what the ordinance requires. While a PUD does allow flexibility in the zoning ordinance, it does not allow the Planning Commission to create new ordinances or new requirements that are not otherwise required in the zoning ordinance. The Commission was looking

at the building envelope layout tonight because it was different than that shown on the preliminary site plan, and the change affected some (not all) of the lots.

- Building Official and Zoning Administrator Peter Pace noted that the 96' lot widths allowed for only a 56' width for home and garage. The applicants affirmed that these widths were adequate for the building plans provided. Toll Brothers will be the developers of these lots, and Toll Brothers requires a side entry garage. The homes themselves would be about 2800sf to 3600sf, and would be 2-story.

The Commission appreciated the side loaded garage design, made possible by the change in building envelope placement.

MOTION by Mendelson, support by Bunch, that in the matter of Maple Ridge Single-Family Residential Development, the change in layout as submitted to accommodate side-entry garages is determined to be a minor change.

Motion passed unanimously by voice vote.

- Regarding the request for two monument wall signs, one at each entrance on Whitmore Lake Road, as shown on sheet 80 of the final site plan package:

Township Planner Elmiger said that the signage did not meet any of the criteria for a major change, and therefore would be considered a minor change.

Commissioner Perry was concerned about the proposed signs, in terms of size and also the fact that they were proposed to be lit. Directly across Whitmore Lake Road from this development is an area that Barton Hills Village is dedicating for a nature preserve.

Mr. Silverman explained that the proposal shows low voltage ground lighting pointing up toward the signs; the lighting could be removed. They would, however, like to keep both signs.

Commissioner Allison thought the signs, placed on large monument walls, were very large.

Mr. Eppink said the signs themselves met ordinance requirements. The monument walls were intended to be a decorative landscape feature. The schematic on sheet 80 was somewhat misleading because the actual design was triangle-shaped, with one wing parallel to Whitmore Lake Road, and one wing facing the development road, with the wall with the sign on it placed at a 45-degree angle for vehicles approaching the neighborhood. From a landscape point of view, the signs were appropriately scaled. The landscape growth along Whitmore Lake Road will remain as it is now, other than at the entrance points.

Mr. Eppink said that if the Commission felt two signs was a major change, they would withdraw the request for the 2nd sign. However, it did make sense to have a sign at both entrances.

In response to a question, Township Planner Elmiger said the developer was allowed to have a marker indicating the entryway to their development.

The Commission discussed whether the entryway walls were compatible with the character of this area, which was very rural and peaceful. The entryway walls seemed very large, and people found entrances to neighborhoods all the time without large entryway markers or signs.

The applicants expressed willingness to work with the Commission and/or the Planner to either come up with a different entryway design or not have a wall at all.

Mr. Silverman withdrew the request for a second sign on Whitmore Lake Road.

Final site plan review:

- Regarding the timetable of this project, the applicants said their goal was to start land balancing this fall, and begin constructing homes in spring 2024. The entire development – roads and homes – would essentially be a single phase project. The private road will be built per the Township Engineer’s request, with an expanded base and finished with a cap.
- Regarding the private wastewater system:
 - The pipe to the PWS will be about 5.5’ deep, and will not prohibit farming in the area.
- There were no changes to the natural features shown on the preliminary site plan.
- Regarding the private wells, per Township Engineer Humesky, the private wells should create no impacts on existing nearby wells.
 - Commissioner Allison asked that the documentation be provided relative to the impact of the private wells.
 - Commissioner Perry was still concerned regarding the Barton Hills wells, especially as Barton Hills had not been asked whether they’d ever had a problem with the aquifer so that a well went dry; this did happen a couple of years ago. As had been recently discussed in the Township, hydrogeological studies can be wrong.

Township Planner Elmiger and Township Engineer Humesky both pointed out that the recent instance of wells going dry was not caused by an incorrect hydrogeological study, but rather was caused by actions not anticipated by the study on the part of a property owner. Also, Ann Arbor Township had never seen that study. In the case of Maple Ridge, worst case scenarios were already being assumed.

Commissioner Allison noted that this was why it was important to see the documentation regarding how the impact of the private wells was calculated.

Commissioner Bunch said the worst case scenario for Maple Ridge involved residents running their sprinkler systems 24/7 for several weeks at a time. As the Planning Commission was reviewing the Master Plan, Commissioners might think about what type of landscaping to encourage.

In response to discussion and questions from the Commission regarding the hydrogeological report, the Township/OHM review of that report, and further actions

and communications on the part of the developer, Township Engineer Humesky said that Stantec's OHM's hydrologist was ultimately satisfied with all applicant responses.

Commissioner Allison asked about the potential impact on the aquifer of a potential 500-unit development to be located about a half mile to the north of the Maple Ridge development.

Mr. Bush said that their analysis of worst case conditions show no impact to that potential site. On the other hand, that development will have to show they are not affecting Maple Ridge. Mr. Silverman added that MHPs (Mobile Home Parks) must receive County and State approvals for their private wastewater systems.

The Commission again discussed worst case scenarios. One plan of action that might apply Township-wide would be to require that sprinklers are turned off during certain drought conditions, or be limited to one day/week. In the current instance, this practice could be put in the development's master deed. Mr. Silverman said he had some familiarity with this issue, and the master deed and condominium bylaws could have restrictive language regarding watering activities during a drought. The condominium documents would be completed simultaneous with the final engineering plan review.

- It came out in discussion that the street names on the proposed plan were placeholders, and new names would be proposed and approved through normal processes.
- Returning to the issue of the signs, Commissioner Bunch strongly suggested that the proposed signs/wall monuments were not in keeping with the character of Whitmore Lake Road.
- After a discussion of process going forward related to the development agreement, acknowledging that changes to the preliminary site plan had been discussed this evening, and after brief review of the unchanged site and landscape plan elements, the Commission suggested that final site plan sheets and documentation be submitted addressing the following:
 - Pump station building location and size, and station elevation materials
 - Only one entryway sign, with no lights on the sign
 - Update project timing and approvals
 - Master deed language regarding groundwater protection/restricting water use during droughts
 - All review comments addressed, including correct tree placement

MOTION by Allison, support by Bunch, that the Planning Commission table action on Maple Ridge Site Plan Review so that the Township Attorney can draft a resolution to approve the final site plan, including the items listed above, and to give the applicants time to address all outstanding items.

Motion passed unanimously by voice vote.

B. Fences and Gates, Language revision

Township Planner Elmiger said that as described by Mr. Burlingame, it appeared there is new technology being used for electric fences on farmland. The ordinance allows electric fences on farmland, but requires the wire to be inside the pole. The new 3D electric fences don't arrange themselves that way.

The ordinance could be amended to allow 3D fences, as long as signage correctly indicates that the fence is an electric fence. This would not address the issue of the prohibition of electric fences on residential lots, however. The ordinance addresses use (agricultural vs. residential) rather than zoning districts.

Building Official and Zoning Administrator Pace said that if 3D fences were permitted on residential lots as a deer deterrent, for instance, signage must be clear so that people know the fence has an electrical charge going through it. Also, he does not enforce against temporary seasonal fences that protect vegetable gardens, for instance.

Township Planner Elmiger will bring back new language to the Commission next month, including definition changes that were previously discussed.

C. Set Date for Master Plan Workshop

After discussion, the next Master Plan Workshop was tentatively set for September 26 at 7:00pm, as long as a quorum can be confirmed. The October workshop date was set for October 24.

VIII. ITEMS FOR DISCUSSION - None.

IX. INFORMATIONAL ITEMS

Commissioner Allison reported on the August 21, 2023 Board of Trustees meeting, when the Board heard 3 hours of public comment regarding Mid Michigan Materials Vella Pit. The Board sought the Township Attorney's opinion regarding issues surrounding the Vella Pit, and held a special meeting to go into closed session with the Attorney on September 6. After closed session, the Board moved to file suit against Mid Michigan Materials, based on 13 violations of the Conditional Use Permit, the development agreement, and Township ordinances.

X. PUBLIC COMMENT - None.

XI. ADJOURNMENT

MOTION by Mendelson, support by Allison, to adjourn the meeting at 10:06pm.

Motion passed unanimously by voice vote.

/cem