

**Charter Township of Lyon  
Planning Commission  
Meeting Minutes  
May 29, 2007**

Approved as written on June 25, 2007

Date: May 29, 2007  
Time: 7:00 PM  
Place: 58000 Grand River

Mr. Barber called the meeting to order at 7:00 P.M.

**Roll Call**

Present: Barber, Mike (chair)  
O'Neil, Sean  
Hamilton, Jim  
Hicks, John (Board Liaison)  
James, Laura  
Towne, Carl  
Conflitti, Michael

Absent:

Also present: Philip Seymour, Township Attorney  
Chris Doozan, Township Planner  
Michelle Aniol, Township Planner  
Al Hogan, Building Official

Guests: 1

**Approval of Agenda**

Mr. Hamilton moved "to approve the agenda for May 29, 2007." Mr. O'Neil supported the motion.

Voice vote:  
Ayes: all  
Nays: none

Motion approved.

**Approval of Consent Agenda:**

Mr. Hicks moved "to approve the April 23, 2007 Planning Commission meeting minutes." Mr. Towne supported the motion.

Voice vote:  
Ayes: all  
Nays: none

Motion approved.

**Comments from public on Non-Agenda Items:**

None

**Public Hearings:**

- 1. AP-07-06, Public hearing to consider a text amendment to section 19.03 F.3 of the Zoning Ordinance to clarify the method of calculating net buildable area and permitted density for single family residential development using the Open Space Development Option, discussion and possible action following public hearing.**

Ms. Aniol asked that a letter dated May 24, 2007 written by Ms. Laura Williams be added to the record.

Ms. Aniol reviewed the comments in the McKenna Associates letter dated May 25, 2007.

Mr. Hicks commented that he did not think a children's play area was passive recreation. He also said that many people are concerned about play equipment in litigation.

Mr. Hogan asked if we are adding vinyl, then what other material is there? He said if you add vinyl, then they can use any building material that is available. He also commented that in regards to the roof element, they can have a 4-12 pitch and not to exceed an 8-12 pitch. Mr. Hogan said that no one uses a 4-12 pitch anymore. They go from 8 and up. He said that the minimum would be 8-12 and nothing higher than a 14-12 or an 18-12 pitch. Mr. Hogan suggested that the very minimum could be a 6-12 pitch.

Ms. James commented that she read Laura Williams' letter and respects her a great deal, but she did not agree with her letter. However, Ms. James thought Ms. Williams made a good point in saying the developer can get 5 percent density bonus by preserving 20 percent of open space with a PD. With this plan, a developer would get a 5 percent density bonus if they keep 50 percent of the property for open space. Ms. Aniol said that a PD is a negotiated and lengthy process. The open space preservation process has an incentive because the time is shorter.

Mr. Barber said that with 50% set aside, a builder would go for it because the area might be unbuildable land. Ms. James asked if Ms. Williams was correct in saying that ¼ of the total wetlands would be buildable. Mr. Doozan said that is what would be deleted.

Mr. Hamilton asked about the playground equipment. Mr. Doozan suggested writing the "the planning commission shall have the option of requiring that the open space be developed with passive recreation facilities (children and picnic facilities) on a case by case basis." Mr. James suggested changing "requiring" to "allowing".

The Planning Commission discussed the Township's current ordinances in regards to wetland setbacks. Ms. Aniol suggested deleting the paragraph that begins with the word "decks".

Mr. Conflitti asked about item c on page 10. He wanted to know if it was multi or single family. Mr. Doozan answered that it was single family.

Open public hearing: 7: 40 p.m.

Close public hearing: 7:41p.m

Ms. James moved "that we recommend that the Township Board approve this text amendment with the changes requested by the Planning Commission tonight." Mr. Hamilton supported the motion.

Voice vote:

Ayes: all

Nays: none

Motion approved.

**Old Business:**

**2. AP-07-03, Amendment No. 1 to the Master Deed for Kirkway Estates, Phase I, residential site condominium development located on the north side of 9 Mile Rd, between Chubb and Napier Roads.**

Mr. Doozan reviewed the comments in the McKenna Associates site plan letter dated May 25, 2007.

Scott McDonald – He said that last time they were before the Planning Commission they had a proposed first amendment to the Master Deed and bylaws of Kirkway Estates. He said that there is a homeowner with a storm water easement in his backyard, and they are proposing these changes to help him in getting a deeper deck. This person decided to build the deck within his allowed space, but this opened the doors to a wider discussion to make it clear to the homeowners what they can and cannot do. He said that they included some language to beef up those disclosures and to require the homeowner to give a written acknowledgement that they are aware of these easements.

Mr. Hicks asked when the homeowner signed the purchase agreement. He said if they signed it when they signed the purchase agreement, it is a little late. Mr. McDonald suggested making a document that was part of the initial sales process. He also suggested submitting it with their plot plan. Mr. Hicks said that he had no problem with the language, but when they sign the document.

Mr. McDonald suggested making this the obligation of the builder to make sure that the written notice is provided to the Township. There is no way to regulate it if it is the homeowner's responsibility.

Mr. Barber said that the builder should build a smaller home so that they can have a deck; it is the builder's responsibility to tell the owner.

Ms. James said that they do not use the word "deck", and Mr. McDonald said that they would add that. Ms. James said that instead of the owner being responsible for providing the Township with the acknowledgment, it should be the builder and the developer's responsibility. She also said that she did not like how the builder and developer take away the homeowner's right to sue. They are protecting themselves from litigation. Ms. James said that it is the Planning Commission's job to protect the Township. She does not know why it would be beneficial to let the builder and developer walk away.

Mr. Seymour says that it would be better if the builder or developer provide the documents to the Township and also give the documents to the owner during the purchaser agreement.

Mr. McDonald said that if the Planning Commission wants the language changed, they would like to get this done and would change it.

Mr. Hamilton asked if the four homeowners being discussed were told of the easement and if the easements were in the bylaws. Mr. McDonald said yes, they signed a plot plan.

Ms. James asked if this would clear up any and all confusion in regards to what can be done. She said that she felt this was still vague.

Mr. Hicks said he would be happy if they removed the indemnification language and also give this information to possible homeowners at the earliest possible time.

Mr. Towne clarified that decks, gardens, and play structures were going to be added. Mr. Hogan said that there is not an issue with putting in sprinklers in the area.

Mr. O'Neil asked what language should be taken out. He asked if it was paragraph D, starting with, "And all co-owners..." through to section 4-A. Ms. James said the "and all co-owners" section should be stricken. The word "Township" will stay, but everything else should be taken out.

Mr. Seymour suggested that they say nothing should be built in or above the surface of the drainage easement. Mr. Hogan also said the invisible fences are allowed. Mr. McDonald said on page 3 section 8a, in the first amended bylaws, there are additional restrictions governing easements and right of ways. He suggested carving out a similar exception for an invisible fence. He also suggested making the two as similar as possible.

Mr. McDonald suggested putting the added language in section 3E. He said that it was recommended by McKenna in a letter dated May 10<sup>th</sup>. Ms. Aniol said that if you look at article 6 sections 17 and 18, they all have restrictive language regarding the wetland areas.

Mr. O'Neil asked about sod. He asked if the Township needed to specifically say "maintained lawn". Mr. Hogan said that was a good idea.

Ms. James moved, "To recommend to the Township Board to allow an amendment to the Master Deed to Kirkway Estates subject to the following: 1. Section 8 paragraph a will specifically add decks, gardens, and children's play equipment as examples of things that are prohibited 2. Builder and developer will be responsible for delivering signed acknowledgement of the easement to the Township. 3. The Master Deed shall not contain a release of liability for the benefit of the developer or builder. 4. They will provide that maintained lawns are allowed by sod or seed and invisible fence and sprinkler systems will be allowed." Mr. Towne supported the motion.

Voice vote:

Ayes: all

Nays: none

Motion approved.

**3. AP-07-11, Text amendment to the Zoning Ordinance regarding the maximum lot coverage in the I-1, Industrial District, recommend public hearing be rescheduled to June 25, 2007.**

Mr. Hamilton moved "that we reschedule a public hearing for AP-07-11 for June 25, 2007." Mr. O'Neil supported the motion.

Voice Vote:

Ayes: all

Nays: none

Motion approved.

Mr. Barber adjourned the meeting at 8:25 P.M.

Respectfully Submitted,

*Catherine Culver*

Catherine Culver

Recording Secretary

