

Charter Township of Lyon  
Planning Commission  
Regular Meeting Minutes  
July 10, 2017

Approved: July 24, 2017

The meeting was called to order by Mr. Conflitti at 7:00 p.m.

Roll Call: Patricia Carcone, Board Liaison  
Jim Chuck, Secretary  
Michael Conflitti, Chairman  
Ron Pennington  
Kurt Radke  
Carl Towne, Vice-Chairman  
Stephan Hoffman

Guests: 19

Also Present: Leann Kimberlin, Township Attorney  
Chris Doozan, McKenna Associates  
Leslie Zawada, Civil Engineering Solutions

**APPROVAL OF AGENDA**

**Motion by Chuck, second by Towne  
To approve the agenda as presented.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**APPROVAL OF CONSENT AGENDA**

**A. Approval of the June 26, 2017 Minutes**

**Motion by Towne, second by Chuck  
To approve the June 26, 2017 minutes as presented.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**PUBLIC COMMENTS**

There were no comments at this time.

**PUBLIC HEARING**

1. **AP-17-24b, Hidden Forest Condominiums – Special Land Use.** Property located on the north side of 9 Mile Road, east of Chubb Road. Public hearing to consider a Special Land Use review of a request for an Average Lot Size development in the R-0.5 (Single-Family Residential) Zoning District; discussion and possible action.

Will also consider at this time:

2. **AP-17-24a, Hidden Forest Condominiums – Site Plan.** Property located on the north side of 9 Mile Road, East of Chubb Road. Site plan review of a proposed single-family development consisting of 32 homes on 24.86 acres; discussion and possible action.

Chris Doozan, Township Planner, reported the applicant, acting on behalf of Hidden Forest Condominiums, is proposing a single-family development consisting of 32 homes on 24.65 acres. The proposal calls for development in accordance with the Average Lot Size Requirements pursuant to Section 19.03 (B)(4) of the Zoning Ordinance. According to the Ordinance, Average Lot Size developments are intended to provide flexibility in the regulation of single family developments and is very clear that the Average Lot Size option is not to be used to achieve higher density development on parcels where portions cannot be developed because of wetlands.

Within our letter dated July 10, 2017, we've outlined the minimum amount the lot area and lot width may be reduced as well as the minimum setbacks. Proposals for Average Lot Size development shall be reviewed in accordance with the applicable procedures for Special Land Uses in Article 6.00. We have reviewed the plans for Hidden Forest Condominiums with respect to requirements in the Zoning Ordinance. Our review uncovered five major issues that should be considered by the Planning Commission: 1. The density of development. 2. Several lots do not comply with the 15,000 sq. ft. minimum lot size requirement. 3. The nature and usability of the open space. 4. Tree replacement. 5. Impact of the 25 ft. vegetative strip and building and construction setback on several lots. It is our recommendation the Planning Commission consider the issues noted and table this case to allow the applicant to supply the additional information and make the revisions called for.

We've also provided a letter dated July 10, 2017 regarding the same proposed development but dealing with Special Land Use. Nine standards for granting special land use approval are set forth in Section 6.03 of the Zoning Ordinance. Our review of the proposal has uncovered two requirements before special land use approval may be granted: 1. The issues cited in our separate site plan review letter must be addressed to the satisfaction of the Planning Commission. 2. Information about the target price of homes is required so that we can evaluate economic impact. Until these requirements have been met, we recommend tabling the special land use for Hidden Forest Condominiums.

Leslie Zawada, Township Engineer, referenced her June 29, 2017 review letter. This letter was based on the plans dated 5-26-17. The letter recommended that the plans be revised and resubmitted to address our comments and concerns. I can answer any

questions but need an opportunity to review the revised plans.

Leann Kimberlin, Township Attorney. There are no legal concerns at this time.

**Dan LeClair, Greentech Engineering.** He is here tonight with Jack Healy and Mike Burke from Healy Homes. He represents the Lyon Ridge Development II. Back in early June we submitted a plan. One of the things we are really focusing on with this development is preservation of the natural features. The northerly part of the property is wooded. We are focusing here on the neighboring property owners to the north, trying to do whatever we can to preserve an existing greenbelt buffer up there. With this plan there is only one good entrance that can be built into this development without impacting several wetlands. The layout plan we presented late last week is a modification. We ended up with essentially the same cul-de-sac length to get into the northerly part of the property while still trying to preserve not creating a second access across the wetland. We were able to do this layout and preserve some of the greenery along the north property line.

A few of the lots are smaller than the 15,000 sq. ft. minimum. We can adjust some lot lines. We are looking to eliminate lot 20 which would allow a path to access an open space area. One of the things we did is compare our lot sizes to our neighbors to the north and found we were very similar. Also, the parallel plan looks pretty similar. The big difference is the lack of open space. When you look at the open space areas, if you do a quick calculation of subtracting out the existing wetlands that will remain on the property, you end up with about an acre and a half of useable area. It will be separated out in three different pockets. In the landscape plan that will be resubmitted we did take out all the trees allowed to be removed per the ordinance and did a full calculation of the trees that are to be replaced. This project will be a continuation of the Lyon Ridge development with the house footprints being similar. They are single family homes ranging from the low to mid fives with a square footage of 3100-3300. There is a 2400 sq. ft. ranch option available. That concludes the presentation. I'll be happy to answer any questions.

**Motion by Towne, second by Radke  
To open public hearing at 7:32 p.m.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Peggy Oprisiu, 57060 Bonne Terre, New Hudson, MI 48165.** Ms. Oprisiu heard they are considering tree screening to the neighbors to the north, but nothing was heard about the existing neighbors to the west. She heard the reference to a pond that looks like it is bordering the western property. It looks like it is touching the property. She would like more information on what that pertains to.

**Erik Stubenvoll, 52651 Aspen Drive, South Lyon, 48178.** Mr. Stubenvoll is here as a resident of Lyon Ridge Subdivision on the south side of Aspen Drive, so he is bordering the north side of the development proposed. He is also here representing his neighbors

to the west, Don and Jackie Perry, who weren't able to make it tonight. His first question is about what is the allowable amount of lots on this 24 acre piece of land. The second question relates to a meeting last night several of the residents had with Mike Burke where he explained that initial development plan was denied due to the length of the cul-de-sac. He would like to understand the rationale behind this ordinance. Personally, that option is much more appealing as a homeowner on the north side and also to a potential buyer. Third question/request relates to the green space and easement basin being proposed. All of the residents on Aspen Drive were promised by various members of the Healy Home sales team that this land wouldn't be developed because it was wetlands, and the property owners weren't interested in selling. As such, they were sold their at the highest premium dollar amount. Now they are being told the premium cost of their lots was due to them being wooded with trees they did not clear off the property, not because of the woods behind it. He currently has one tree.

Lastly, they were informed water drainage from the proposed development drains onto our lots. He would like to understand how inspectors are approving grades that clearly do not follow the proper watershed. If this development is passed, what protection and recourse do they have as the adjacent homeowners if the same issue occurs on these new lots? He moved into his home in October of 2015, and his drainage issue was not addressed until June of this year, resulting in him filing a formal complaint. The fix was to remove the trees previously referenced and dig a trench through the back portion of his yard. Today's rain is a perfect example of it not working, as he again has standing water in multiple locations of his back yard, as do his neighbors to the east and west.

To prevent this happening again, he wants to know if the Township will be holding the developer to a standard that requires them to plant all the evergreens and install all the easements and basins as outlined on their plans prior to any home construction, while also ensuring that the inspectors are providing watershed graded land approvals appropriately. As a protection to them and a compromise, he is requesting that an escrow account be set up with \$10,000 per home affected on Aspen Drive, which is a total of six homes, and a timeline for the green space and water easement completion to be provided ahead of development. This is a solution he feels is fair. It gives the homeowners and taxpayers some fiscal and written assurance that this green space can be planted by them individually without utilizing personal funds, should their timeline not be met.

**Karen Stanard, 22450 Chubb Road.** Ms. Stanard would like to present the same question her neighbors did about the screening that would be provided to the west. Her lifestyle and her property would be impacted by the changes that would occur with this development. She thinks she is entitled to privacy and some sort of blockage or screening of the development on her side.

**Motion by Towne, second by Chuck  
To close the public hearing at 7:40 p.m. due to no further comment.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

## **MOTION APPROVED**

Ms. Zawada, Township Engineer. When the drainage issue is reviewed, this is the first step. If the plan is approved, there is another step that they have to submit detailed engineering plans. The main purpose of that is to make sure that water does not leave the site. It stays on site, is collected in detention basins and then discharged at a regulated rate with an appropriate outlet. That is part of our review process.

Mr. Doozan responded regarding the cul-de-sac length and allowable number of lots. The number of lots are determined by the parallel plan. The maximum number of lots they would be permitted to have is 32. Regarding the cul-de-sac length, the maximum is 660 ft. according to ordinance. There are a number of reasons why that is in place. One is the roads are public roads, and the Road Commission for Oakland County has a similar standard. There are public safety concerns with dead-end roads longer than that, and there are energy related considerations that come into play.

Mr. LeClair commented regarding screening on the west side of the property. The lots are deep enough that we can pull our rear yard storm sewers in a little bit and plant some trees along that property line. On the north property line, the Lyon Ridge rear yards do not have any storm sewer. Our preliminary layout shows storm sewer specifically in the area that is going to help the rear yard drainage from not only our lots but theirs. We want to get in there and do some grading to make sure that we're bringing that water that is currently ponding up on their rear yards across the property line into our rear yard swales. There are several larger regulated trees in that northerly ten feet. We would like to take out the smaller trees and brush and supplement that ten ft. buffer with larger trees after we get that drainage fixed. Another thing we want to be sure is understood is that this is not a PD; it is a lot average plan. It is being developed under straight zoning. The pond which is bordering the western side of the property, we are proposing to discharge our storm water from this pond here at a regulated rate based on the Township's ordinance as well as Oakland County.

Atty. Kimberlin noted that although this is not a PD, it is being approved under special land use so the Planning Commission does have the option to approve with conditions that are reasonably related to the development and protection of adjacent lands.

Mr. Chuck questioned whether we have the option to insist on an escrow account. If one were put in place, it would give the homeowners assurance as well as insurance. Also, obviously screening is an issue. We do have some issues with lot sizes. It is nice not to have to be discussing density.

Ms. Zawada responded that for every development, the Township collects numerous bonds. The amounts are determined by estimate of improvements. As an example, the Township Planner estimates all of the developer required trees. It is based on Mr. Doozan's estimate that we collect the cash bond from the developer and that remains in the Township's accounts. Should the developer fail to do those plantings, the Township Board has the authority to direct us to have them installed. We collect numerous other bonds as well dealing with things such as sewers, pathways and sidewalks.

Mr. Radke questioned if Lyon Ridge is still being developed, might there be bond money

set aside for issues in the current sub? It was responded the Building Dept. would have to be contacted to see what funds are available.

Mr. Towne noted the questions regarding the water issues are very valid. CES Engineering has done a good job. This is a wet community, but he has a lot of confidence when this plan comes back and the engineering review is done that the property will be better than it is today. We've changed and grown over the last 10 years. They've addressed the setbacks and water line issues, retained the wetlands as much as possible and met the zoning ordinance on all the setbacks as well as how many lots can go on that property. It is their right to build and it is our job to make sure it is built properly. He questioned whether 9 Mile is paved from Chubb. It was responded the pavement goes just past the proposed entrance. It is nice how the surrounding communities are connected. He questioned how this development will be connected to Lyon Ridge.

Mr. LeClair stated there are no current connections. There will be a road stub left that will have a future connection into the northwest property. There will be a sign alerting future property owners the road could potentially go through.

Mr. Radke stated that in his subdivision, mistakes were made regarding drainage. His home in particular should have been out of the ground another 12 or 18 inches. How can a homeowner verify that an inspector is looking for and verifying that a builder is building the home to the plan? What happens if there is an issue regarding grading or if the home basement is too deep? What can a homeowner do?

Ms. Zawada responded that many safeguards or changes have been made over the past years. There is now a double check process in place. We review the detailed engineering plans and inspect all the storm sewers being installed and their elevations. When the new homes come in, the plot plan is reviewed by the Building Dept. If the Building Dept. is contacted within a relatively short time period, bond money can be used to correct issues.

Mr. Stubenvoll stated that in the case of his lot, it is very clear that the southeast corner is higher than the southwest corner. It should drain downward correctly. The problem is the middle is actually the highest point. There were two trees removed. The thought process was the trees were backing up the water flow. The primary question about elevation came about because from his lot to the one to the east, there was probably a 10 inch drop. This was a clear hazard. How did that pass inspection in the first place?

Ms. Carcone was concerned at first when screening for the west side of the property wasn't initially addressed. You have to protect these people. In response to Mr. Stubenvoll, she will say there are tremendously different processes in place now to prevent those kinds of mistakes. She will address it at the Building Dept.

Mr. Burke responded regarding the drainage issue. When the property was cleared for Lyon Ridge, they wanted to work hard to save some of the trees. This then created a problem when trying to grade the yards. We tried to keep the trees to make everything look nice but it made it much more complicated to get the lots to drain. We did think the Lyon Ridge properties would drain through and away quickly but found some of the

water from our future development, Hidden Forest, is draining into theirs. By installing catch basins, we can probably keep water from the new development off their yards.

Mr. Hoffman questioned whether the trees saved were shown on the original engineering plans for Mr. Stubenvoll's lot. We rely on our engineers to design and grade for drainage. Is it being followed when the developer goes out there regardless if there is a 100 year old oak? It works on paper and we promise the homeowners the current design is going to be an improvement, and then you go out there and deviate from the plan. He also noticed in other developments from one lot to another there are little retaining walls used. That is a very bad excuse for lowering the garage and not doing a good cut and fill.

Mr. Burke stated that every lot has a potential grading issue. Every lot does have an approved grading certificate. They are all graded to the specifications. You are allowed a percentage from one corner of the lot to the other. In response to the comment regarding retaining walls, the ordinances in place only allow so much fall from the driveway to the next property line.

The applicant for Hidden Forest agreed to put a pathway from the lot they removed from the sidewalk.

**Motion by Chuck, second by Towne  
To table AP-17-24b, Hidden Forest Condominium - Special Land Use based on the CES Letter of June 29, 2017 as well as the McKenna Letter of July 10, 2017.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Motion by Chuck, second by Towne  
To table AP-17-24a, Hidden Forest Condominium - Site Plan based on the fact we don't have the Special Land Use nor do we have a site plan in front of us.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**OLD BUSINESS**

**None.**

**NEW BUSINESS**

**None.**

## **ADDITIONAL BUSINESS**

### **3. Community Reports**

Treasurer Carcone brought the Commission up to date regarding the last Township Board meeting.

## **ADJOURNMENT**

**Motion by Towne, second by Chuck  
To adjourn the meeting at 8:40 p.m.**

**Voice Vote: Ayes:           Unanimous  
                  Nays:           None**

## **MOTION APPROVED**

The Planning Commission meeting was adjourned at 8:40 p.m. due to no further business.

Respectfully Submitted,

Amy Bertin  
Recording Secretary