

**MEETING OF THE
VILLAGE OF BEECHER
PLANNING AND ZONING COMMISSION

WASHINGTON TOWNSHIP CENTER**

MAY 31, 2007

On May 31, 2007, at 7:00 p.m. the meeting was called to order by Chairman Nick Grutzius.

Members present: Nick Grutzius, Denis Tatgenhorst, Wayne Wiechen, Althea Machtemes, Brad Coats, Phil Serviss and Gayle Ahrendt.

Members absent: Brian Frank

Staff present: Bob Barber, Donald Thomas, Attorney Timothy Kuiper

AGENDA ITEM III, CONSIDER A MOTION OF APPROVAL FOR THE MINUTES OF THE April 26th MEETING. The minutes of the Beecher Planning and Zoning Commission meeting held on April 26, 2007 were presented and reviewed. Two changes were made to the minutes. A motion was made by Wayne Wiechen and seconded by Althea Machtemes to approve the minutes with the two changes. The Chairman called the motion to a vote. Motion carried unanimously.

AGENDA ITEM IV, PUBLIC HEARING: CONSIDER A REQUEST FOR A PLANNED UNIT DEVELOPMENT CONSISTING OF TWO ADDITIONAL SITE PLAN OPTIONS: THE PRESERVE AT CARDINAL CREEK (MGM DEVELOPMENT). A motion was made by Phil Serviss and seconded by Althea Machtemes to open the public hearing. The Chairman called the motion to a vote and it carried unanimously.

Corey Lund (representing MGM) opened the discussion with a recap of events from prior PZC meetings leading to this public hearing. He stated that they are here to present Options B and C. The street layout is the same for all three product types; the only difference is whether detached single family, duplexes, or single-family homes are offered. He felt that this was consistent with something the Village Board had approved years ago where three different product types were allowed and it was up to the developer to choose between the three. He asked for a chance to rebut Don Thomas's objections since he is familiar with them. He felt that the options being presented are within the density requirements.

Steve Gregory with MGM stated that plans hadn't changed from the last meeting and they felt they had addressed all the concerns of the PZC.

Bob Barber questioned the developer's representatives regarding the specifics of the development. He questioned the density, why Option C exceeds the allowable number of units, as well as asking for confirmation for the height of the 8-unit buildings, and whether or not one of the developer's representatives would state for the record that these plans conform to the 1990 zoning ordinance other than specific variances as negotiated in the development agreement dated December 10, 2001. He questioned whether the street layout is the same in all three plans; he asked about the length of the dead-end street, the setbacks and the square footage of the lots since the 1990 zoning ordinance allowed lots that were smaller than 10,000 sq. ft. only in active

adult communities. Finally, he questioned whether or not existing lots would lose contiguity and golf course views, and why the developer wasn't building east of Trim Creek.

In response to Barber's questions Lund replied that in the developer's interpretation, 1,147 units were allowed as a whole in the development. Gregory stated that he believed that the 8-unit buildings would stay under 35 feet and that they understand that if the height exceeded 35 feet they'd have to provide safety equipment. Lund said that it was their interpretation that the plans conform to the 1990 zoning ordinance. He noted that the length of the dead-end street conformed with the purpose of the ordinance – safety, and that the developer is proposing a grass crete emergency entrance at the end of the lane to allow emergency vehicles to enter.

In answer to Barber's question about the lots that are smaller than 10,000 sq. ft., Gregory said that this is not an age-restricted community. The lot widths meet the 65 foot width requirement of the agreement so that is the developer's interpretation of how the plan meets the minimum square footage requirements. As far as contiguity and golf-course views, Gregory noted that the existing housing would keep a view of some portion of the golf course, if not the same view. Lund felt that there is an inherent conflict in the development agreement that is not solvable. Building only on the south course would destroy the views of the town homes. As to why the developer couldn't build east of Trim Creek, Gregory felt that the present plan had the best layout.

Don Thomas voiced objections about the excessive length of the cul-de-sac regarding safety and circulation. He noted that one entrance is not acceptable and that the grass crete emergency access doesn't address circulation which is equally important. He requested clarification from the developer on the wetland issues that affect the road connection to Cardinal Creek Boulevard.

Barber asked which of the three options before the PZC the petitioner desired to submit. Lund said they were asking for approval of all three. Barber asked about the highest and best use of the land since the PZC is charged by state law to produce a finding of fact based on highest and best use; therefore they almost have to select only one plan. Lund replied that highest and best use involves so many factors that it is impossible to address them all. Gregory argued that the PZC had allowed more than one plan in the past. Barber responded that the village board had done that – not the PZC. The PZC can only select one for recommendation to the Board. Lund stated that the developer had no preference of one plan above another.

Barber noted that the developer is asking for another lift station to the pods he's building and that the developer was to provide proof of necessity; had this been addressed. Gregory said he didn't know whether it had been addressed or not.

Lund again stated that he felt he had addressed all the PZC's concerns. He said they were requesting all three product options be approved. They want a good project that will benefit the community and that at the last public hearing in February, according to the public, only six residents were afraid of losing their golf-course views, and five were concerned about the value of neighboring homes being diminished.

The public was asked if they'd like to address the commission. A memo from Nelson Collins and a letter from George Obradovich (attached) were read into the public record.

Danna Neville testified that she feels that if the developer can't build where the agreement specified they should build, then they shouldn't build at all. Any one of the three plans will negatively impact the community. The development should be moved to the east or along Indiana Avenue. MGM, as a business, is taking care of MGM. The citizens of Beecher need to take care of Beecher and not allow monotonous rowhouses.

Tom Stipanich responded that the numbers the developer cited of citizens who disapproved of the development are skewed. Just because they didn't speak up doesn't mean that they are in favor. Placing \$140,000 homes next to \$500-600,000 homes would have no benefit to the community and would lower property values, as would having too many unoccupied homes. People moving into Beecher are moving up – not into rowhouses that look like trailers or garages with only about 100 sq. ft. of brick. The homes on Fairway Drive have \$30-40,000 in brick. In 2001 the impact fees for the school were \$5,000 whereas they are now \$14,000 so the schools are losing money on these units. He questioned who will maintain this development with the developer leaves town. The ponds are already overflowing when it rains. With 250 more homes where will the storm water go? The golf course sits vacant for days on end. If it goes away, there will be no more green space. The present club house is not well-maintained. Bags of salt hold down the roof. The golf course is in disrepair. The greens are un-puttable. Electric boxes are exposed with tarps covering them. There is a collapsed walkway with string tied around it. He presented photos for the public record. The advertisements still show a 27-hole golf course. The course has no halfway house, no water cans, and no urinals. Lots of towns have gentrification programs but this will do the opposite. If the developer goes bankrupt, what will happen to the warranties?

Barber asked the developer who will maintain this development. Gregory replied that they haven't figured that out yet. Barber asked if the new residents of this phase will get use of the clubhouse and Lund replied "as we understand it." Barber questioned whether the new pods will pay their own maintenance fees. He also asked what guarantee there is that the property will be maintained and Don Thomas responded that there are provisions in the existing HOA agreement. Gregory agreed to provide information on the fees.

Tom Brislane commented that he saw many conditional terms rather than mandated terms in the development agreements such as "in the event that the golf course is converted" and "development of the golf course, if it occurs." Based on this, he doesn't believe the village is *required* to allow these homes on the existing course. He questioned whether open space enters into the "highest and best use" equation. He believes the development agreement was written to allow as much open space in the center of Beecher as possible. He asked if the developer contends that this plan conforms to the development agreement of 2001. Lund admitted that open space factors into highest and best use, and that he seriously contends that the plan conforms to the development agreement of 2001.

Jim Mason asked about the distance in feet between the south property line of the homes on the south side of Fairway Drive and the north line of the development as well as the distance along the back line of the homes on the south side of Fairway Drive. He asked about the feet in length of the cul-de-sac. He asked if any wetlands are being destroyed and how many square feet or wetlands are being removed and/or filled in. He asked about the square footage of ponds being eliminated and how many trees are being removed. He felt this information should be provided before the development is approved.

Gregory responded that there will be 150 to 300 yards of distance between the south property line of the homes on the south side of Fairway Drive and the north line of the development. The cul-de-sac would be 1,000 ft. in length. The rest of the information relating to the other questions relate to information that the developer doesn't have yet. Lund interjected that this is information that was impossible to provide at this time. The developer would have to comply with village ordinances, state statutes, federal government and Army Corps of Engineers, etc. Since this is a preliminary plan it is too premature to have this information available but that the information would be provided prior to the approval of the plans.

Terry Zeilenga testified that in the 2001 development agreement, only the south course is mentioned for further development. Zeilenga's view of the golf course will be gone. The original agreement is being altered just because it will affect Highlington estates; the development should be moved east. With two wet ponds and one dry pond flooded during the last rain, where will the water go when the land is developed? The PZC will be remembered forever for what happens here. Zeilenga entered photos of flooding for the public record.

Ron Reichert noted that the PZC can reject all three plans and allow the village Trustees to make the decision regarding the development. Tim Kuiper noted that the PZC does have that option. Dan O'Leary testified that he lives on Autumn Drive which was not built by MGM but that there is vacant land, eyesores and standing water. Why start new units when the present ones haven't been sold yet? The area looks like a strip mine. Can the village require 80% of the built units to be occupied before another section is started? He also noted that he had spoken to Jack Mayher two hours ago and was told that the poolhouse should be complete by July 1.

Barber responded that the development agreement didn't address the vacancy issue. He asked MGM when they intended to start this project, if approved. Lund said there was no specific deadline or time frame. Barber asked when the 9 holes would be taken out of the golf course – what year. Lund said he didn't know but that he would bring this information to the next meeting.

Randy Gottberg, also a resident of Autumn Drive, paid extra for scenic views that he wants to maintain. He pays fees to MGM for the clubhouse and wants to know when it will be complete. Lund said he had no idea when it would be complete but would provide this information at the next meeting. Mike Lofton stated that he is opposed to the plan because it violates the land use agreement. He presented a letter from David Serafin to be read into the public record. Gerald Hicks of Autumn Drive spent extra money to face the golf course and have the open space. He stated that he feels bad for the people whose views will be blocked from the open space and that the plan should not be approved.

Jim Mason felt the problem would be solved if the developer builds to the east of the old railroad tracks. The homes would be built with "like" homes. Lund responded that there are provisions about wetlands that would require mitigation and if it is floodplain, it can't be built on. Tom Stipanich referred to an idea at a prior meeting from Ron Reichert about building slightly different plans for this area and asked if this was a possibility. He asked if the city had provisions regarding rentals. Barber said that there are some provisions but the government can't restrict rentals – only the covenants could. He asked the developer to let them know what is proposed regarding covenants about rentals. Lund said that he'd bring that information back to the village.

Dan O'Leary said that his area on Autumn Drive is at a 25% rental rate right now. They have no power over that situation because there aren't enough units sold for the residents to be able to take over their own homeowner's association. Some of the units have turned over three or four times.

Mike Burns said the development would lower his house value and raise taxes. The pictures that were entered into the public record should show that this plan is no good. Timothy Smith said the development would remove the contiguity of his home on Donoho to the adjacent hole referred to as 5 North. Ed Brink responded to the discussion about the flood plain to the east of the proposed development and noted that you can build in a flood plain – not a floodway. The initial plans should have shown what was floodplain, what was floodway, and what was wetlands. This doesn't do any justice to the homes on Fairway Drive. Roberta Patzer was

concerned with safety issues. There is nothing to stop people from walking the golf course when the course is closed. There is no way for police to gain access if there are any problems.

Bob Balera stood up to say that he was opposed to the plans.

Brian Neville stood up to say that he was opposed to the plans.

Terry Zeilenga stood up to say that he was opposed to the plans.

Pete Leahy stood up to say that he was opposed to the plans.

Jim Mason stood up to say that he was opposed to the plans.

Tom Brislane stood up to say that he was opposed to the plan. He asked the PZC to respect the intelligence and foresight of those who drafted the 2001 agreement.

There being no further comment from the public, a motion was made by Phil Serviss and seconded by Brad Coats to close the public hearing. The Chairman called the motion to a vote and the motion carried unanimously. Barber informed the group that deliberations would continue at the next meeting on June 28, 2007 at 7:00pm. Staff recommendations will be heard, the petitioner will answer the questions they were asked tonight and the PZC will send their recommendation to the Village Board.

AGENDA ITEM V, WORKSHOP: CONSIDER FURTHER REVISIONS TO THE ZONING ORDINANCE PERTAINING TO ACCESSORY STRUCTURES. General discussion followed to attempt to define what an accessory structure is, what the minimum and maximum sizes are and upon what type of foundation they should be placed. After briefly going over the types of issues that will need to be addressed, this item was tabled until a future meeting.

AGENDA ITEM VI, NEW BUSINESS. There being no other business coming before the members of the Commission, a motion was made by Brad Coats and seconded by Wayne Wiechen that the meeting stand adjourned. The Chairman then called the motion to a vote and the motion carried unanimously.

The meeting stood adjourned at 9:22pm.

Respectfully submitted,

Marcy Meyer
Secretary