

TYRONE TOWNSHIP PLANNING COMMISSION

SPECIAL MEETING MINUTES NOVEMBER 29, 2011

PRESENT: Present: David Hanoute, Steve Hasbrouck, Mark Meisel, Ed Kempisty,
Deb Lee

ABSENT: Brandon Peabody and Mike Wood.

OTHERS: Phillip McKenna of McKenna Associates

CALL TO ORDER: 7:00 p.m. by Chairman Hanoute

PLEDGE OF ALLEGIANCE:

CALL TO THE PUBLIC:

Debora Hense, 6223 Linden Road, and Joseph Morabito, 9345 Parshallville Road, would like to address the Planning Commission after their discussion of the Sun Community request.

APPROVAL OF THE AGENDA:

Lee moved to approve the meeting agenda as presented (Kempisty seconded). The motion carried by unanimous voice vote.

OLD BUSINESS #1: Sun Communities (Cider Mill Crossings)

Planning Commission and Planner Discussion with Sun Communities representatives: Request by the Tyrone Township Board for recommendations from the Planning Commission regarding proposed changes to the Cider Mill Crossings Consent Agreements by Sun Communities and to be allowed to deviate from the Zoning Ordinance requirements as it relates to the Cider Mill development.

- 1) Amend the Consent Agreement to allow pre-owned manufactured homes to be installed, 15 years or newer, provided that home exteriors similarly match appearance of existing homes:
 - would be agreeable to allow pre-owned homes brought in no older than the park, 10-11 years old or less;
 - only vinyl sided or wood sided with pitched shingled roofs;
 - when the Consent Agreement was put in place and recorded with the Register of Deeds, the people relied on them; they relied on new homes being brought in and the homes being double wide to make it a beautiful neighborhood and not a trailer park as we think of them; people moving in purchased new homes and are expecting others to purchase new homes; the Township needs to be careful if deviating from this agreement;
 - a compromise would be to allow pre-owned homes no older than the park;
 - a Consent Agreement is a compromise to permit something both sides find agreeable;
 - a standard has been established and you do not want to change the standards the current residents are used to, but you do not want to have standards that prevent you from populating the park; a reasonable compromise would be to limit the age of the homes being brought in no older than the age of the park and the homes being brought in must be similar in quality and siding of the existing homes;
 - concerned about how the homes being brought in would be inspected to make sure the appearance, condition, and age factors are met;

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- at least 50% of the homes being brought in will be new;
 - the P.C. is to make a recommendation only to the Township Board; the P.C. does not have the authority to amend or modify the Consent Agreements; only the Township Board, Sun Communities and both parties attorneys can make a modification to the Consent Agreements;
 - questioned how the intervening defendants (Watt, Morabito and Braun families) input in the case is taken into consideration;
 - Sun Communities or an independent inspector should be the inspectors, they should maintain the community, not the Township;
 - the Consent Agreements run with the property, not the owner of the property;
 - consider putting a time limit on this, maybe reconsider it again in 5 years;
 - consensus is agreeable recommending that homes no older than 10 years be brought on site, they should be required to have similar appearance and be in similar condition as the existing homes in the community; it is further recommended the Township Board establish a mechanism for inspection and confirmation pre-owned homes meet the appearance and condition of the existing similar homes; and further that no more than 50% of the homes brought in are pre-owned homes.
- 2) Amend the Consent Agreement to allow single section manufactured homes:
- the utilization of single section homes was removed from consideration by the applicant during the meeting, however the Planning Commission does not recommend single section homes be used in the community;
- 3) Amend the Consent Agreement to remove requirement for 90 garages and state that they must maintain only the existing quantity of garages (20), and allow for storage sheds 144 square feet or smaller for each site:
- currently 262 developed sites at Cider Mill and there are only 20 homes with garages; almost every home there now has a storage shed;
 - there are 5 open sites along Parshallville Road and 1 site along Old US-23, that when developed will have a garage, so all the perimeter lots will have garages;
 - every house has a storage shed which is in violation of the Consent Agreement;
 - the property with the shed in the front yard would be enforced by Sun Communities rules and it would have to be moved;
 - carports are allowed but must go to Sun Communities with an exterior improvement request and a drawing plan by a licensed insured contractor;
 - the houses that Sun Communities purchases will not have a garage;
 - under the Zoning Ordinance, any accessory structure over 100 square feet must get a building permit from Livingston County Building Department;
 - the Township Board needs to determine how to enforce location and setbacks (15 foot rear and 10 foot sides) for the accessory structures, especially enforce setbacks on corner lots;
 - the key is that the perimeter appearance will be maintained with all those houses having garages;
 - a 50% reduction from 90 garages to 45 garages would be acceptable, which amounts to an additional 25 garages being needed; 6 garages are needed for the perimeter, so an additional 19 garages would be needed for the interior;
 - absolutely no sheds on lots with garages, can have one or the other;
 - roofed entrances on some of the homes would add some street appeal;
 - having a garage on a lot is a bigger commitment to staying in the development;
 - consensus is agreeable on recommending: the current requirement of 90 garages be reduced to 45 garages such that all of the perimeter lots, including the 6 remaining vacant perimeter lots, contain garages and the remaining garages are distributed within the interior; each property may have a shed, but if the property has a garage it cannot also have a shed; the garages and sheds should be required to comply with the Zoning Ordinance requirements set forth in Section 10 of

the Zoning Ordinance for Manufactured Home Park, and should be of similar appearance and condition as the home to which it is accessory to.

- 4) Amend the Consent Agreement to state that certain requirements set forth in the Consent Agreements have been met (reference page 11 of handout):
- Phase I constitutes all the 262 developed sites;
 - other agreements are in place for waste water, building a plant has been nullified;
 - obligated to continue to pay on the special assessment district for the sewer;
 - Sun Communities is looking for confirmation that the clubhouse is considered complete, the Township Board should review this to make sure it is complete;
 - could determine if it is complete and then make a provision that Sun Communities will maintain it, as well as maintain the street lights, maintain the fire hydrants, maintain the emergency entrance, and maintain the sidewalks;
 - lacking some sidewalks – some streets have no sidewalks at all, sidewalks are only required on one side of the street;
 - the finished coat of asphalt for the interior streets has not been applied, will be applied in the spring;
 - emergency access is not designed and suitable for vehicles to be coming and going, there is no deceleration lane, there are no stop signs; this needs to be taken care of; there are two posts there and a cable should be there, gate is not locked; it has a fire department lock box there for the fire department to access;
 - Sun Communities is not looking to make any permanent investment into the community until they get past the Consent Agreement issues;
 - the emergency entrance being cabled off is a public safety issue;
 - consensus is agreeable to recommend: the Township Board verify which of the items in the prior Consent Agreements have not been fulfilled and require Sun Communities fulfill those individual items as part of a conditional agreement for granting any of the reliefs being offered: including maintenance of the various facilities on site going forward such as the clubhouse, drinking water provisions, providing the finished coat of asphalt in spring of 2012, cabling off the emergency entrance at their earliest possible convenience, completion of sidewalks and striping of the clubhouse parking lot.
- 5) Amend the Consent Agreement to allow for necessary signage (reference page 12-13 of handout):
- the banners are made out of a strong vinyl and considered temporary/permanent; would have grommets on each side and connected to 4 by 4 pvc vinyl posts; verbiage would depend on what the special is at the time;
 - want 3 banners, no larger than 4 by 8-feet that will be staggered (one to the south of the entrance and two to the north of the entrance) to draw drive by traffic to the community;
 - they would be perpendicular to Old US-23 and two sided;
 - no sign at Old US-23 and Parshallville Road;
 - would like to have a time period of 1 to 3 years for the banners;
 - there are existing flagpoles that they would like to use, 3 on each side of the community entrance;
 - this is certainly a violation of the sign ordinance, but another development was given concessions for marketing purposes;
 - looking for a lot of signage, could be reviewed in a year, they are willing to reduce the signage if they meet their capacity goals;
 - to be more consistent with what is permitted under the Zoning Ordinance, it was suggested to possibly use a permanent sign structure with changeable faces; treat specials as temporary signs;
 - consensus is agreeable to recommend: allowing 3 banners mounted between 4 by 4 posts, not to exceed 4 by 8-feet in size, evenly distributed along the frontage of Old US-23, provided they

have enough setback to meet the LCRC site distance requirements; they are proposed to be distributed as one to the south of the entrance and two to the north of the entrance, it is recommended a drawing be provided that depicts the location of those signs, and the three signs be allowed for 1 year - with a provision for negotiation after 1 year for an extension based on the justification of further need by Sun Communities; with respect to the flagpoles that are in place, the flagpoles can be used, the flags must meet the traditional requirements of the ratio of size of 4:1, they should comply with other reasonable flag utilizations such as height requirements, etc., and recommend a drawing be provided depicting the orientation and height of the flags which shows the scale and distribution.

- 6) Amend the Consent Agreement to formally allow a lease-to-own program
- would allow leasing of homes with the option to buy, would have 90 day inspections to make sure the home is being maintained;
 - exterior maintenance is the tenants responsibility;
 - each site has electric, gas, sewer, and cable;
 - no felons are allowed in the community;
 - current residents were notified about the lease-to-own program;
 - Sun Communities logo would be placed on the front of rental homes to identify them;
 - a big concern with the rental of units, which is tied into the lease program;
 - expecting to have an annual new occupancy of 60 sites per year;
 - it was determined item #6) the lease-to-own program, was not in the Consent Agreement so there is no need for the Planning Commission to make a recommendation on it.

Comments from the public:

Debora Hense, 6223 Linden Road, stated the Consent Agreement was the compromise; any opportunity to put a referral to the Zoning Ordinance into the Consent Agreement should be done (example: the signage issue should state they will follow the local Zoning Ordinance, so if there is a deviation from the Zoning Ordinance, the proper procedure would be followed by requesting a variance and going through the ZBA process; Sun Communities is interested in the park but they have not paid any of the back taxes, as they are not obligated to do, so keep that in mind when they are asking for concessions; the mobile home park zoning was ordered, it was not part of the Master Plan and was not consistent with the community and never a choice for Tyrone Township; and need to be leery when proceeding with a company similar to a company that nearly bankrupted the Township. Try to bring the power back to the Township in the Consent Agreement, have it in relation to the Zoning Ordinance which is where our jurisdiction lies. We need to look at some zoning criteria and how this will specifically affect it, since the P.C. is giving a recommendation on the impact of these changes: 1) consistency with the goals, policies and future land use map of the Township comprehensive plan, look at the 2010 SEMCOG data, Tyrone Township has 3770 homes (326 are rentals); if we now add another 326 rental homes in this development, we will double that number and now 20% of the homes in Tyrone Township are rentals, this is significant; 2) in order to give a variance, evidence is required that an applicant cannot receive a reasonable return on their investment through developing their property with at least one of the uses permitted under the current zoning; Sun Communities is a very profitable company and they have said so tonight; so they have not demonstrated that they can't do it without some of these changes, apply the Zoning Ordinance whenever possible; 3) the capacity of the Township's infrastructure and services sufficient to accommodate the uses permitted and the requested district without compromising the health, safety and welfare of the public; Sun Communities has stated they are not going to do something without receiving something first; 4) there are about 10,000 people living on 36 square miles in Tyrone Township, what is being proposed is about 2,000 people living on 150 acres, so there needs to be some recreation and some thought as to how that density will be handled; and 5) the demand for the types of uses permitted in the requested zoning district in relation to the amount of land currently zoned and available

to accommodate the demand; the demand in Tyrone Township is low; Cider Mill Crossings is 75% vacant and Tyrone Woods only has about 130 homes, so there is a lot of extra capacity here; after being open for 9 years, there are only about 70 homes located in the development. Also, the 2nd Consent Judgment requirements have not been met. The lease to own program should not be in the Consent Judgment. Maybe have a constraint of after they bring in 50 homes, then they put in a play structure, this is a negotiation, let the Township get a benefit from any agreement also.

Joseph Morabito, 9345 Parshallville Road, is one of the interveners and the sole subject; doesn't agree with any of this; the Consent Agreement has been breached over and over again; according to the Consent Agreement he has a say in this and he is against changing the Consent Agreement.

Marvin Frankel, 8529 Riverwalk Drive, is concerned with the obligations that Sun Communities has to Tyrone Township, which is none; Sun Communities will not invest in the community unless they are sure they will make money in the development; in 1998 Landon Co. came in and told the Township how necessary it was to have a trailer park at Parshallville Road and Old US-23, and it cost the Township about \$80,000 to fight the issue; litigation occurred and the Consent Agreement was negotiated for the benefit of the Township and Landon Co.; The people were concerned with having a quality trailer park, with people moving into new trailers, and people having a commitment to the community and staying there. He stated a concern with having a transient community moving into the development and renting units without a commitment to Tyrone Township. He also stated a concern that if the current owners cannot make this profitable, they will leave the same way Landon Co. did, leaving the Township responsible for a sewer system that would not have been built, had it not been for the litigation that allowed the development there.

Linda Harwood, 9028 Green Hickory, stated the three people who have spoke tonight also represent many in attendance in the audience, which is why not everyone is speaking.

Jim Huck, Lake Shannon Homeowners Association would like a copy of the recommendation in order to inform the residents and homeowners association what the P.C. recommendations will be to the Township Board.

Planning Commission and Planner Discussion with residents:

- discussed whether it would be better to make changes to the Consent Agreement and get 30, 40 + homes in the development or let it set largely vacant;
- the additional homes would pay towards the sewer bonds;
- Sun Communities does not have to pay taxes, can sit on the property and bring in whatever money they can and then decide to walk away after 3 years;
- The Township Board will be making the decisions, the P.C. is only making a recommendation to the Township Board.

Hanoute questioned how the setback encroachments, violations to the Consent Agreement, and missing sidewalks, a shed in the front yard (within the development) can be corrected. Phil McKenna, of McKenna Associates, answered that it can be taken back to court for Consent Agreement violations; could also make these as conditions of any modifications to the Consent Agreement to get them cleaned up.

The Planning Commission is in agreement with the comments made by the public; the Planning Commission is not by motion recommending the Township Board modify the existing Consent Agreements, rather if the Township Board decides it is in the township's best interest to enter into a modification of the Consent Agreements the following are the recommendations from the Planning

Commission to maintain sound planning; the following motion is not suggesting the Planning Commission is endorsing a modification to the Consent Agreements that exist at this time.

Meisel moved the Planning Commission recommends to the Township Board that if they determine they wish to enter into a modification of the existing Consent Agreements with Sun Communities, the following recommendations are offered: 1) the Planning Commission recommends that homes no older than 10 years be brought on site, they should be required to have similar appearance and be in similar condition as the existing homes in the community; it is further recommended the Township Board establish a mechanism for inspection and confirmation pre-owned homes meet the appearance and condition of the existing similar homes; and further that no more than 50% of the homes brought in are pre-owned homes.; 2) the utilization of single section homes was removed from consideration by the applicant during the meeting, however the Planning Commission does not recommend single section homes be used in the community; 3) the Planning Commission recommends the current requirement of 90 garages be reduced to 45 garages such that all of the perimeter lots, including the 6 remaining vacant perimeter lots, contain garages and the remaining garages are distributed within the interior; each property may have a shed, but if the property has a garage it cannot also have a shed; the garages and sheds should be required to comply with the Zoning Ordinance requirements set forth in Section 10 of the Zoning Ordinance for Manufactured Home Park, and should be of similar appearance and condition as the home to which it is accessory to; 4) the Planning Commission is recommending the Township Board verify which of the items in the prior Consent Agreements have not been fulfilled and require Sun Communities fulfill those individual items as part of a conditional agreement for granting any of the reliefs being offered: including maintenance of the various facilities on site going forward such as the clubhouse, drinking water provisions, providing the finished coat of asphalt in spring of 2012, cabling off the emergency entrance at their earliest possible convenience, completion of sidewalks and striping of the clubhouse parking lot (this is not an all inclusive list); 5) recommends allowing 3 banners mounted between 4 by 4 posts, not to exceed 4 by 8-feet in size, evenly distributed along the frontage of Old US-23, provided they have enough setback to meet the LCRC site distance requirements; they are proposed to be distributed as one to the south of the entrance and two to the north of the entrance, it is recommended a drawing be provided that depicts the location of those signs, and the three signs be allowed for 1 year - with a provision for negotiation after 1 year for an extension based on the justification of further need by Sun Communities; with respect to the flagpoles that are in place, the flagpoles can be used, the flags must meet the traditional requirements of the ratio of size of 4:1, they should comply with other reasonable flag utilizations such as height requirements, etc., and recommend a drawing be provided depicting the orientation and height of the flags which shows the scale and distribution. The Planning Commission encourages the Township Board, as part of this recommendation, to seek some concessions over and above just compliance with the outstanding Consent Agreement items, so there is a give and take and both parties get something out of any amended Consent Agreement, if one is to be negotiated. (seconded by Lee). The motion carried by voice vote, with one no vote. The recommendations will be forwarded to the Township Board.(Note – the above motion is presented in its final form for clarity purposes. The motion was twice amended, with each amendment receiving a majority vote, to arrive at the final voted upon motion)

OLD BUSINESS #2: Master Plan

Due to time constraints the Master Plan will be further reviewed at the next Planning Commission meeting

MISCELLANEOUS BUSINESS:

Future Items: 1) Continue to review Master Plan; 2) Resolution for Laurie Radcliffe to recognize her years of service on the Planning Commission;

ADJOURNMENT: The meeting ended at 9:33 pm

NEXT MEETINGS:

December 13, 2011 - Regular Meeting

Lorie Thielen, Recording Secretary
Tyrone Township Planning Commission