

Consent Agenda

Any member of the Board, staff, or the public may ask that any item on the Consent Agenda be removed and placed elsewhere on the agenda for full discussion

- a. Correspondence (as provided)

MOTION: Hornberger/Serocki to approve Consent Agenda.

PASSED UNAN

New Business

Peninsula Township Zoning Ordinance DRAFT: Articles 3-4 (Discussion)

Reardon reported that Patrick Sloan from McKenna is participating via phone this evening. Sloan begins with Article 3: Zoning Districts and Maps Interpretation. Section 3.103 Interpretations of District Boundaries. Major changes are section E) Water Bodies and F) Zoning of Filled or Accreted Land.

Reardon repeats that the Planning Commission was asked to discuss if we want our Zoning Districts interpreted to the Ordinary High Water Mark or the Shoreline. Attorney Wendling is here to help us with implications. There have been issues with regulating Hoists and Docks.

Peters We are looking at Shoreline to do a couple of things. We need a difference to deal with hoists, docks and storage. This is very different than measuring the quantity of land that you own. This township needs a standard on how you measure quantity of land, but this does not say that we cannot write more. ^{to use the "waters' edge"} ^{no matter whether through land division or zoning.} That measurement standard should be ^{fixed} ^{used on a} ^{certified} ^{survey,} ^{the} ^{OHW edge.}

Wendling Zoning Ordinance says now that for zoning the regulations end at the Ordinary High Water Edge. The purpose is to regulate things that are done to the water's edge such as Hoists and Docks. This is different for Land Division.

Reardon we have discovered that we cannot regulate most docks and hoists and storage of these because they are below Ordinary High Water mark. From a staff perspective when we are talking about setbacks the Ordinary High Water Mark is preferred. Is the issue about Hoists and Docks important enough to re-write the ordinance?

Peters ~~Would like to have cake and eat it too.~~ ^{Yes, we need two measurements; one to measure quantity of land (OHW mark) and one to regulate uses down to the water's edge.}

Wunsch to summarize the Township would like to be able to regulate Docks and Hoists but continue to use the Ordinary High Water for measuring land division without being in conflict with the Public Access Doctrine. Is that good direction for McKenna? *Wendling* you would have to use the same way throughout. ^{He said he will draft some language.}

Serocki would like to move on to F. and possible redundancy in definition.

Discussion then moved to topic of filling and treating as well as inland water and wet zones.

Reardon indicates that staff could provide board with a map of these areas.

Review of Article 3 continues. *Reardon* notes 3.106 to 3.112 give you a place to find a use but will be redone in alphabetical order.

Reardon draws attention to McKenna transmittal letter. Asks McKenna to look at comments on the Adult Foster Care and Child Care and make sure that they are up to par with the Enabling Act but not redundant.

Leak states that he has a comment on the definition of site area that includes road right away. He thinks it should exclude road right away. *Reardon* The Town Board did make a policy decision in about 2013 that the right away would be used in area

Michelle Reardon

From: JOHN <sheffieldsgallery@yahoo.com>
Sent: Monday, July 18, 2016 2:31 PM
To: clerk@peninsulatownship.com
Cc: Michelle Reardon
Subject: Center Rd Developement

Regarding the review of the Center Rd. Development across from the Pelizzari Natural Area --

PLEASE READ MY COMMENT AT TONIGHT'S MTG: ---- thanks

I'm perplexed at the consistent lack of mention or interest in any sort of educated, accurate and documented traffic-study with regard to future numbers of cars, service and delivery vehicles per additional household and business on Old Mission.

At some point, M-DOT will within their right, approach the Township to say the volume of traffic has exceeded what narrow Center Rd. can handle, at which time they will have no choice but to widen the highway, straighten curves and install whatever flashing lights are deemed necessary.

Please provide an accurate traffic-volume study prior to advocating and approving any future developments, to better educate the tax-paying residents for our input.

Thank you.

John Fisher
10493 Center Rd.

Vineyard Ridge - Application for PUD Special Use Permit

Response to Special Use Permit Staff Report and Findings of Fact

July 18, 2016

The following is a response to the Special Use Permit Staff Report and Findings of Fact related to SUP #127, Vineyard Ridge dated July 18, 2016. We appreciate the thorough and concise review of the Vineyard Ridge SUP application and submittal package. We agree with a majority of the points made in the two documents, but feel the need to respond to some of the findings as they were presented. We also plan on discussing these items at the July 18, 2016 Planning Commission meeting. Responses are supplied for these items of the Staff Report and Findings of Fact using the item reference numbers from those documents.

Staff Report

2.7 Landscaping, Open Space, & Buffering

While the Ordinance includes walls and fences over four feet in height in its definition of a structure, it is our opinion that the intent of the 100' agricultural setback is to provide a safe distance between active agricultural activities and structures that are inhabited by people (such as houses and garages). Despite our disagreement with this interpretation of the ordinance, the stone entrance walls and columns within 100' of the adjoining property line of the agriculturally-zoned Township park.

2.8 Environmental Issues

In this section of the Staff Report, comments from the initial review of the Grand Traverse County Soil Erosion and Sedimentation Control Department related to the slopes on the site are referenced. Subsequent discussions between our office and the Erosion Control Officer who wrote the letter made it clear that his office has no issue with the proposed project and did not see any potential problems with obtaining the necessary erosion control permits to build the homes as shown on the sloped area of the site plan. He indicated that the language used in the letter was intended to make it clear that the construction of homes on lots with sloping terrain would likely require individual erosion control permits and assurances that soil would be stabilized following disturbance. Furthermore, the slopes present on this site are similar to slopes on developed properties throughout northern Michigan and are, truthfully, not that steep. In areas where homes are proposed on sloping land, there are generally between 7' and 13' of grade change across the width of the building. These conditions are ideal for providing walkout basements and are frequently built upon in Peninsula Township and across the region.

Findings of Fact

The following Findings and responses are related to the "Findings Which Would Result in This Standard Not Being Met" for each item referenced.

2.1.a Finding i.

The Board finds that the proposed development includes grading and development of steep slopes located on the property and as depicted on land map no. 6 of the Peninsula Township Master Plan. The Board further finds that the development of the steep slopes would require significant grading, particularly with the development of units along the eastern portion of Vineyard Hill Ct., lined up in a design which will change both the existing and intended character of the area in the vicinity as well as the essential character of the area surrounding this development. (Exhibits 1, 7)

The proposed grading and development on the slopes of this property are consistent with development that occurs throughout Peninsula Township and northern Michigan. The slopes through the middle of the site are ideal for walkout basements and the locations of the units to the east of Vineyard Hill Court were chosen for this very reason. The Township's slope map referenced above indicated that slopes through the middle of the site are generally in the 12%-18% range. For reference, an ADA compliant accessible ramp can have an 8.3% slope.

Furthermore, the Grand Traverse County Soil Erosion and Sedimentation Control (SESC) office has given its preliminary approval of the proposed development as a whole, and each individual unit within the project will need an SESC Permit determination time of development. Based on the County's SESC Permitting standards, any site with over a 10% slope requires a SESC Permit prior to site disturbance taking place. This process ensures that the development of each of the Vineyard Ridge units in the areas concerned will necessitate individual SESC permits and will be required to meet the standards of the County SESC department.

2.1.b Finding i.

The Board finds that the location of residential units on the steep slopes area of the property and the required grading to develop these site condominium units and the road would not constitute a substantial improvement to the property in the immediate vicinity as such grading at the intensity proposed provides no improvements to other properties in the immediate vicinity or the community as a whole given the goal of preserving steep slopes within the township. (Exhibits 1, 3, 7)

By this measure, any development of the site at all could be seen as detrimental to properties in the immediate vicinity, and one cannot only compare the proposed development with the conditions of the untouched property when considering if proposed natural resource preservation is sufficient to meet the standards of the Ordinance. A use-by-right plat of this property would yield similar, if not more extreme, disturbance of the slopes and vegetation on site. When compared to this use-by-right scenario, the proposed project does constitute an improvement to the property in the immediate vicinity as it preserves 65% of the site as open space, maintains a 90' buffer between any site improvements and adjoining properties, and increases tax base by maximizing density.

2.3.f Finding i.

The Board finds that regardless of the fact that the proposed development is a PUD, the development, as presented, has site condominium units as well as a portion of the road servicing them located in some of the steeper slope areas on the parcel. In addition, the Board finds that the

plan calls for the removal of a substantial amount of trees in order to accommodate grading and earth work for the project. As such, the Board finds that the plan as presented does not preserve the natural resources on the property to the maximum feasible extent. (Exhibits 1, 2, 3, 7, 8)

Again, one cannot only compare the proposed development with the conditions of the untouched property when considering if proposed natural resource preservation is sufficient to meet the standards of the Ordinance. A use-by-right plat of this property would yield similar, if not more extreme, disturbance of the slopes and vegetation on site. Additionally, the preservation of the site's natural features, specifically the existing vegetation, is proposed in the areas where it does the greatest benefit to the surrounding property owners. The 90' buffer provides visual and physical distance between existing homes and the proposed residential units, substantially limiting potential impacts of the proposed development on its neighbors.

2.3.k Finding i.

The Board finds that regardless of the fact that the proposed development is a PUD, the development, as presented, has site condominium units as well as a portion of the road servicing them located in some of the steeper slope areas on the parcel. In addition, the Board finds that the plan calls for the removal of a significant portion of the tree cover on the property in order to accommodate grading and earth work for the project. As such, the Board finds that the plan as presented does not preserve the natural resources on the property to the maximum feasible extent. (Exhibits 1, 2, 3, 7, 8)

Please see the above responses to 2.1.b Finding i. and 2.3.f Finding i.

2.3.s Finding i.

The Board finds that regardless of the fact that the proposed development is a PUD, the development, as presented, has site condominium units as well as a portion of the road servicing them located in some of the steeper slope areas on the parcel. In addition, the Board finds that the plan calls for the removal of a substantial amount of trees on the property in order to accommodate grading and earth work for the project. The Board further finds that the development as presented is not in accord with the spirit and purpose of the zoning ordinance with respect to preservation of the natural landscapes and features of property in Peninsula Township sought in the zoning ordinance. (Exhibits 1, 2, 3, 7, 8)

Please see the above responses to 2.1.b Finding i. and 2.3.f Finding i.

3.1.a Finding i.

The Board finds that the proposed open space is inclusive of areas that are traditionally utilized as side and rear yards in a residential development and are therefore not a substantial preservation of open space for common use. (Exhibit 2, 3)

Simply put, Section 8.3.3(6) of the Ordinance allows the areas outside of the building envelopes and roadways to be considered open space. Even if the proposed development included traditional lots with side, rear, and front yards, that yard space could be counted as open space according to the ordinance.

3.1.a Finding ii.

The Board finds that the development, as presented, has site condominium units as well as a portion of the road servicing them located in some of the steeper slope areas on the parcel. In addition, the Board finds that the plan calls for the removal of a substantial amount of trees on the property in order to accommodate grading and earth work for the project. The Board further finds that the development as presented is not in accord with the spirit and purpose of the zoning ordinance with respect to preservation of the natural landscapes and features of property in Peninsula Township sought in the zoning ordinance. (Exhibit 1, 2, 3, 7, 8)

Please see the above responses to 2.1.b Finding i. and 2.3.f Finding i.

3.1.b Finding i.

Please see the above response to 3.1.a Finding i.

3.1.c Finding i.

The Board finds that under section 6.5.A.1 of the zoning ordinance that the purpose behind planned unit development for residential districts is to allow the planned development of areas of the township where conventional development practices are suitable to the terrain. The Board finds that some of the more intensely developed portions of this development are located on the steep slope areas where the majority of the trees are located. The Board is mindful of the other forms of development that this property may be put to under the regulations in the zoning ordinance, but given that the proposal develops significant portions of the property with respect to terrain and natural environmental conditions the Board finds that the PUD is not an improvement over what is allowed with respect to conventional development in the R-1C zoning district. (Exhibits 1, 2, 3, 7, 8)

The proposed PUD doesn't only need to follow the land use requirements of the Ordinance, but must also meet the standards of MDOT, the County Road Commission, the County DPW, the County SESC office, the Township Fire Department, and other regulatory agencies. Given the number of standards and regulations that apply to a project of this type, this proposal is innovative and creative in that it significantly limits the impacts of the proposed development on the adjacent properties and maximizes the efficient use of municipal utilities by providing additional density.

3.1.f Finding i.

The Board finds that the proposed development does not effectively cluster the residential units and in fact the open space is inclusive of areas that are traditionally utilized as side and rear yards in a residential development. (Exhibits 1, 2, 3)

It has been determined by the property owners that it is time for this property to develop and the proposed PUD represents a way in which the development potential of the property can be met within the confines of the Ordinance and other regulatory agency standards while still providing 65% open space and a 90' buffer between proposed units and adjacent properties. Also see the above response to 3.1.a Finding i.