

Packet Addition

May 23, 2024,

Planning Commission Special Meeting

Draft Minutes

May 7, 2024

**Planning Commission Special Meeting -
Site Visit to Peninsula Shores**

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322

PENINSULA TOWNSHIP PLANNING COMMISSION

SPECIAL MEETING MINUTES – SITE VISIT

PENINSULA SHORES DEVELOPMENT, WATERS EDGE DRIVE, TRAVERSE CITY MI 49686

May 7th, 2024

5:30 p.m.

1. **Call to Order:** n/a
2. **Pledge:** n/a
3. **Roll Call:** Present: Alexander, Hall, Hornberger, Beard, Shipman; Excused: Shanafelt; Not Present: Dloski; Also present: Jenn Cram, Director of Planning and Zoning, Kyle O’Grady, Applicant/Property Owner for Peninsula Shores; Remotely: Shaina LaFond, Recording Secretary
4. **Approve Agenda:** n/a
5. **Brief Citizen Comments:** n/a
6. **Conflict of Interest:** n/a
7. **Consent Agenda:** n/a
8. **Business:**
 - a. **Site Visit for Special Use Permit (SUP) #123 Peninsula Shores PUD, Amendment #5**
Members of the Planning Commission met with applicant/property owner, Kyle O’Grady, to review amendment #5 on site. O’Grady walked the development with members and noted property corners and building envelopes. O’Grady also indicated trees flagged for possible removal should the requested amendment be met with approval.
9. **Reports and Updates:** n/a
10. **Public Comments:** n/a
11. **Other Matters or Comments:** n/a
12. **Adjournment:** at 6:20 p.m. by consensus

Peninsula Shores PUD Revised Findings of Fact

Peninsula Township Planning & Zoning Department
13235 Center Road
Traverse City, MI 49686

Special Use Permit (SUP)/Planned Unit Development (PUD) Amendment
FINDINGS OF FACT AND CONDITIONS
SUP #123, Amendment #5 - Peninsula Shores (Formerly The 81) PUD Condominium Subdivision
May 23, 2024

PENINSULA TOWNSHIP PLANNING COMMISSION

Applicant: The 81 Development Company, LLC
Kevin and Kyle O’Grady, Owners

Hearing Date(s): Planning Commission: April 2, 2024 (Introduction),
Planning Commission: May 23, 2024 (Public Hearing)

Township Board: TBD

PROPERTY DESCRIPTION

Parcel ID#: 28-11-609-001-00 through 28-11-609-041-00 and 28-11-609-900-00
Total Acreage: ~81-acres
Property Address: Waters Edge Drive and Shoreline Court
Zoning: R-1A – Rural and Hillside Residential & R-1B - Coastal Zone Residential
Adjacent Zoning: R-1A – Rural and Hillside Residential to the north and west (northwest corner = A-1 – Agricultural), R-1B - Coastal Zone Residential to the south and East Grand Traverse Bay to the east

Water: Individual Wells
Sewage Disposal: Community Septic Facility and Individual On-site Septic Systems
Access: Water’s Edge Drive via Boursaw Road

INTRODUCTION AND BACKGROUND

On August 11, 2015, the Township Board approved an application for a Special Use Permit (SUP #123) for a Planned Unit Development (PUD) to build a 41-unit residential condominium development with 65% private open space located off Boursaw Road. The approval was subject to ten conditions of approval. Subsequent court proceedings led to another project approval pursuant to action taken by the Township Board on January 23, 2018. This review and approval were specific to grading, soil erosion and storm water plans, and an emergency access road only. There were two additional conditions of approval added to the original approval from 2015.

On September 10, 2019, the Township Board approved the first amendment to SUP #123 that included shifting the private road (currently Shoreline Court) to the west that enlarged Units 5-9, adjusting the lot widths of Units 1-9 to be more uniform, eliminating the landscaped area along the private road to enlarge Units 4 and 10, reducing the lot size of Units 11-28 along the easterly side to meet the 65% open space requirement, and realigning the emergency access to the south.

On May 10, 2022, the Township Board approved the third amendment to SUP #123 that included relocating Unit 1 from the southeast corner of the development to the northwest corner of the development, removing Parcel A from the SUP/PUD eliminating a steep lakefront access, modifying a sanitary easement for Unit 6 and lot line adjustments to Units 38-41.

The 81 Development Company has submitted an application and supporting materials attached as **(EXHIBIT 1)** to amend the approved SUP #123 that will amend the configuration of the approved PUD. This will be the fifth amendment, as the second amendment was withdrawn, and the fourth amendment is currently pending before the board and will likely be officially withdrawn. The current request for Amendment #5 is summarized below.

- Maintain 41 Units
- Increase open space from 65% to 66%
- Add approximately .75 acres of open space to center of development
- Improve this open space with outcroppings, ornamental trees and plantings
- Relocate Unit 1, 11, 12
- Realignment of Units 13, 14, 15, 30, 41

FINDINGS - SECTION 8.1.3 (1) GENERAL STANDARDS

General Standards: *The Town Board shall review each application for the purpose of determining that each proposed use meets the following standards, and in addition, shall find adequate evidence that each use on the proposed location will:*

- (a) **Be designed, constructed, operated and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the area in which it is proposed.***

The underlying zoning of the development is R-1A – Rural and Hillside Residential and R-1B – Coastal Zone Residential. Both zone districts allow for single-family residential uses and approval of a Planned Unit Development via a Special Use Permit per Sections 6.2.4. and 6.3.2. of the Peninsula Township Zoning Ordinance.

The surrounding area is also zoned and developed similarly (R-1A and R-1B) with the property adjacent to the northwest corner being zoned A-1-Agricultural that allows for residential development to support agriculture. Thus, the intended character of the approved PUD and surrounding area is predominately residential in nature.

The Peninsula Shores Planned Unit Development (PUD) was approved for 41 single-family residential units with 65% open space. The requested amendment does not increase the proposed density of the development and increases the amount of the development that will be used as private open space. Thus, the proposed use of the property for single-family residences does not change as a result of the requested amendments to modify the configuration of the PUD.

The PUD process allows for flexibility in the physical development pattern in exchange for preserving open space. Had the property utilized the standard land division process the total

density allowed on the ~81 acres were estimated at 55 units with no requirement to preserve any open space. Per Section 8.3.2. one of the objectives of a PUD is to cluster the location of residential uses. As such, the approved development generally clustered the 41 residential units around the perimeter of a large tract of open space located centrally on the property. Open space was also maintained along the eastern side of the property to preserve an area of steep shoreline. The proposed relocation and reconfiguration of the 41 units of development remain clustered around the open space.

There is currently a 30 foot PUD buffer to the northern property line. Unit 11 proposes a 15 foot setback from the northern (rear) property line. Both the R-1A and R-1B zone districts require a 30 foot rear setback. A condition of approval has been proposed to increase the setback from 15 feet to 30 feet. There will then be a 60 foot buffer from future homes to the northern property line. The applicant has also planted a double row of evergreen trees within the northern 30-feet to provide a buffer to adjacent residences to the north.

The appearance of the PUD will not change as viewed from the water or surrounding area as the elevation of any proposed residence will be similar to the surrounding area based on the approved grading plan. The high point in the northwest corner of the property and at the cul-de-sac at the end of Trevor Road is roughly at the elevation of 765. Any proposed residence will be consistent in elevation to the surrounding area. A condition of approval is included that no fill shall be used when siting the new residences and the finished floor elevation of the proposed residences shall be no greater than two feet above existing natural grade. The intent of this condition of approval is to site any new residences into the existing topography and not have a residence that towers over the other residences in the area.

Staff finds that the proposed amendments as summarized above are harmonious and appropriate in appearance with the existing character of the general vicinity because single-family residential uses are allowed in the area and currently developed. Furthermore, the larger blocks of open space are still preserved and enhanced. A generous buffer between compatible residential uses has also been **established as part of the approval for Amendment #3.**

(b) Not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to property in the immediate vicinity and to the community as a whole.

The proposed amendments will not change the overall character of the previously approved PUD. Therefore, the proposed amendments would not be hazardous or disturbing to existing or future uses in the same general vicinity, as a residential use adjacent to another residential use is compatible.

The approval of the PUD allowed for the development of 41 residential units with the preservation of 65% open space. The density of residential development within the approved PUD does not change and therefore the intensity of the residential uses within the development remains the same. No additional disturbance is anticipated other than what is standard for the construction of one single-family residence.

A thorough soil analysis was conducted as part of the original approval process and air monitoring was performed by a third-party consultant during the initial site grading for the development. Staff asked the consultant Roger Mawby, PE of Otwell Mawby PC during the review of Amendment #3 if they anticipated that normal construction of a single-family residence would present any additional concerns and received the following response. *"Regarding construction of a single-family residence, if normal dust suppression and storm water management practices are instituted, they should be effective in preventing soil/dust from leaving the construction site. Dust suppression and storm water management were the techniques utilized in the mass grading phase of the development. Opacity testing and perimeter air monitoring testing completed during construction indicated that these methods were effective in managing particulates from leaving the property."* Staff has included a condition of approval that a Land Use Permit be obtained prior to construction of any new residences within the PUD that covers standard permitting for dust suppression, soil erosion and storm water management.

Section 8.3.2. encourages developers to use a more creative and imaginative approach in the development of residential areas. Relocating Units 11 and 12 to the northwest corner preserves a view to the bay from Boursaw Road. Relocating Unit 1 to the south creates two smaller lots that will result in two smaller homes rather than one large home. The amendments also result in a more desirable and usable open space area for the development. In addition, the total open space preserved increases from 65% to 66%.

Staff finds that the proposed amendments will not be hazardous or disturbing to existing or future uses, as the area allows for residential development and has been developed with single-family residences. The spirit and intent of the original approval is also maintained with residential units clustered around larger tracts of open space. Furthermore, the amendments are a substantial improvement as they preserve a view to the bay for the entire community to enjoy and increase the total percentage of open space for the benefit of the entire development.

- (c) Be served adequately by essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools.***

Staff finds that the proposed amendments to the SUP/PUD will not materially change essential facilities and services, such as highways, streets, police, fire protection, drainage structures, refuse disposal, water and sewage facilities, or schools, as previously defined in the original PUD approval.

- (d) Not create excessive additional requirements at public cost for public facilities and services.***

Staff finds that the proposed amendments to the approved SUP/PUD will not create any additional requirements at public cost for public facilities and services.

- (e) Not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors.***

Staff finds that the proposed amendments to the approved PUD will not involve uses, activities, processes, materials, and equipment or conditions of operation that will be detrimental to any persons, property, or the general welfare by fumes, glare or odors. Nor is it anticipated that there will be any negative impacts from particulates leaving the property with proper dust suppression and storm water management practices that are required as part of the issuance of a land use permit for each individual residential unit to be constructed within the development.

FINDINGS - SECTION 8.1.3(3) SPECIFIC REQUIREMENTS:

Specific Requirements: *In reviewing an impact assessment and site plan, the Town Board and the Planning Commission shall consider the following standards:*

- (a) ***That the applicant may legally apply for site plan review.*** The 81 Development Company as the property owner and developer/applicant may legally apply for an amendment to the SUP and PUD to amend the site plan.
- (b) ***That all required information has been provided.*** Staff finds that the application for the requested amendments to be complete.
- (c) ***That the proposed development conforms to all regulations of the zoning district in which it is located.*** Staff finds that all existing approved uses and proposed amendments conform to the requirements of the R-1A and R-1B zone districts. Staff also finds that the requested amendments conform to the requirements associated with a PUD per Section 8.3 as discussed in detail below.

- (d) ***That the plan meets the requirements of Peninsula Township for fire and police protection, water supply, sewage disposal or treatment, storm drainage and other public facilities and services.*** Staff finds that the proposed amendments to the development conform to the requirements associated with a PUD per Section 8.3. There are no changes proposed that will impact fire and police protection, water supply, storm drainage or other public facilities and services.
- (e) ***That the plan meets the standards of other governmental agencies where applicable, and that the approval of these agencies has been obtained or is assured.*** Staff finds that the proposed amendments to the SUP/PUD meet requirements or standards of other governmental agencies consistent with the original approval and subsequent amendments.
- (f) ***That natural resources will be preserved to a maximum feasible extent, and that areas to be left undisturbed during construction shall be so located on the site plan and at the site per se.*** Staff finds that the proposed amendments do not negatively impact prior approvals with respect to natural resource preservation. The open space for the development continues to meet the 65% requirement. The proposed relocation of Units improves the open space within the development and creates another view to the bay from a public road.

Few mature trees will be removed as a result of the relocation and configuration of lots. The applicant has planted a buffer of evergreen trees along the northern property line as well to improve the character of the area. (Moved from (k)).

- (g) ***That the proposed development property respects flood ways and flood plains on or in the vicinity of the subject property.*** Staff finds that the proposed plan amendments do not impact flood ways and flood plains.
- (h) ***That the soil conditions are suitable for excavation and site preparation, and that organic, wet or other soils which are not suitable for development will either be undisturbed or modified in an acceptable manner.*** Staff finds that the proposed amendments do not impact prior approvals with respect to soil suitability.
- (i) ***That the proposed development will not cause soil erosion or sedimentation problems.*** Staff finds that the proposed amendments do not negatively impact prior approvals with respect to soil erosion or sedimentation. A condition of approval is proposed that requires that the applicant receive a Land Use Permit prior to construction that covers these items.
- (j) ***That the drainage plan for the proposed development is adequate to handle anticipated stormwater runoff, and will not cause undue runoff onto neighboring property or overloading of water courses in the area.*** Staff finds that the proposed amendments do not negatively impact prior approvals with respect to stormwater. Again, a condition of approval has been proposed that requires that the applicant receive a Land Use Permit prior to construction of single-family residences that covers storm water management. The Township Engineer has reviewed the stormwater control plan and found it to be satisfactory.

- (k) ***That grading or filling will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties.*** Staff finds that the proposed amendments will not destroy the character of the property or the surrounding area, and will not adversely affect the adjacent or neighboring properties with regard to grading and filling. The underlying zoning allows for residential uses and the PUD as approved allowed for 41 residential units within the development. Construction of a single-family residence is normal for areas that allow for residential uses. A condition of approval is proposed that notes that no fill will be allowed and sets a reasonable finished floor elevation with existing natural grade.
- (l) ***That structures, landscaping, landfills or other land uses will not disrupt air drainage systems necessary for agricultural uses.*** Staff finds that the proposed amendments will not disrupt air drainage systems necessary for agricultural uses.
- (m) ***That phases of development are in a logical sequence, so that any one phase will not depend upon a subsequent phase for adequate access, public utility service, drainage or erosion control.*** Staff finds that the proposed amendments will not impact any project phasing.
- (n) ***That the plan provides for the proper expansion of existing facilities such as public streets, drainage systems and water sewage facilities.*** Staff finds that the proposed amendments will not change plans to expand existing facilities such as public streets, drainage systems and water sewage facilities.
- (o) ***That landscaping, fences or walls may be required by the Town Board and Planning Commission in pursuance of the objectives of this Ordinance.*** Staff finds that the proposed amendments will not change any requirements for fences or walls.
- (p) ***That parking layout will not adversely affect the flow of traffic within the site, or to and from the adjacent streets.*** Staff finds that the proposed amendments will not adversely affect the flow of traffic within the site, or to and from adjacent streets.
- (q) ***That vehicular and pedestrian traffic within the site, and in relation to streets and sidewalks serving the site, shall be safe and convenient.*** Staff finds that the proposed amendments will not change vehicular and pedestrian traffic flow within the development.
- (r) ***That outdoor storage of garbage and refuse is contained, screened from view and located so as not to be a nuisance to the subject property or neighboring properties.*** Staff finds that the proposed amendments will not change plans for addressing outdoor storage of garbage and refuse.

- (s) ***That the proposed site is in accord with the spirit and purpose of this Ordinance and not inconsistent with, or contrary to, the objectives sought to be accomplished by this Ordinance and the principles of sound planning.*** Staff finds that the proposed amendments are in accordance with the spirit and purpose of this Ordinance and past approvals of the SUP/PUD.

SECTION 8.3 PLANNED UNIT DEVELOPMENTS

FINDINGS – 8.3.2 OBJECTIVES

The following objectives shall be considered in reviewing any application for a special use permit for planned unit development.

1. ***To provide a more desirable living environment by preserving the natural character of open fields, stand of trees, steep slopes, brooks, ponds, lake shore, hills, and similar natural assets.*** Staff finds that the proposed amendments do not change the initial determination that the project creates a desirable living environment by preserving the natural character of open fields, stand of trees, steep slopes, brooks, ponds, lake shore, hills, and similar natural assets. This is accomplished by clustering the residential development sites around large tracts of open space that exceeds the 65% requirement (66%).
2. ***To provide open space options.*** Staff finds that the proposed amendments increase the amount of open space being preserved. The relocation of Units 11 and 12 improves open space within the development and a view to the bay. Proposed amendments require the removal of a few mature trees.
3. ***To encourage developers to use a more creative and imaginative approach in the development of residential areas.*** Staff finds that the proposed amendments do not change the initial determination that the development offers a more creative and imaginative approach in the development of residential areas. Furthermore, the open space within the development is improved, and the clustering of residential development sites around larger tracts of open space is maintained. The overall density allowed by the approved PUD is less than what could have been achieved using the standard land division process. Proposed amendments do not increase density.
4. ***To provide for more efficient and aesthetic use of open areas by allowing the developer to reduce development costs through the by-passing of natural obstacles in the residential project.*** Staff finds that the proposed plan amendments do not change the initial determination that the development offers a more efficient and aesthetic use of open areas. Staff further finds that the proposed amendments are a substantial improvement to the designated open space as the size of the open space is increased for the benefit of the entire development and preserves a view to the bay.
5. ***To encourage variety in the physical development pattern of the Township by providing a mixture of housing types.*** Staff finds that the proposed amendments do not change the initial determination that the development offers a variety in the physical development patterns. Forty-one residential units were approved with 65% open space where 55 units with no associated open space could have been developed under the Land Division Act.

6. ***To provide for the retention of farmland by locating the allowed number of housing units on the agricultural parcels of land in clusters which are suitable for residential use and keep the remaining agricultural land in production or fallow and available for production.*** Staff finds that the proposed amendments do not change the initial determination that the development locates the allowed number of housing units on the residentially zoned property in clusters which are suitable for residential use and keeps the remaining open space protected from development with residential uses. The 41 units are clustered around two large tracts of open space.

FINDINGS – 8.3.3 QUALIFYING CONDITIONS

Any application for a special use permit shall meet the following conditions to qualify for consideration as planned unit development:

1. ***The planned unit development project shall not be less than twenty (20) acres in area, shall be under the control of one owner or group of owners, and shall be capable of being planned and developed as one integral unit.*** Staff finds that the development area is still far more than 20 acres in size at ~81 acres.
2. ***The planned unit development project shall be located within a Residential or Agricultural District, or a combination of the above Districts.*** Staff finds that the development area remains residential (R-1A and R1-B) and has an approved PUD that allows the development of 41 residential units by virtue of past approvals.
3. ***Water and waste disposal shall comply with the Township Master Plan and be approved by Grand Traverse County or State of Michigan requirements.*** Staff finds that the proposed amendments do not change past approvals of water and waste disposal systems.
4. ***The proposed density of the planned unit development shall be no greater than if the project were developed with the lot area requirements of the particular zone district or districts in which it is located subject to the provisions of Section 8.1. except as provided by Section 8.3.5 (1).*** Forty-one units were approved and 41 units still exist as a result of requested amendments. Approximately 55 units could have been developed using the standard land division process with no requirement for open space. Staff finds that the proposed amendments do not change past determinations of equivalent density.
5. ***Open space shall be provided according to Section 8.3.6.*** Staff finds that the proposed plan amendments positively change the open space configuration such that a larger tract of open space is provided on the east side of the development that preserves a view to the bay.
6. ***For purposes of this Section 8.3, Open Space does not include building envelopes, parking lots and roads (roadbed width plus two (2) foot shoulders on each side).*** Staff finds that the proposed amendments do not include building envelopes, parking lots and roads within the designated 66% open space.
7. ***The proposed planned unit development shall meet all of the standards and requirements outlined in this Section 8.3 and also Section 8.1. and Article VII.*** Staff finds

that the proposed amendments do not change prior determinations that the proposed planned unit development meets the standards and requirements outlined in Section 8.3, Section 8.1. and Article VII.

COMPLIANCE WITH GOVERNMENTAL REGULATIONS:

The petitioner shall comply with all state, county, township and other governmental regulations relative to the establishment for property zoned R-1A – Rural and Hillside Residential and R-1B – Coastal Zone Residential, with the above permitted use(s) on site as approved by the PUD, which includes meeting the requirements of the Michigan Department of Transportation (MDOT), the Grand Traverse County Drain Commissioner (GTDCDC), the Grand Traverse County Road Commission (GTCRC), and the Grand Traverse County Health Department (GTCHD). Zoning compliance is based on the governing special land use document, approved site plan, and Articles 6 and 8 of the Peninsula Township Zoning Ordinance.

APPROVAL CONDITIONS AND SAFEGUARDS:

Conditions and Safeguards: The Township Board may require such additional conditions and safeguards deemed necessary for the general welfare, for the protection of individual property rights, and for ensuring that the intent and objectives of the ordinance will be observed. The breach of any condition, safeguard, or requirement shall automatically invalidate the permit granted. Specific conditions include:

1. All prior findings, conditions and safeguards imposed by the Circuit Court and the Peninsula Township Board of Trustees that apply to this amendment remain in effect.
2. **The PUD Site Plan shall be revised to delineate a thirty (30) foot setback from the northern property line for Unit 11.**
3. Approval of a Land Use Permit is required prior to any construction of residential units within the development. Such Land Use Permit will include review and approval of dust suppression, storm water management, soil erosion control, and Grand Traverse County Environmental Health requirements.
4. No fill shall be placed on Units 11, 12, 1 and 41. The single-family residences shall be sited to utilize the existing topography of the lots. The finished floor elevation of the residences shall be no greater than two feet above existing natural grade on each lot.
5. The Master Deed shall be updated to be consistent with the approved amendments.

COMMENCEMENT AND COMPLETION

The commencement and completion of special land uses are governed by Section 8.1.2(5) of the Peninsula Township Zoning Ordinance. Violations of the special land use and accompanying site plan are enforceable and remedies available under Section 4.2 of the zoning ordinance.

RECOMMENDATION:

Staff recommends that the Planning Commission recommend approval of the Peninsula Shores PUD, SUP #123, Amendment #5 to the board based on the Findings of Fact and four conditions of approval.

SUGGESTED MOTION:

I move that we the Planning Commission recommend approval of the Peninsula Shores PUD, SUP #123, Amendment #5 to the board based on the Findings of Fact and four conditions of approval.

EXHIBITS:

- 1. Original Application Materials + Additional Materials Provided by the Applicant since Introduction
- 2. Engineering and Fire Department Comments
- 3. Public Comments

EFFECTIVE DATE OF SPECIAL LAND USE:

The special land use permit for the Peninsula Shores PUD, SUP #123, Amendment #5 shall be effective when the application has been approved by the Peninsula Township Board of Trustees, subject to the above conditions. The board approves by a vote of:

AYES	_____
NAYS	_____
ABSTAINING	_____
ABSENT	_____

The undersigned hereby certifies that she is the clerk for the township of Peninsula, Grand Traverse County, Michigan, and that the foregoing special use permit was approved by the Peninsula Township Board of Trustees on _____.

The undersigned further certifies that a quorum was present at said meeting and that said meeting complied with all applicable laws and regulations.

Rebecca Chown, Peninsula Township Clerk

Approved by the Peninsula Township Board on _____

Isaiah Wunsch, Peninsula Township Supervisor

THIS PERMIT SHALL BE ATTACHED TO THE SITE PLAN AND BECOME A PART THEREOF.

I hereby acknowledge that I have received a true copy of the special land use permit and I have been informed of said requirements of this special land use permit and of the requirements of the Peninsula Township Zoning Ordinance.

The 81 Development Company, LLC
Kyle O'Grady
901 S Garfield, Suite 202,
Traverse City, MI 49686