

PENINSULA TOWNSHIP
13235 Center Road, Traverse City, MI 49686
Phone 231.223.7322
Planning Commission Regular Meeting

March 21, 2022, 7:00 p.m.

1. Call to Order: 7:00 p.m. by Shipman

2. Pledge

3. Roll Call:

Present: Shipman, Hall, Dloski, Alexander, Couture, Hornberger; absent: Wunsch;
also present: Planner-Jenn Cram, Attorney-Greg Meihn via phone, and Recording Secretary-Beth Chan

4. Approve Agenda:

Moved by Hornberger to approve agenda as presented, seconded by Alexander

approved by consensus

5. Brief Citizen Comments (for agenda items only):

Craig Haddox, 4150 Trevor Road: wanted to talk about the open space.

The township has been unwilling to provide me with information on the current open space calculations and backup information. From what I do have, I believe that the total square footage of open space in Peninsula Shores will decrease if this amendment is approved. I also believe that the Gourdie-Fraser December 17, 2021 letter, which is still part of this application, incorrectly states, the current open space figures, I am referring to the open space calculations for the original SUP as it was previously amended. My question to the planner is the total square footage of the open space for this development, will it be reduced by this amendment, will it be increased, or will it remain the same?

Cram: It's generally about the same at sixty-five percent with a fraction of a tenth or so.

The open space information was provided to you and everyone else in the packet. I asked the applicant to provide all of the open space calculations from the original approval, from the first amendment, and from this amendment to show how open space was calculated. Gourdie-Fraser has confirmed them; I have also reviewed them. The application with proposed amendments still meets the requirement for sixty-five percent.

Haddox: That is not my question. Is the total square footage of open space increasing or decreasing or remaining the same? I note that in your findings of fact, you initially have that it was increasing but today you edited that and took it out.

Cram: Pointed out an error in the staff report pages nine and ten that was (actually) from another project; I had used a previous planner's staff report as a template, and realized that information was incorrect. The planning commission was aware of the changes and it has been included in a packet addition for the public record. The open space calculation with this proposed amendment is increasing slightly at 54.26 acres.

Haddox: I am asking in square footage because when you round in acres, that can make a difference.

Cram: The square footage is 2,363,410.99 square feet.

Haddox: asked about the square footage for the approval, as amended by the first amendment that was approved.

Cram: the first amendment was 54.08 acres and 65.45%, and the third amendment as proposed, is 54.26 acres. There is a slight increase in tenths.

Haddox: if you could go back to the figures you have for the open space, as amended, as in effect now, can you look at the total acres in the Gourdie-Fraser letter?

Cram: I understand that Gourdie-Fraser's calculations were incorrect which was at the beginning of the introduction of this project; since then, additional analysis and research have been conducted. The information presented in the packet is accurate.

Haddox: I am still not convinced. I had asked at the January meeting for information for the calculations currently in effect, and I have not yet received that despite several requests.

Cram: all open space calculations are included in the packet.

Haddox: I will take another look at that and let you know if it is not there.

Cram: it was provided to everybody equally as part of the public record.

Holly Hillyer, Olson, Bzdok, and Howard, 420 East Front Street: here on behalf of the Lewis family and their cottage. We respect the staff's efforts to prepare the draft findings of fact regarding the Peninsula Shores amendment. We disagree that the developers met the criteria that are established in the zoning ordinance for the proposed amendment. In particular section 8.1.3 (1)(B) requires the planning commission to determine that there is adequate evidence in the record that each proposed use on the proposed location will not be hazardous or disturbing to existing or future uses in the same general vicinity and will be a substantial improvement to the property in the immediate vicinity and to the community as a whole. The proposed amendment does not meet this requirement. The developer has not demonstrated that relocating lot one would be a substantial improvement. It is certainly not demonstrated that it would be a substantial improvement to the property to the community as a whole and we have presented ample evidence to the contrary. We have presented evidence that there would be negative impacts to the viewshed, negative impacts to homeowners in the area like Mr. Haddox. You would have the view impacted by the subsequent construction of the new home, increased traffic noise, and light pollution. Staff's findings are silent on this question of whether or not there will be a substantial improvement. There is no room for silence in this. It is your responsibility as a planning commission to apply the criteria and your zoning ordinance to the facts before you as they are written. The language that is not convenient to the developer can't be ignored, There's no ambiguity in that language. It is clear that the requirement that the proposed amendment be a substantial improvement applies to the community as a whole, not just the residents of the development. So, for the reasons that we provided in the previous comments and testimony, the proposed amendment also does not meet the criteria in Section 8.3 (1)(a) or (f), and we have provided some proposed findings for you to rely on. If you choose to find that this proposed amendment does not meet the criteria in the zoning ordinance, there are detailed explanations there, that will support your decision and again this is your decision to make. You have the authority and the responsibility to read your zoning ordinance and apply it to the proposed amendment in front of you. The language is clear that the proposed amendment does not meet those criteria, thank you.

6. Conflict of Interest: None

7. Consent Agenda:

a. Approval of Meeting Minutes: Planning Commission Regular Meeting February 28, 2022

Cram: Craig Haddox has submitted written comments that are to be attached to the February 28, 2022 minutes.

Moved by Couture to approve consent agenda, as amended, with an attachment to the minutes, seconded by Hall approved by consensus

8. Reports and Updates:

a. Citizens' Agricultural Advisory Committee (Cram)

Cram: summarized the recent activity of the Citizens' Agricultural Advisory Committee. The committee meets on the second and fourth Thursdays of the month. This Thursday's meeting will have a speaker from Michigan State University Extension to speak about farm markets and GAAMPS. The committee has completed a thorough review of roadside stands and a comparison of the existing winery chateau ordinance with farm processing and remote wine tasting. Meetings will continue through April and will result in a recommendation to the Planning Commission on Policy direction for future updates to the Zoning Ordinance. The goal is to have the amendments completed by July 1, 2022.

Discussion

b. Master Plan Draft Update (Cram)

Cram: the master plan has been provided to the neighboring municipalities and agencies within a three-mile radius of the township. The sixty-three-day period for comments has been met. Comments were received from the public but no comments were received from the municipalities. Minor changes will be made; it will be available for planning commission review (April/May) and then it will move forward to the township board.

c. PDR Ordinance Re-write

Cram: reviewed the progress of the PDR Study Group for PDR Ordinance #23, amendment #3. The study group is working through revisions necessary to address comments from the assessor and treasurer's offices. The adoption has been tabled to the April 12, 2022, township board meeting. The planning commission provides input on the document but the adoption is by the township board which is the legislative body.

d. Bella Vue SUP #137 (Cram)

Cram: regarding Bella Vue special use permit #137, is approximately a four-acre property. It did not meet the requirements to go through the PUD process due to the minimum of twenty acres. However, the township board was open to allowing it to go through the process if we could get a better outcome, thus, preserving open space and minimizing on-site septic systems, etc. The project came before you for an introduction, but additional information was requested with regard to soil testing. The applicant has completed that but they have started to remove trees on the property. The board would like to evaluate that to see if they have invalidated their ability to move forward with the PUD process. We have requested their arborist report as to why the trees were removed. The zoning administrator and I have done a site visit and tree removal was observed. Some of the trees that were removed were diseased, but some were healthy trees. We want to get a good understanding of the extent of the tree removal. We have requested additional information from the applicant. Once received, it will be scheduled to come back for review and input.

Dloski: Does the township have a tree removal ordinance?

Cram: we do not, I think it is something that would be beneficial to talk about in the future, especially in light of our recent experiences with looking at the extent of tree removal in relation to an approved grading plan. If we had a requirement for a tree or forest plan with sizes, then we would have an idea of how extensive grading is and how this impacts trees.

Discussion

9. Business:

a. Peninsula Shores Special Use Permit (SUP)- Planned Unit Development (PUD) #123 Amendment #3-Findings of Fact and Conditions

Cram: presented the staff report with findings of fact and recommended conditions included in the packet. I do want to note that in the packet addition, there were some amendments to pages nine and ten due to the use of an older template. She presented a PowerPoint summarizing the Peninsula Shores Special Use Permit (SUP)- Planned Unit Development (PUD) #123 Amendment #3-Findings of Fact and Conditions. The updated parcel numbers are provided since the SUP and PUD were approved. There were originally two parcels, they were combined during the PUD process and reconfigured into 41 residential sites and then the open space also received a parcel number.

Hall: asked for clarification of the design of the home being built, would it be similar to the homes already constructed?

Cram: it would be different due to the slope, the home would be required to meet the zoning ordinance, not more than 2 ½ stories or thirty-five feet.

Hornberger: Could there be a lower-level walkout from the back of the building?

Cram: looking at the topography, there could be a daylight situation below the finished floor built into the existing topography.

Shipman: asked for clarification of two feet.

Cram: according to Gourdie-Fraser, and the applicant, it allows for standard foundation framing, but still keeps it consistent with the natural grade of the property. The residential zoning would allow for two and a half stories or a maximum of thirty-five feet. Showed the side-by-side comparison: with the PUD as approved with the forty-one units and sixty-five percent open space versus fifty-five units of development with no open space that could have been developed. Continued PowerPoint presentation. Letters of support as well as letters of opposition were received and are included in the packet. Staff finds that the requested amendments meet all standards of section 8.3 as discussed in the staff report on pages seven through nine. Staff does recommend that the planning commission recommend approval of the requested amendments to Peninsula Shores Special Use Permit (SUP)- Planned Unit Development (PUD) #123 Amendment #3 with the four conditions of approval on page ten.

Conditions and Safeguards: The 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 remain in effect.
2. 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 stormwater management, soil erosion control, Grand Traverse County Environmental Health requirements.

3. No fill shall be placed on Unit 1. The finished floor elevation of the residence on Unit 1 shall be no greater than two feet above the existing grade elevation of approximately 765.

4. The Master Deed shall be updated to be consistent with the approved amendments.

Shipman: Regarding the tree buffer and the landscape plan that was referenced, is it included in the conditions?

Cram: assumed it was part of the staff report in the public record that it was understood, but will include it as an additional condition of approval to make sure that the landscape plan (six evergreen trees to be planted within that thirty feet) is included.

Kyle O'Grady, representing Peninsula Shores: appreciates the presentation, looking to move forward with the approval. The development has been held to high standards.

Hall: can you comply with the two feet above the existing grade?

O'Grady: yes

Discussion of Peninsula Shores Special Use Permit (SUP)- Planned Unit Development (PUD) #123 Amendment #3

Moved by Couture that the planning commission deny the application Peninsula Shores Special Use Permit (SUP)- Planned Unit Development (PUD) #123 Amendment #3 to the township board, seconded by Hornberger

Roll call: Hall-no, Shipman-no, Hornberger-no, Dloski-no, Alexander-yes, Couture-yes

Motion failed.

Moved by Dloski that the planning commission recommend approval of the Peninsula Shores Planned Unit Development (PUD) #123 Amendment #3 to the township board of trustees that is subject to the March 21, 2022 staff report containing finding of fact, recommendations, and approval conditions, and also adding two conditions to the four conditions on page ten: there would be a sale or extinguishment of the ten-foot easement from the existing lot one now to East Bay and second, there be a landscaping buffer consisting of at least two rows of mature evergreens planted eight to ten-feet on center, seconded by Hornberger.

Roll call: Hall-yes, Alexander-yes, Shipman-yes, Hornberger-yes, Dloski-yes, Couture-no

Motion passed 5-1.

Shipman: This discussion points to some of the weaknesses in our process and in our zoning ordinance. There are lessons to be learned here. We need specifics so we are not looking for interpretations. This amendment process has brought up questions.

Discussion

10. Public Comments: None

O'Grady: appreciates the efforts of the planning commission

11. Other Matters or Comments by Planning Commission Members:

Hornberger: We need to look at this ordinance and how it can be less ambiguous.

Discussion

12. Adjournment:

Moved by Dloski to adjourn, seconded by Couture

approved by consensus

Adjournment at 8:40 p.m.

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686

Ph: 231.223.7322 Fax: 231.223.7117

www.peninsulatownship.com

PENINSULA SHORES PUD SUP #123, AMENDMENT #3

PLANNING COMMISSION: MARCH 21, 2022
FINDINGS OF FACT AND CONDITIONS

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

Peninsula Shores PUD

Parcel ID: 28-11-609-001-00 through 28-111-609-041-00 and 28-11-609-900-00

Total Acreage: ~82-acres

Property Address: Boursaw Road

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 (w/ NW 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 Road via Boursaw Road



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

**Approved 41 units with 65%
open space.**



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

**Possible 55 units with
standard Land Division.**

No open space preserved.

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

History:

- August 11, 2015: SUP #123 **approved a 41 unit condominium subdivision w 65% open space** w Findings of Fact and 10 conditions of approval.
- October 25, 2017: Findings of Fact for SUP #123 related to: 1. an emergency access road and 2. soil erosion, grading and storm water.
- January 23, 2018: Findings of Fact and 19 additional conditions added to the original approval that addressed an emergency access road, soil erosion, grading and storm water.

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

Request:

- 1. Relocate Unit 1 from the south end of the development along Boursaw Road, to the north end of the development.**
- 2. Remove Parcel A from the SUP. Parcel A is the lakefront access for the existing Unit 1 location along Boursaw Road.**
- 3. Modify a sanitary easement on Unit 6.**
- 4. Adjust lot lines of Units 38-41.**

PENINSULA TOWNSHIP

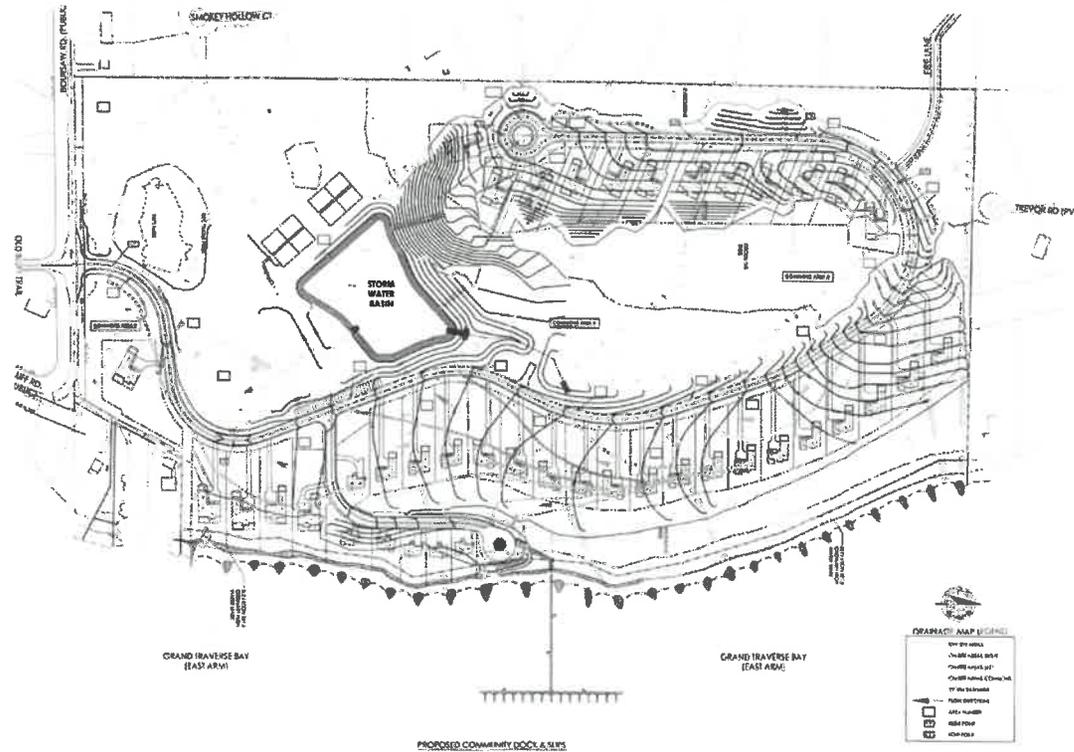
13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com



**Aerial of existing conditions w proposed request
(provided by Mansfield Land Use Consultants)**

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com



Approved Grading Plan dated 3-22-2018

PENINSULA TOWNSHIP

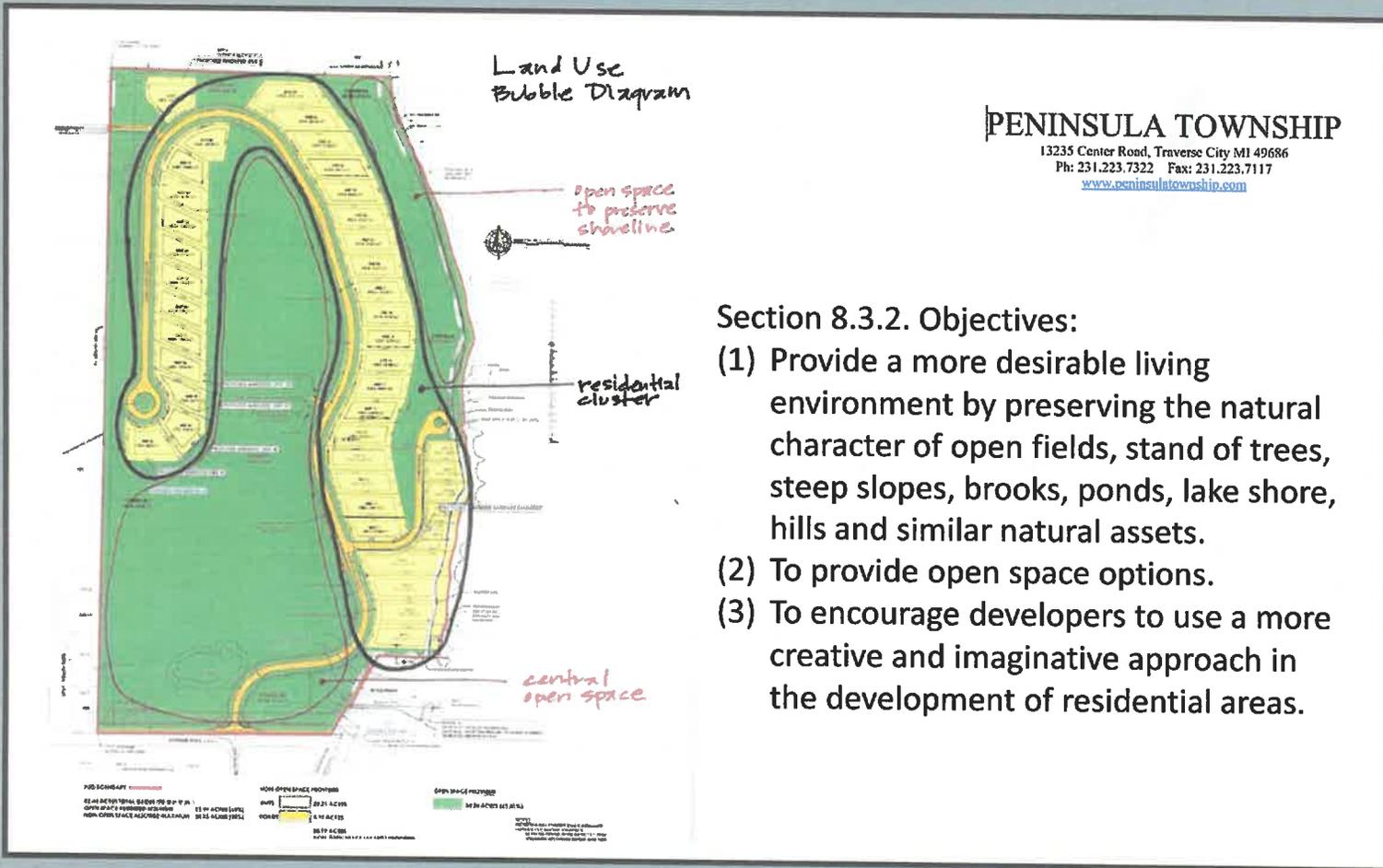
13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

- Grading was monitored by Gourdie Fraser for compliance with approved grading plan.
- In addition, Land Use Permits issued for individual sites for residential development, including storm water management, soil erosion control and permits from the Grand Traverse County Environmental Health Department.
- Soil analysis was conducted by a 3rd party (Otwell Mawby, PC (OMPC))
- Air monitoring was conducted during grading with no indicators of off-site contamination.

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.pensulatownship.com

- Underlying Zoning = R-1A – Rural and Hillside and R-1B – Coastal Zone
(**Note: underlying zoning does not change as a result of a PUD/SUP approval**)
- Total acreage = ~82.44 acres
- Total Open Space proposed = 54.26 acres (65.81%)



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

Section 7.2.6 Supplemental Setbacks for Planned Unit Developments, Mobile Home Parks and Other Group Housing Developments: In as much as planned unit developments may involve higher densities of land use, or building types may distinctly differ from the single-family, conventionally-built dwellings which predominate the Township, periphery setbacks for such developments are established.

- (2) All buildings including **single-family dwellings within a PUD shall be placed at least thirty (30) feet from any development boundary line** which is not public right-of-way.

PENINSULA TOWNSHIP

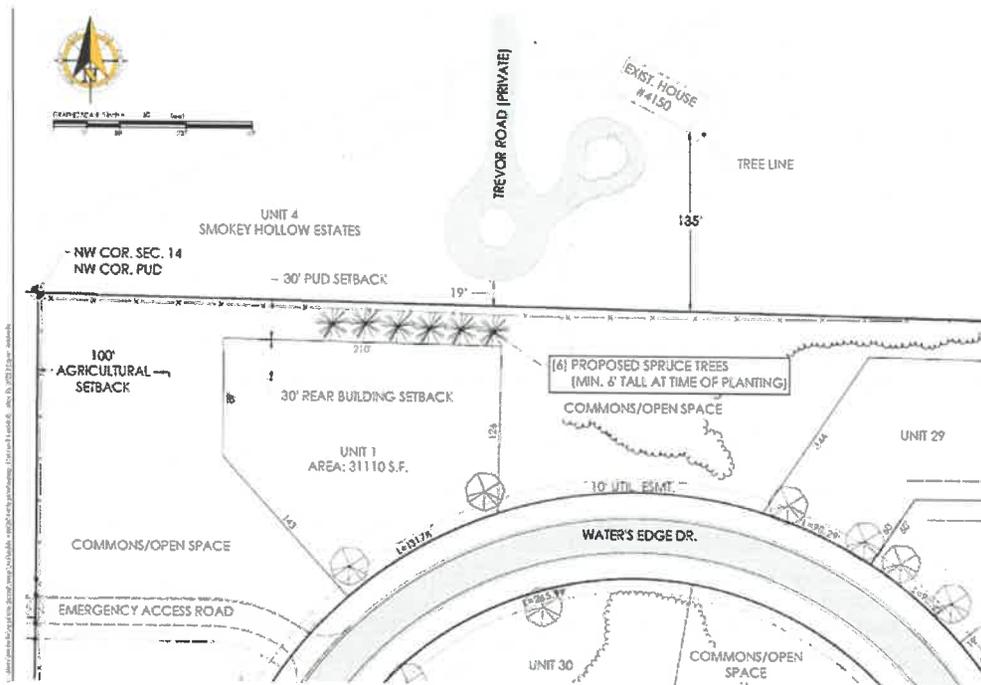
13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

Section 8.3.6 Open Space: The Township Board shall utilize one of the following four options for dedication of the provided open space:

- (1) Open Space Dedicated for Private Use: A residential planned unit development with a minimum of 65% of the net acreage kept as open space and owned by the Home Owners Association or Condominium Association. That open space land shall be set aside as common land for the **sole benefit, use and enjoyment of present and future lot or home owners within the development.**

PENINSULA TOWNSHIP

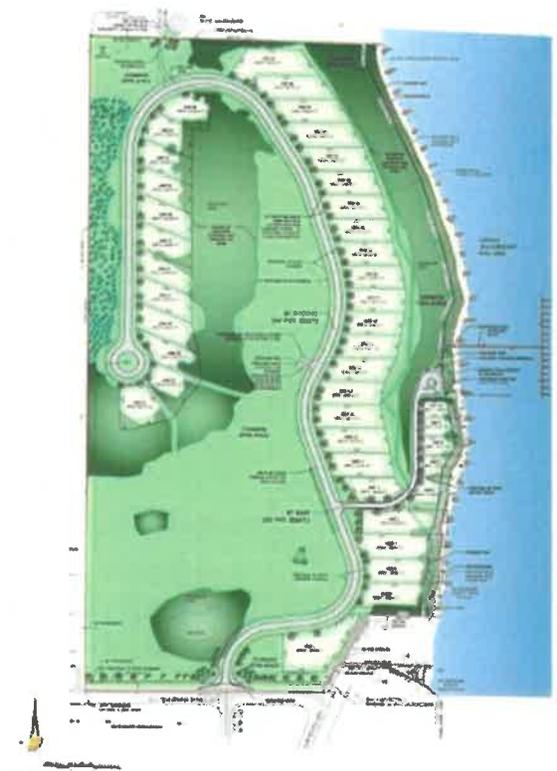
13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com



Landscape Plan showing 30-foot PUD setback + 30-foot setback from property line to building envelope



55 unit potential w MI Land Division Act



41 units approved w 65% open space

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com



1. View looking northeast at entrance to PUD



2. View from existing Unit 1/Preserved Open Space

3. Views looking east from existing Unit 1/ Preserved Open Space



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

- 1. View looking east from proposed Unit 1**
- 2. View looking southeast from proposed Unit 1**
- 3. View looking south from proposed Unit 1**
- 4. View looking southwest from proposed Unit 1**



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

- 1. View looking north from proposed Unit 1**
- 2. View looking east from Trevor Road (4150 sits above Trevor Road)**
- 3. View looking south from Trevor Road**
- 4. View looking west from Trevor Road**



PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

Approved 41 units with 65%
open space.

Findings and Recommendation:

PENINSULA TOWNSHIP

13235 Center Road, Traverse City MI 49686
Ph: 231.223.7322 Fax: 231.223.7117
www.peninsulatownship.com

- Staff finds that the requested amendments meet all standards of Section 8.1.3 (1) General Standards for an amendment to an SUP as discussed in the staff report on Pages 2-5.
- Staff finds that the requested amendments meet all standards of Section 8.1.3 (3) Specific Standards for an amendment to an SUP as discussed in the staff report on Pages 5-7.
- Staff finds that the requested amendments meet all standards of Section 8.3 Planned Unit Developments as discussed in the staff report on Pages 7-9.
- Staff recommends that the Planning Commission recommend approval of the requested amendments to the Peninsula Shores PUD, SUP #123, Amendment #3 with the 4 conditions of approval on Page 10 of the staff report.