

**OSHEMO CHARTER TOWNSHIP  
PLANNING COMMISSION WORK SESSION**

**MINUTES OF A PLANNING COMMITTEE WORK SESSION HELD MARCH 22, 2018**

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**Agenda**

**DISCUSSION OF ZONING ORDINANCE RE-ORGANIZATION**

- a. Agriculture and Residential Districts**
  - b. Conditional Land Uses**
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A work session of the Oshtemo Charter Township Planning Commission was held on Thursday, March 22, 2018, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

ALL MEMBERS WERE PRESENT:           Cheri Bell, Chairperson  
  Fred Antosz  
  Ollie Chambers  
  Dusty Farmer, Secretary  
  Micki Maxwell  
  Mary Smith  
  Bruce VanderWeele, Vice Chairperson

Also present were Julie Johnston, Planning Director, James Porter, Attorney, and three interested persons.

**Discussion of Zoning Ordinance Re-Organization**

Ms. Johnston stated she thought the best approach to working through the changes was to begin with the Districts and discuss the uses that would be permitted, permitted with conditions, or permitted as a special land use. She referenced the documents provided that included the recommended changes to the Agricultural and Residential Districts of the Zoning Ordinance. The first two documents were the districts themselves, providing the district information as it is currently found in the Township's Zoning Ordinance and the new Ordinance format. The existing ordinance document has strike-through language, with some new red language. However, because there was so much recommended new language, staff thought the review would be easier to manage under the new ordinance format, so the second document shows only new language.

The Planning Commission began with the Agricultural and Rural Residential Districts. A handful of new uses were discussed, including camp grounds, retreat centers, co-ops for artists, geo-thermal energy, and auxiliary dwelling units. Much of the

discussion was centered around Agri-businesses and Agri-tainment type uses; where they could be located, what types of uses would be allowed, etc.

A recommendation was made that definitions of new uses be provided to help the Planning Commission understand the nature of the use and to facilitate discussions about which districts the use would be allowed.

The Planning Commission work session ended at approximately 6:56 p.m.

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION MEETING**

**MINUTES OF A PLANNING COMMISSION MEETING HELD MARCH 22, 2018**

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**Agenda**

**PUBLIC HEARING: ZONING ORDINANCE AMENDMENTS  
CONSIDERATION OF DRAFT ZONING ORDINANCE AMENDMENT TO INCLUDE  
NEW SECTION 61.000 RESIDENTIAL CONDOMINIUM DEVELOPMENT  
STANDARDS.**

**ANY OTHER BUSINESS**

**a. Continuation of Work Session Discussion – Residential Districts**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, March 22, 2018, commencing at approximately 7:05 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson  
Fred Antosz  
Ollie Chambers  
Micki Maxwell  
Mary Smith  
Dusty Farmer, Secretary  
MEMBER ABSENT: Bruce VanderWeele, Vice Chairperson

Also present were Julie Johnston, Planning Director, James Porter, Attorney, Martha Coash, Meeting Transcriptionist, and approximately ten interested persons.

**Call to Order**

The meeting was called to order by Chairperson Bell at approximately 7:05 p.m.

## **Pledge of Allegiance**

Chairperson Bell led those in attendance in reciting the Pledge of Allegiance.

## **Approval of the Agenda**

Chairperson Bell asked if there were any additions or deletions to the agenda.

Ms. Johnston requested the agenda be revised to include an opportunity for Staff comments after the agenda was approved.

Mr. Antosz made a motion to add a "Staff Comments" item to the agenda as requested. Ms. Farmer seconded the motion. The motion was approved unanimously.

## **Staff Comments**

Ms. Johnston said she wanted to clarify information provided in a post card sent to residents of the LaSalle plat area and explained the Planning Commission was not reviewing any new site development in their area, but rather new ordinance language to help regulate 2, 3 and 4 unit attached projects in zones R-2, R-3 and R-4. Currently, the only site requirements for these types of developments is that they must be connected to public water and sewer.

The current ordinance does not address things like providing sidewalks, roads, open space, buildings limited to a certain height, etc. for individual projects and the goal is to see that will occur in the future. She explained density of zoning will not change.

Ms. Johnston noted the Commission has been working on this Ordinance since November of 2017.

She stressed the Planning Commission would not be reviewing any new developments at this meeting. No new site plans or building permits were requested or approved in this area.

Ms. Johnston pointed out that there is a site plan for the Emberly Acres development that was approved in 1998. Two of the eight buildings were constructed but the project was never completed. A new property owner has approached the Township about completing the project, but to date no building permits have been issued. This project has a total of 23 units, approximately 3.8 dwelling units per acre, within the density requirements of the draft Ordinance being proposed.

Ms. Johnston said the Commission would welcome comments from those in attendance but wanted to assure them no new development would be discussed at the meeting.

Ms. Farmer added the Township did not send the postcard to residents and does not know who did. The result had been frustrating to both office staff who fielded

questions and to those residents who were alarmed. She said she appreciated so many people attending the meeting to have their concerns and questions answered.

### **Public Comment on Non-Agenda Items**

There were no public comments on non-agenda items.

### **Approval of the Minutes of March 8, 2018**

Chairperson Bell asked if there were additions, deletions or corrections to the Minutes of March 8, 2018. Hearing none, she asked for motion for approval.

Mr. Chambers made a motion to approve the minutes of March 8, 2018 as presented. Mr. Antosz seconded the motion. The motion was approved unanimously.

### **PUBLIC HEARING: ZONING ORDINANCE AMENDMENTS CONSIDERATION OF DRAFT ZONING ORDINANCE AMENDMENT TO INCLUDE NEW SECTION 61.000 RESIDENTIAL CONDOMINIUM DEVELOPMENT STANDARDS.**

Chairperson Bell asked Ms. Johnston for her presentation.

Ms. Johnston said from the Planning Commission's last review, staff included specific language related to density requirements within the permitted Zoning Districts. This is the only new language since the previous review by the Planning Commission on February 22<sup>nd</sup>.

Currently, there are no standards for the development of an attached condominium product outside of a planned unit development in the Township's Zoning Ordinance. Staff does not believe it was the intent of the Zoning Ordinance to preclude this type of development outside of a PUD or platted subdivision or site condominium. This is especially true since the R-2 District allows two-family dwellings by right and the R-3 District allows three and four-family as a special exception use. In addition, the Condominium Act, Public Act 59 of 1978 establishes this type of development as a legitimate option for both developers and homeowners.

Utilizing language from the existing development standards for apartments and site condominiums, this new ordinance requires any attached condominium development to request approval through the special exception use process so a public hearing with the Planning Commission would be required.

She noted since the draft language was distributed, Staff believed the following addition should be included as 61.000, #8:

*61.000 8: Master Deeds and Bylaws. Language shall be included in the master deed and bylaws indicating that common elements are to be properly and adequately maintained and that failure to do so will permit the Township to intervene, make the*

*necessary improvements and ensure adequate maintenance, through an assessment to the property owners.*

She recommended the Planning Commission forward a recommendation of approval for the proposed Residential Condominium Development Standards ordinance to the Township Board.

Chairperson Bell thanked Ms. Johnston for her report and asked whether there were comments from anyone in attendance.

Mr. Douglas Post, representing Emberly Acres Home Owner's Association, read a statement into the record, which is attached. He provided copies of his statement to Commissioners.

Hearing no further comments, Chairperson Bell moved to Board Deliberations.

Ms. Farmer said although the Commission does not provide an opportunity for dialog, she felt it would be helpful to respond to some of the points made in Mr. Post's statement.

Attorney Porter noted attached condominiums can be developed in R-2 currently.

Ms. Farmer referred to the word "erroneously" in Mr. Porter's comments referring to development density. Ms. Johnston noted Mr. Post had based his calculations on density using the number of buildings rather than the number of units.

Attorney Porter explained there was a hole in the ordinance and these changes were intended to fix it. The problem actually came to light in another location in the Township, rather than in Emberly Acres.

Ms. Farmer noted building setbacks are not missing from the proposed language; they are listed separately in the ordinance.

In response to comments about circumventing the public process for a private road instead of a public road, Ms. Farmer said that does not apply here because the new ordinance also requires a public hearing for special exception use and site plan approval.

Ms. Johnston agreed and said that a private drive could be requested as part of a site plan, but that the Planning Commission can say no to such a request under the special exception use regulations if it does not make sense.

Ms. Farmer said there has been no circumvention and that she was glad they had the opportunity to go through Mr. Post's concerns and explain what they are doing.

Ms. Johnston said the proposed changes were presented in November, posted at a public meeting, tabled until January, discussed in January and February and set for this public hearing in March.

She clarified the 10% open space requirement is dedicated open space upon which nothing could ever be developed and that the language states at least 10% must be retained for this purpose.

Chairperson Bell indicated her support for this well thought out and developed amendment in conjunction with the timing for doing the Zoning update.

Ms. Farmer noted the Planning Commission will be working on zoning ordinance reorganization each month at their second meeting of the month at 6:00, and that people are welcome to attend.

Ms. Farmer made a motion to recommend approval of the draft Zoning Ordinance Amendment to include new section 61.000 Residential Condominium Development Standards as presented with the addition of the language proposed for 61.000 #8 to the Township Board. Mr. Antosz seconded the motion. The motion was approved unanimously.

### **Old Business**

None.

### **Any Other Business**

#### **a. Continuation of Work Session Discussion- Residential Districts**

It was the group's consensus to postpone this discussion.

### **PLANNING COMMISSIONER COMMENTS**

Ms. Johnston informed the Board the Township Board approved the Master Plan update, which will be incorporated in the main Master Plan to become one document. Everyone was pleased their hard work resulted in this outcome.

### **ADJOURNMENT**

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Bell adjourned the meeting at approximately 8:08 p.m.

Minutes prepared: March 24, 2018

Minutes approved: April 12, 2018

# PROPOSED CONDOMINIUM ZONING ORDINANCE AMENDMENTS

## DISCUSSION POINTS

I represent Emberly Acres Home Owner's Association, which is a small condominium development located off 3<sup>th</sup> Street at Glendora Lane. The LaSalle Plat, as well as, Emberly Acres is negatively affected by this proposed change.

In our opinion, the proposed Amendment is proceeding recklessly without enough time for public input or for the Planning Commission's full consideration of the negative impacts it could produce to surrounding land uses. The reason this is being pushed forward is for the benefit of one entity at the expense of the community.

The issues we take with the proposed Amendment apply only to the R-2 District as follows:

- The R-2 District represents the single largest land mass outside of Rural Residential and Agricultural;
- The R-2 Districts abuts multiple R-1 Districts which will be negatively impacted with increased density immediately adjacent to their single family residences;
- There is no pressing need for this Amendment to be singled out and rushed thru the approval process., especially as there is currently a zoning ordinance re-organization already under way;
- This is disguised Spot Zoning. The normal process to increase density or number of units would be to provide direct mail notification to affected property owners abutting a R-2 District. This Amendment skirts that requirement and single family home owners could end up with a massive multi unit condominium development next door to them without notice;
- **ZONING DISTRICTS**
  - **SECTION 22.400** - Contrary to the proposed Amendment, nowhere does it say attached condominiums are permitted in the R-2 District. **(EXHIBIT 1)**
- **DEVELOPMENT REQUIREMENTS**
  - **DENSITY**
    - The proposed Amendment identifies that the R-2 District shall have the same dwelling units per acre as the R-3 District. This is contrary to how zoning works. Moving up thru Zoning Districts, like moving from an R-3 to an R-2, one would always find more restriction not the same hence the reason for different zoning Districts;
    - **SECTION 22.202** - The R-2 District permits private two-family dwellings defined as "a detached building containing two separate dwelling units" **SECTION 11.270**;
    - **SECTION 66.201** - defines density for each District. For a property serviced by Public Water and Sewer, density is 10,560SF for Single Family and 13,200SF for Two Family.
    - The Planning Department proposes that density shall be 4 dwelling units per acre which is erroneous as it was based on Single Family not Two Family ( $43,560\text{SF}/10,560=4.125$  Units/Acre) or 4 Dwelling Units/Acre;
    - The correct calculation for this District would be to utilize Two Family density ( $43,560/13,200=3.3$  Units/Acre) or 3 Dwelling Units/Acre;
- **BUILDING SETBACKS**
  - No language is included as to building setbacks or distance from one another.
- **INTERIOR TRANSPORTATION NETWORK**
  - The proposed Amendment seeks to circumvent the requirement of a Public Road in favor of a Private street or drive. Currently to put in a Private street one would need to go to the ZBA for a Special Exception Use which would require notice to adjacent landowners.

- o The problem with how the Amendment is constructed is it would permit a private road without notice to an adjacent landowner. If this interior drive is a connecting link between different land ownerships and not public then it would be possible for the Township to unintentionally create situations where easements to the private roads go unrecorded as is the case with Emberly Acres.
- o All roads should be Public to ensure they are maintained.
- o **SECTION 60.840(H)** Second Access/Emergency Access requires any private street serving 10 or more building sites shall have two means of ingress/egress, The proposed Amendment circumvents this established requirement
- OPEN SPACE
  - o The proposed Amendment sets a meager 10% as common open space. This might be OK for a site condo development, but for a traditional condo development it needs to be much higher. **SECTION 66.400** states no two-family dwelling shall occupy more than 30% of the ground area. A traditional condo development only owns part to part

In summary, it would be reckless to approve this Amendment without further vetting by the Public and the Planning Commission. It feels like this Amendment was just thrown together instead of surveying other communities that have an ordinance such as this already in place.

I respectfully request the Planning Commission table this to the current re-organization of the Zoning Ordinance rather than rush it forward to allow more time for Public Input and thoughtful consideration.