

**SUPERIOR CHARTER TOWNSHIP
PLANNING COMMISSION
JULY 22, 2015
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7-1 CALL TO ORDER**

Chairman Guenther called the regular meeting to order at 7:35 p.m.

7-2 ROLL CALL

The following members were present: Brennan, Findley, Gardner, Guenther, McGill, Phillips and Steele. Also present were Don Pennington and Rodney Nanney, Township Planners, Jacob Rushlow, Township Engineer and Rick Mayernik, Building/Zoning Administrator.

7-3 DETERMINATION OF QUORUM

A quorum was present.

7-4 ADOPTION OF AGENDA

A motion was made by Steele and supported by Gardner to adopt the agenda as presented. The motion carried.

7-5 APPROVAL OF MINUTES

A. MINUTES OF THE MAY 27, 2015 REGULAR MEETING

A motion was made by Brennan and supported by Gardner to approve the minutes as corrected. The motion carried.

7-6 CITIZEN PARTICIPATION

There was no Citizen Participation.

7-7 CORRESPONDENCE

A. Sutton Ridge Area Plan

1. Petition and supplemental comments from residents and property owners to *Vote "NO" on Proposed rezoning of Parcel #J-10-35-100-006 for Apartment Construction.*

A motion was made by Gardner and supported by Brennan to receive the petition. The motion carried.

2. Letter supporting the plan.

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A motion was made by Phillips and supported by Brennan to receive the letter. The motion carried.

3. Letters opposing the plan.

A motion was made by Gardner and supported by Brennan to receive the letters. The motion carried.

- B. Charter Township of Plymouth – Notice of the Distribution of the Adopted Master Plan for Land Use.

A motion was made by Brennan and supported by Phillips to receive the notice. The motion carried.

- C. Pittsfield Charter Township – Notice of Intent to Update Existing Master Plan.

A motion was made by Brennan and supported by Phillips to receive the notice. The motion carried.

7-8 PUBLIC HEARINGS, DELIBERATIONS AND ACTIONS

There were no Public Hearings.

7-9 REPORTS

- A. Ordinance Officer

A motion was made by Findley and supported by Brennan to receive the reports. The motion carried.

- B. Building Inspector

A motion was made by Steele and supported by Brennan to receive the reports. The motion carried.

- C. Zoning Administrator

A motion was made by Findley and supported by Brennan to receive the report. The motion carried.

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7-10 OLD BUSINESS

- A. STPC#15-02 Sutton Ridge Area Plan - Amendment to the Bromley Park Area Plan, a 127 single-story apartments on the 30.7 acre undeveloped portion of the Bromley Park Condominium community - Postponed from the May 27, 2015 meeting.

Guenther said the public hearing on the Sutton Ridge Area Plan was concluded at the May 27, 2015 Planning Commission meeting, however, he would permit additional public comments on a limited basis after the presentation by the applicant.

Kelli McIvor, representing the applicant Redwood Acquisition, presented additional information on the proposal. She began by stating that Redwood received unanimous approval from the Ypsilanti Township Board for a project in the Township. She said they addressed Ypsilanti Township's concern about the apartments becoming Section 8 rentals by including the prohibition of any government subsidies into the development agreement to the extent permitted by law. She said they also included a reference to the Ypsilanti Township's Property Maintenance Ordinance.

She noted that the Bromley Park Condominium Association does not prohibit the renting of units and does not require a credit check of anyone renting a unit. She said Redwood requires a credit check. She said Redwood's standard lease is more restrictive for residents than are the Bromley Park condominium rules. She said the lease restrictions demonstrate that Redwood is committed to creating a compatible land use.

Tyler Tennant, an attorney representing Redwood Acquisition, addressed the Planning Commission regarding his letter dated June 30, 2015 and included in the application materials. He said when the Bromley Park Development Agreement was signed, the Sutton Ridge site was identified as Phase 2 of Bromley Park Condominiums and was designated for future expansion. He said the Bromley Park Master Deed stated that the area of Phase 2 could be added into the master deed if done within a six year period which ended May 22, 2009. He said because the Master Deed was not amended for that purpose, the expansion area is not subject to Bromley Park Master Deed, the composite Deed or Bromley Park Bylaws. He said it is subject to the Bromley Park Development Agreement.

Tennant stated that none of the documents related to Bromley Park included restrictions on leasing and Bromley Park owners can lease their houses and

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condominiums. He said the proposed Sutton Ridge use is identical to approved use of the Bromley Park condominiums. He said the use does not vary because of ownership.

Tennant said the Bromley Park Development Agreement states that the only permitted principal use on the property is attached, single-family dwelling units. He said he talked to the Township's attorney Fred Lucas and referred to Mr. Lucas's letter dated July 8, 2015 and included in the Planning Commission packet. He said he disagreed with two of Mr. Lucas' points: 1) that the apartments are not permitted under the current development agreement and the agreement would have to be amended to permit them; and 2) that Sutton Ridge is subject to the Bromley Park Condominium Owners Association. Tennant said there is no difference between the condominium use and the apartment rental use. He said he disagreed that the Sutton Ridge project is subject to the Bromley Park Condominium Association. He said if he met with Mr. Lucas, they would probably come to an agreement on the issues.

McIvor said one of the concerns expressed at the previous meeting was the possibility that the units could be used for Section 8 housing to the extent permitted by law. She said Redwood would include in the development agreement a specific prohibition against using Section 8. She said Redwood would also include a reference to staying in compliance with the Superior Township Property Maintenance Code. She said Redwood is also prepared to make an annual contribution or a one-time payment for maintenance of the private roads.

Chairman Guenther opened the meeting for public comments.

Brian Burak, 9566 Glenhill, said he was concerned about a south side road connection. McIvor said the connection has been removed and replaced with a turn-around.

Tracy Pitt, 10175 E. Avondale asked the Planning Commission to put themselves in the shoes of Bromley Park residents. She said every homeowner bought their home with the expectation that the remaining lots would be developed with owner-occupied housing. She said Bromley Park residents are subject to rules the renters will not be subject to. She said it will be a recipe for disaster and there is no means to hold them to their promises. She suggested Redwood find another parcel in the Township that is not in the middle of an owner-occupied neighborhood.

Beth Gurkey, 9559 Glenhill asked if the applicants found examples of other Redwood communities nested within an owner-occupied community. McIvor

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said she found three and described them. Jennifer Swarup, 10161 E. Avondale asked if they were located in back of the communities. Leslie Hartig, 9783 Ravenshire, noted that because the project in Michigan has not been built, there is no information to show if it is compatible. McIvor said there are many Redwood communities that back up to single-family houses and there have been no problems.

There was a question about whether or not the request was a rezoning action and if the sign advertising the public hearing could be removed. Nanney explained that the area plan amendment process is a zoning process and must be approved by the Township Board. He said the sign should be removed.

Robert Choate, 9650 Wexford, said he was concerned about the two access points near the Bromley Park pool. He asked why they were putting the apartments so close to the condominiums when there is other land available.

Kathleen Hubbs, 1878 N. Kenwyck, said Kenwyck is a private road and she asked how other people could be stopped from using it.

Someone asked if Redwood was asked to build out the original condominium project. McIvor said Redwood is not a builder for hire so they would not accept such a proposal and none had been offered.

Victoria Evans, 10187 E. Avondale, said she is a realtor and that property values and condominium values in the area are increasing. She said there still is a chance that the Bromley Park Condominiums can be built out and the current owners will get the value from their property.

Someone in the audience said she attended the Township Board meeting on Monday night and heard the Township Supervisor remark that renters cause problems. She said the Township can do better.

Tracy Pitt, 10175 E. Avondale asked how the disagreement between the attorneys Mr. Lucas and Mr. Tennant is to be resolved. Guenther suggested that if the area plan is approved, the approval could be made subject to the amendment of the Bromley Park Development Agreement.

Someone in the audience asked about the utility path and who had the responsibility for maintaining it and securing it from trespassers. She asked if additional measures could be taken to barricade the path from public use so that the peace and safety of all residents is maintained. Phillips said the path belonged to the Township and was needed for access to sewer lines. He said it was not a part of Redwood's proposal.

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Karen Cant, 10245 Avondale asked about the results of Redwood's search for other developments near colleges. McIvor showed a table of results that indicated fourteen developments are within fifteen miles of a college. She said seven of the developments had no student renters; six had had 1% to 3 % student renters and one had 18% of its residents as medical or graduate students.

There were no additional public comments.

Nanney presented his *Area Plan Amendment* report dated July 16, 2015. He noted that the project has been reduced to 126 units and he referred to page 5 of the area plan report to describe the area plan approval process. He said the area plan defines the uses that are permitted on the site. He stopped explaining the area plan review and began reviewing his *Regulatory Flexibility Report*, dated July 16, 2015. He said the zoning ordinance allows an area plan to deviate from some of the regulations of the ordinance if the deviation will result in a higher quality development. He reviewed the deviations requested by Redwood. The deviations included: 1) Reduce the side to side distance between buildings from 28.25 feet to 24.25 feet; 2) Reduce the rear-to-rear building separation from 45 feet to 42 feet; 3) Allow access to be via private drives rather private or public streets; 4) Provide sidewalks on only one side of each drive; 5) Deviate from the 50-foot open space requirement along the short section along the Meadhurst Dr.; 6) Deviate from the 20-foot setback for areas not adjacent to roads; 7) Allow some vehicles to back out onto the drive, which is otherwise prohibited; 8) Deviate from the Design and Construction of Streets engineering standards.

Nanney recommended approving deviations #1 and #2 and a modified #5. He also recommended rejecting deviations #3, #4, #6, #7 and #8. He suggested the Planning Commission act on the deviation requests separately from the action on the area plan.

Returning to the *Area Plan Amendment* report, Nanney noted that the proposed open space meets the minimum 25% required by the zoning ordinance, however some recreational amenities will also be required. He noted that a copy of the apartment rules are published on the plan so they will become part of the governing documents.

Nanney concluded that the revised Sutton Ridge PC Area Plan dated 7-7-15 is substantially complete and is ready for Planning Commission review. He said the conceptual land use arrangement, range of dwelling units, and proposed

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dwelling unit density depicted on the area plan is generally acceptable, based upon applicable Master Plan policies and Zoning Ordinance standards.

Rushlow presented the OHM report dated July 15, 2015. He cited some information that must be provided on the plan and could be reviewed administratively.

Phillips asked how much the area plan would change if the Planning Commission approved only the deviations recommended in the Planner's report. Nanney said sidewalks would be required on both sides of the road and the buildings would have to be set back further from the road.

Steele noted the utility path was scheduled on the Bromley Park Area Plan to become a bike path. He said if it is not to be used as a bike path, it will also have to be modified on the plans.

Gardner said he appreciated the work Redwood had done in trying to meet the concerns of the Planning Commission and the community. He said there were still issues that had to be addressed. He said the first was financial fairness for the current Bromley Park residents. He said the development should not cause any financial burden of the current homeowners. Gardner also said the questions surrounding the development agreement needed to be resolved.

Guenther addressed comments to Attorney Tennant. He said the letter from Township Attorney Fred Lucas states that the development agreement runs with the land and includes the undeveloped Bromley Park Phase 2 parcel. He said the petitioners have a major amendment to the Bromley Park Development Agreement ahead of them. He said the issue is not leasing; it is whether or not the proposed use is compatible with the existing use. He said for example, the same use (residential) is allowed in both R-1 and R-7 zoning districts but they may not be compatible. He noted that the Planning Commission is reviewing the Sutton Ridge Area Plan because it is considered a Major Change from the approved Bromley Park Area Plan. He said the standards for considering a plan a Major Change include if there is a change in concept, in use, in character and/or a change in the type of dwelling unit. McIvor said she thought the decrease in density from the Bromley Park Area Plan was the reason the Sutton Ridge Area Plan was considered a Major Change.

Guenther said zoning provides some assurance of stability for the existing residents. He said it defeats their reasonable expectation of stability to have apartments built within the middle of the neighborhood. He said there are qualitative differences between leasing and owning a home such as a vested and non-vested interest. He said the Township does not have a mechanism to

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enforce the developer's good intentions. He said he would have no problem supporting the project if it were located somewhere else in the Township.

Phillips said he wanted to discuss the point about creating an unfair financial burden for the existing residents. He referred to the Bromley Park Homeowners Association, the Bromley Park Condominium Association and the Bromley Park Community Association. A comment was made from the audience about the quality of the apartments being less than the quality of the condominiums.

Findley said she appreciated the time Redwood spent in considering the Township's concerns and she said she too would support it if it were a stand-alone community. She said however, the Bromley Park residents were promised a condominium development. Redwood's attorney Tennant said the Township did not promise a condominium development. He said it is not a vested property right. Guenther said it may not be a promise per se but it is a reasonable expectation within the very same development.

Steele said he read the study presented by Redwood addressing the effect of rental housing on owner-occupied dwellings. He said the study concluded that there was no impact of renters on nearby home values. Tenant said it is the character of the occupant that can cause problems in any neighborhood. He said the zoning ordinance regulates residential uses and not the character of the occupants.

McGill asked how Redwood could guarantee that Sutton Ridge remains luxury apartments. He asked what would happen if Redwood has to reduce the standards. McIvor referred to the lease restrictions and said they will be memorialized in the area plan documents.

Steele said he read the planner's report and interprets it to mean that the proposed plan is compatible with the surrounding land uses. Guenther said he did not think it was within the purview of the planning consultant to determine compatibility. He said he could not support the plan based on the situations presented.

A motion was made by Findley and supported by Brennan to recommend denial of SPTC#15-02 Sutton Ridge Area Plan.

The Planning Commission discussed the need to re-negotiate the Bromley Park Development Agreement because of the references to a condominium development made throughout the agreement. Tennant agreed that the development agreement had to be amended. Phillips asked if Redwood would

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be willing to negotiate with the Bromley Park Condominium Association. Tennant said the Bromley Park Condominium Association does not have standing to enforce the development agreement against the expansion area. Gardner said he did not think a lot of effort should be made until the control of the development agreement is understood. He said the goal should be to reach a three party development agreement.

McIvor requested a postponement until the applicants could investigate the issues raised around the development agreement.

A motion was made by Findley and supported by Brennan to withdraw the motion to deny. The motion carried.

A motion was made by Phillips and supported by Gardner to continue the Planning Commission meeting past 11:00 p.m. The motion carried.

A motion was made by Phillips and supported by Steele to postpone action on STPC#15-02 Sutton Ridge Area Plan- Amendment to the Bromley Park Area Plan, at the petitioner's request, until the August 26, 2015 regular meeting, to allow the petitioner time to provide additional information and meet with the Township Attorney to clarify the process of amending the Bromley Park Development Agreement.

The motion carried with the following vote:

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| Yes: | Brennan, Findley, Gardner, Guenther, McGill, Phillips and Steele |
| No: | None |
| Absent: | None |
| Abstain: | None |

B. STPC#13-09 Master Plan Update – Technology Center Area Plan

Due to the late hour, discussion on the Master Plan Update was postponed until the August 26, 2015 meeting.

7-11 NEW BUSINESS

There was no New Business.

7-12 POLICY DISCUSSION

There was no Policy Discussion.

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7-13 ADJOURNMENT

A motion was made by Brennan and supported by Gardner to adjourn at 11:15 p.m. The motion carried.

Respectfully submitted,
David Phillips
Planning Commission Secretary

Deborah L. Kuehn
Recording Secretary
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