

BANKS TOWNSHIP PLANNING COMMISSION
PUBLIC HEARING and REGULAR MEETING MINUTES
HILLMAN HILLS ESTATES/DRENTH BROS, INC.: LANGE LIMITED LLC.:
February 14, 2002

CALL TO ORDER: 7:30 P.M, by Chairman Rudy Passehl

PRESENT: Sue Kessler, Vice Chair, Marv Rubingh, Marion Williams,
ABSENT: Nancy Ritsema

PUBLIC PRESENT: Mary Campbell, Joan Dennis, Jim LaBeau, Dan Barron, Florence Peterson, Barry Nelson, Michael Wolgamott, Vivian Wolgamott, Doug Seaney, Joe Nachazel, Yvonne Nachazel, Sue Swain, Ala Haley, Kent Robbins, Todd Ingalls, Debra Hughes, Kevin Heard, Mark & Jennifer Humble, Steve & Gail Drenth, Wayne Boss

The Public Hearing was opened at 7:35 by Chairman Rudy Passehl. Chairman Passehl stated the reason for the public hearing, which was for the purpose of hearing comments from the public on application # PC 01 02 from Drenth Bros, 9448 Six Mile Lake Road, Ellsworth, Michigan, to establish a site condominium, called Hillman Hills Estates, consisting of 15 lots of property ID 05-01-013-044-00 which is approximately 27 acres in size, located on the corner of Coeling Road and Hillman Road in Ellsworth.

FOR THE RECORD: all property owners located within 300 feet of the above property were notified by mail (letters mailed Jan. 30, 2002). Also, a notice of this public hearing was published in the Antrim County News on January 30, 2002, and posted at the Banks Township Hall on January 28, 2002.

Rudy stated the format of the procedure, and because a representative for the Drenth Bros. proposal was not present, opened up the floor for public comment.

Florence Peterson: I bought a lot on the corner of Hillman and Coeling, right across the street from the proposed development. When I bought it, (its on a hill), I could see the baseball diamond and the lake and the pond, and all that, and I thought, what a great place for a walk-out basement. NOT ANY MORE. With 15 condos right across the street, I will see 15 condos. Its a dirt road, a dead end road. Will that be paved? Well, those are my concerns--the paving, the taxes, the view.

Rudy: My understanding is that when people hear the term "site condo" --this does not mean there will be condominiums, the term is used for planned housing development

Alanna Haley stated that her property was "kitty-corner", the old Smalley place. We chose 17 acres with a rural character, and felt that the development would change the entire tone of the neighborhood in which we live. If we wanted that many houses that close together, we would probably live in town. From the East Jordan Road to my house, there are twelve neighbors. Is the aquifer big enough for the additional wells? If these units are condominiums, that implies summer people. As far as my goal for the community, I would rather see people that will stay here, have children that will go to our schools. Those are my concerns.

Rudy: Mr. Boss will make the presentation for the applicant.

Wayne: Drenth Bros has proposed a 15 unit Site Condominium. Site Condominium is like a sub-division. These will be individual homes. The term is a bit mis-construed. It is just another means of developing your property. It does not mean condominiums, so as far as renting your building, it doesn't happen. They propose to have the fifteen (15) units, with private roads. The reason they are going to private roads is that they can control the entire unit better. There is a requirement that with a site condominium that the association be formed, by state requirements. Once the association is formed, then they will be the one to take care of the roads. They will hire that done. Generally speaking, when the developer goes in, its their responsibility for the roads.

I also heard a question about the aquifer. There will be individual wells, individual septic. The soils are very good for that. There will be no problem whatsoever as far as the soils are concerned. There are a couple of the units (I'll refer to them as lots) -- There are a couple of lots that have some clay, but each lot itself has a good potential site for the septic system. As far as the aquifer is concerned, we won't be using the upper aquifer anyway. The pond by the ball field would be the upper aquifer. The Health Department would not allow us to use that anyway. They will have to go below that, and there is an impervious layer, and clay that offers protection for that aquifer. Any other questions that I can answer?

Alanna: what guarantee do we have that it is going to be "upscale?"

Wayne Boss: Again, the association that is formed by Drenths will make the requirements themselves. Their minimums are much greater than the minimums of the county. At first it will be composed of the Drenths themselves, but as time goes on, and more lots are developed, the association takes over, and they approve the houses that are allowed to go in. For an example, Jerroll and I discussed the fact that the roof pitch of 5/12 will be the minimum. I don't know if you're familiar with that, but even though we can not rule out modulars, 5/12 would not look like a trailer.

Florence: How will this affect our taxes?

Wayne: It won't affect your taxes at all.

Alanna: Ever since I moved here, I was told that the development would be divided into 7 lots. Now all of a sudden, its changed to 15 lots. It will change the entire tone of the neighborhood. It will be high density. The houses are spread far apart. From my house on, there are no houses that are that close together.

Florence: My lot is right across the street, and it is 4.3 acres. I'm only allowed to put one house on it. Why can't I put 15 on?

Wayne: you can get a site condominium plan.

Todd Ingalls: What about power? Who will provide it?

Wayne: Power is readily available. The electric will be underground.

Deb Hughes: there might be a real need for Senior Housing. I want to ask what the price point is.

Wayne: I can only speculate, because I'm not the developer. It is my guess that these lots would be in the \$25-40,000 range. We talked about a minimum square footage of 1200 sq ft, but again, that's not my decision.

Mark Humble: Seems like 14 or 1500 would be better.

Alanna: We don't know what the parameters of the houses are.

Wayne: What is it you don't understand? One of the things that is necessary to remember is the township and the county has minimums. That is the lowest that you can go. Anything above that is a plus. Not to be argumentative, but it is still their decision.

Kevin Heard: How long have Drenths been a part of this community ?

Wayne: I moved to Charlevoix in 1973, and they've been here a whole lot longer than tha

Kevin: Generally, they've done well for the community

Wayne: Without question. I don't know if you're aware, but the bulk of the area down here, Drenths are donating to the village for park area. Now, how many other people would give up that land to the village? They are being very generous to the community. They aren't going to do anything that will be detrimental to this community. People who know them will realize that.

Doug Seaney: I have a question for the Board. How can you approve or disapprove this development not knowing the specifications?

Rudy: the specifications have to meet county minimums. Under a Planned Unit Development, there are certain parameters that have to be followed under the Ordinance. When we go through the site plan, and the ordinance as it applies to special approval in this case, as long as they can meet the requirements, under 8.01, and 8.03, unless there are extenuating circumstances according to the Zoning Ordinances, you can't deny the request or the application. We can request additional requirements to the site plan. There are minimums that have to be met.

Wayne: Anything over and above that is more restrictive. The Homeowners Association will be much more restrictive than any minimums the county has.

Rudy: We can make requests to the site plan that are reasonable.

Todd: are there restrictions on each unit as far as setback

Wayne: Yes, but they fall within the zoning 35 ft on the front, side is 10, 25 on the back.

Rudy: Okay, any more questions?

Doug Seaney: What are some of those extenuating circumstances you mentioned?

Rudy: As we review the site plan requirements—that's the process we're about to get into now—if they do not meet the site plan requirements, then the Board has the option of denying the request or asking that they adhere to the site plan requirements. We can't place additional requirements that are not mandated by the zoning ordinance.

Deb Hughes: so you are effectively exempting them from the current zoning ordinance:?

Rudy: This is in the current zoning.

Deb: there are already zoning applications to properties that exist, and so do the plans for these developments override them?

Marv: this is what Rudy read earlier, and I will read it again:(4.23) So you are correct. It's allowing more flexibility and more design than what the zoning requirements would be.

Deb: So are those defined--the Unplanned and unregulated?

Marv: Yes, that's the criteria we have to go over. We'd have to go through several pages to read them all to you.

Rudy: We'll be going through them as we go through the approval process.

Public Comment portion was closed at 8:00 P.M.

Chairman Rudy Passehl read Section 7.01, which deals with SITE PLAN REVIEW.

FINDINGS OF FACT UNDER ARTICLE VII, Section 2, subsections a, b, d, e, f, g, h, i, k, l, n, the planning commission finds that the applicant is in compliance. As to subsection c, the request was made that in the spring, when weather allows, a more definitive building envelope be defined. As to subsections j, m and o, the commission finds that these requirements do not apply, and therefore waives them.

FINDINGS OF FACT UNDER ARTICLE VII, SECTION 3, subsections a, b, d, e, and f, the planning commission finds that the applicant is in compliance. As to subsection c, the planning commission requires that lots one (1) and two (2) have one (1) drive, to minimize traffic onto Coeling Road.

MMS by Marv Rubingh, Sue Kessler, that on the application be granted with the restriction that lots one (1) and two (2) have a common drive.

Motion Carried

Marion Williams--Aye

Sue Kessler--Aye

Marv Rubingh--Aye

Rudy Passehl--Aye

FINDINGS OF FACT UNDER ARTICLE VIII, USES SUBJECT TO SPECIAL APPROVAL

Under Article VIII Section 1, the planning commission finds that the applicant is in compliance.

Under Article VIII, Section 2, the planning commission finds that all is in compliance.

Under Article VIII, Section 2, 3, Standards for granting special approval, the commission found

- a. Compatibility --in compliance
- b. Public Service--In compliance
- c. Impact--in compliance
- d. Detrimental Effects--Not applicable
- e. Economic--in compliance
- f. Compatibility with Natural Environment--in compliance

Under Article VIII, Section 3, 4

The commission finds that the applicant is allowing for varied yard and setback requirements, and that the open space is estimated at 33-35%.

Site Plan is included as Exhibit A

MMS by Marv Rubingh, Marion Williams that based on the FINDINGS OF FACT, we approve with the following stipulations:

Lots one (1) and two (2) will have a common driveway, to the most northern point, and that Lot Three (3) exit onto Hillman Road, and that the development is subject to Health Department approval.

Motion Carried:

Marion Williams--Aye

Sue Kessler--Aye

Marv Rubingh--Aye

Rudy Passehl--Aye

Public Hearing on the Drenth Application was concluded at 8:42 P.M.

Public Hearing # 2, Attorney Dan Barron, representing for Lange Limited LLC introduced Jim LaBeau, to present the proposal.

Basically, the proposal is on a parcel of approximately seventy (70) acres in size. They are proposing 10 single family residential parcels. There will be a declaration of covenant, with restrictions approximately 20 pages in length that mirror the better quality of site condominiums in terms of the association being established. These will be restrictions in terms of minimum square footages, use restrictions, of residences, in terms of establishing minimum standards of quality of those residences. Essentially, what we are looking at, because we do have a parcel, approximately seventy (70) acres in size... all land other than that encompassed within those 10 lots will be owned by the association. (The association homeowners, a non profit organization) Basically, there is about a sixty (60) larger parcel that is involved that will be dedicated to open space, the predominant natural character agricultural, those type of uses with the land, together with an area. The roadway itself will then constitute an easement on the association parcel, affording access and utilities off a single common roadway to Old Dixie Highway. In addition, what is contemplated on the area that would be to east, is designated as utility and maintenance. There would be a roadway to this area, and there would be 10 easement sites upon which property owners could construct pole barn type accessory buildings/facility that will be further established and defined. Each would have an area where they could construct that building which would be pertinent to the parcel of land. That will be governed by architectural standards. They will be uniform in style and materials. That will be a functional use of the land outside of a natural open space. Other than that, the natural open space conservancy approach would allow trails, it would establish one of those types of natural uses by and amongst the property owners. There will be dedicated deed restrictions and covenants to establish that type of use, that would require that use in perpetuity--that it would either continue to be owned by the association with those restrictions, or be owned by a qualified land conservancy organization. I believe there have been twelve (12) borings done there to establish the sufficiency of the soils for on-site septic, which is proposed. The soils were found to be satisfactory. The approval has not been rendered yet from the Health Dept, but we are looking for conditional approval subject to that confirmation by the Health Dept. We do have a series of typical site plan as to where a typical structure may be constructed, where the septic drain fields would be located. We do have building envelopes, with typical setbacks. In terms of the requirements in the covenantal restrictions, we are looking at minimum square footage for a family residence of fourteen hundred (1400) square feet, excluding decks, porches, etc, and a minimal roof pitch of 5/12. Modular and mobile homes would not be permitted. These are just examples of some of the restrictions that are being proposed. We are also requiring that any residents have an attached two (2) stall garage. Again, as with a site condominium, this is to insure quality controls, to far exceed minimum requirements of the county or the township zoning. All residences will be subject to architectural control approval by the association in terms of their plans, location, landscaping--all issues of that nature. We have some draft documents in process that spell all of those specifics out. Do you have questions for the applicant at this point?

Rudy opened the Public comment portion of the hearing.

Debra Hughes: what I'm hearing is a dedication of the new construction with the understanding that there is a great deal on restriction given the natural environment. I am probably just outside the three hundred (300) foot limit of this development.

Vivian Wolgamott: Have you ever been by the land? Before or after the devastation? What do you plan to do about the erosion? There's nothing holding the soil up there. There's a steep pitch. That's why they're in a row, because there is no place else to put these houses.

Kevin Heard: Those trees that were up there were not native to this area. They are called Austrian Pine. You should understand that the reason we took those out is not for the timber value of those things. I think the owner got a total of \$1500 for those things. We are planning on replacing these trees with other trees.

There are certain specific things that we have to follow according to the DNR, the DEQ. Matter of fact, we have all of our permits, and we have followed everything, right directly to what they told us. I'm not happy with how it looks. I was not doing the cutting, however, I did want it cleared. And we did leave a lot of trees up. In front of your house, matter of fact, there is 10 acres that we left alone, that we did not cut those trees down. When we do replace those trees, we will replace them, obviously, with native trees. Those trees were put in about 20 years ago, they've grown up, and so pushed together. They had not been maintained, or taken care of. Many tree farms today take out every other row every 10 years or so. With these trees, it was not the case. These trees do not do well in this area, or in this country. Our red pines did the same thing in Austria as these did here. They break easy, and they're brittle. We don't want the site to look stupid. Its very difficult to explain to someone what your vision is for the property, and what it will look like when you are done with it. I had this problem with my property. I took some pines out of mine. My wife was very unhappy with this, but after all was finished and cleaned up, it looked a lot better than it had, and it allowed for more growth of what's there. It just doesn't happen overnight. It takes time, and following all the things that the planning commission, the soil erosion, the DEQ: in following all of these that they put in front of us that we must do. We have done that. Our intent is obviously to make a profit from what we are doing--we don't do this to say --Oh this is a great thing to do

Kevin: At the same time, its increasing the value of the property around it. Whether you believe this or not,

Vivian: I don't care to have my property value increase.

Kevin: You must understand that this property --I know that this is property that you have used for a long time, its been there for you,

Vivian: we didn't move there to have Detroit City built on a city behind us

Kevin: The 10 acres that were taken up out of the 70 is very minimal. A cluster development simply means that things are stuck together, and the rest of the property remains open. And yes, it does cancel the hunting around there. I'm sorry. However, this property is for use for people that would like to move into our community. We're making it very difficult when people buy property. I know we'd all like to keep what we have, but that's not what's happening. If you don't do smart things and have a sense of what you're doing to the property that you have you will have a lot of mistakes along the way. These designs were done by a company out of Traverse City, foremost in the state for doing cluster development. They know what they are doing. These things are not just done haphazardly. We can't make everybody happy. I'm not going to make anybody happy around there. I've gotten terrible phone calls--people irate about what you did on your own property I'm not there to destroy things. Yes, I am marketing these properties to sell them. I am under the land division act. I am less than the splits that are allowed to me under state law. Obviously, we can take this whole map and split it up into big chunks. As a matter of fact, under current zoning, we could have one hundred fifty-two (152) lots.

Deb: there is a lot of lobbying that goes on for privileges for development, and often times, its damaging to the local residents who don't have the kind of muscle and power. We have a law right now that this is agricultural. If I were to discuss at all --we now have Old Mission peninsula in Travers City which is now trying to reclaim their agricultural land and property which they gave up to a lot of PUD's that have encroached upon existing farm land Now is the time to do that, not to extend the permit for a development that has no place there, especially what many perceive as harm to property that already exists.

Sue Swain: You mentioned there will be an association, that they will have the right to whatever is accomplished in terms of landscaping on the ten acre parcel.

Jim : As to the association, they would have the potential control oversight

Sue: Now I hear a bit of a contradiction and I was confused when you were going to show us that you cared about making it right. What do you plan to do ? How can we tell if you're going to do anything. Now you say the homeowner's are going to be in charge of that.

Jim: The association will be, until the parcels are sold.

Sue: So who will be making this policy?

Kevin: I'm not reforesting the entire hill. I'm going along the bottom, to block the view of what's down below. The stumps, for instance, on the property, can't be removed. They must be left. I know it looks like "heck," but there's nothing I can do about that. Quite frankly, they'll just have to rot over the next four (4) years. The rest of the trees that can be planted along --its very easy to get trees from the DNR to plant along there. This is not a difficult thing to do, and we will do that. However, that's totally above how we want things to look there. You've seen it in the short term, you haven't seen the end results.

Rudy: Any additional questions? I realize this is a very emotional issue, but I want to keep these questions pertinent and cogent to the facts that we're trying to determine tonight.

Sue Swain: I want to urge the committee to listen to the language that we heard in the previous answers, concerning natural resources , knowing that this hill goes down into a very viable creek, which now has a road running through it and I want it black topped....Compatible with natural environment , to preserve, enhance unusual environmental features. Please take in mind the nature of this piece of land. It isn't a 2 dimensional site plan--its a hill with a very delicate resource at the bottom of the hill and it has been clear cut. I also have a letter from a property owner to be read.

(Irene read letter from Shirley Johns--copy attached)

Rudy requested additional public comments.

Doug Seaney: Is Lange a member of the community: Where is he. How much land is he donating-- (Answer, none) What is the definition of Ag district? (Rudy read definition) Back to the erosion issue. Is the developer willing to submit to written restriction?

Kevin: we will go to the soil erosion people, the DEQ, propose to them what we want to do, and they will give us the direction as what we have to do.

Question about utility area: they will be utility buildings behind the hill, nice buildings for storage of boats, and other stuff that's not usually allowed in an association.--each lot would have it own building, so things would look uniform.

Doug Seaney: Are you aware that the road is washed out.

Kevin: we followed DEQ guidelines. the culvert is better than what was there before. We've got six inches of road grade gravel on top of the road now and its very stable. We will be planting trees along the corridor.

Doug Seaney: question on open space.

Rudy: Its my understanding that this is dedicated open space to the association, in perpetuity, and I assume that's the way the association covenants will be written up.

Doug Seaney: comments on landscaping, terracing, replanting. silt screens replaced.

Mike Wolgamott: why do you need other easements through there? Are you going to buy land behind that? It goes no where. Are you going to use the same road?--develop more behind it and bring it out on the same trail?

Kevin: No, its not another road--it the access to the lots.

PUBLIC COMMENT CLOSED AT 9:22

Questions from the planning commission :

Marion Williams: question about access through Antrim Dells private roads--

Kevin: it will not be a drive-through. Lot # 1 will not want traffic to come through. At the top is a building site, not a road.

Sue Kessler: with regards to the language in the Ordinance...the ordinance allows quite a bit of flexibility within the ordinance. I'm wondering why you didn't take advantage of that flexibility, and why the area is so structured and linear.

Kevin: The best feasible sites on this property would obviously be this. The rest of the property, especially the back--there are several streams back there, --there is no benefit there --there's a limit

Sue: with regard to that limit, and monetary being one, I'm wondering about the tightness of those lots--I see none of them approach a full acre, and they're all long and narrow--would you consider making the plots larger, and less of them

Kevin: No, that consideration is very difficult, just from the standpoint of all the time effort put in place and that exist--not feasible. We started out with 23 lots, and went down to 10

Sue: the open space that you have dedicated as open space will remain that way--you have wetlands here--

Kevin--the surveyors weren't asked to go back there--a lot of that is uphill--and they neglected to go up there--they just weren't asked to go and survey it out as far as wetlands were concerned--so what you see there is simply nothing to be done there. But that back portion on the property is hardwoods, there's a nice cedar forest in the middle

Sue: That can't really be called your open space--its not part of the 25 %

Kevin--no its much larger than that--probably 80%

Rudy: its all inclusive as open space

Kevin: Yeah--all the rest is being left. so essentially, we are taking up less than 10 acres--60 acres are more or less open.

FINDINGS OF FACT UNDER ARTICLE VII, Section 2, subsections a through p, the planning commission finds that too many subsections are not addressed.

MMSC Marv Rubingh, Sue Kessler that we send this back to the developer to include the name, that topography, the creeks, and that the matter be table until the March 14, 2002 meeting.

Marion Williams--aye

Sue Kessler--aye

Rudy Passehl--aye

Marv Rubingh--aye

FINDINGS OF FACT UNDER ARTICLE VIII, USES SUBJECT TO SPECIAL APPROVAL

MMSC Sue Kessler, Marion Williams to postpone final approval until we see new site plan as requested.

Marv Rubingh--aye

Sue Kessler--aye

Marion Williams--aye

Rudy Passehl--aye

PUBLIC HEARING CLOSED AT 10:16 P.M.

Regular meeting of Commission was convened at 10:18 P.M.

MMSC by Marv Rubingh, Marion Williams, that Joe & Yvonne Nachazel be granted their request for Special approval to run a home-based business.

MMSC Sue Kessler, Marion Williams to approve minutes of January meeting

Letter was presented by Mary Campbell from Antrim County Planning Commission, with their recommendations on our Ordinance. MMSC by Sue Kessler, Marion Williams that we go with the recommendations, and send the ordinances on to the Township Board .

Letter presented by Marv Rubingh--attached

Rudy was appointed chair person by assent.

Suggestion was made that the commission have a brief meeting at 7 PM next month, prior to the Public Hearing to allow some business to be covered before the hearings begin.

Motion to adjourn at 11:00 PM



Irene Shooks, Recording Sec'y