

1                                   **TYRONE TOWNSHIP PLANNING COMMISSION**  
2                                   **REGULAR MEETING & PUBLIC HEARING MINUTES**

3                                   **December 10, 2019 7:00 p.m.**  
4  
5

6   **PRESENT:** Mark Meisel, Dave Wardin, Kurt Schulze, Rich Erickson, Dan Stickel, Bill Wood,  
7   and Perry Green

8  
9   **ABSENT:** None

10  
11   **OTHERS PRESENT:** Tyrone Township Planner Greg Elliott and Tyrone Township Planning &  
12   Zoning Administrator Ross Nicholson

13  
14   **CALL TO ORDER (7:00 pm):** The meeting was called to order by Chairman Mark Meisel.

15  
16   Chairman Meisel took a moment to thank everyone for attending and welcomed them to the new  
17   Township Hall.

18  
19   **PLEDGE OF ALLEGIANCE (7:02 pm):**

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21   **CALL TO THE PUBLIC (7:03 pm):**

22  
23   No public comments or questions were received.

24  
25   **APPROVAL OF THE AGENDA (7:03 pm):**

26  
27   Kurt Schulze made a motion to approve the agenda as presented. Dave Wardin supported the  
28   motion. Motion carried by unanimous voice vote.

29  
30   **APPROVAL OF THE MINUTES (7:03 pm):**

31  
32   Dave Wardin made a motion to approve the October 8, 2019 Regular Meeting minutes as  
33   presented. Kurt Schulze supported the motion. Motion carried by unanimous voice vote.

34  
35   *Dave Wardin made a motion to suspend the order of business placing New Business #2*  
36   *(Proposed Permitted Expansion or Extension of Nonconforming Structures Amendments*  
37   *Returned by the Township Board) ahead of all other business items.*

38  
39   **OLD BUSINESS #2 (7:07 pm): Proposed Permitted Expansion or Extension of**  
40   **Nonconforming Structures Amendments Returned by the Township Board:**

41  
42   Chairman Meisel introduced the topic with a summary of the topic. He explained that the  
43   original intent of Section 26.04.A was to establish a set of criteria for which applicants could  
44   present a proposed expansion and/or extension of nonconforming structures to the Zoning Board  
45   of Appeals (ZBA) for consideration separate from the typical variance procedure. He continued,  
46   stating that the text was designed to streamline the process when dealing with existing

47 nonconforming structures but any creation of nonconformities would still require the standard  
48 ZBA application process. Ross Nicholson pointed out that the Township Board was interested in  
49 determining whether the ZBA was the best venue for applications pertaining to the expansion  
50 and/or extension of existing nonconforming structures or if there are other options for making the  
51 determinations such as the Planning Commission or Township staff. The Planning Commission  
52 briefly discussed the topic. Greg Elliott indicated that the Michigan Zoning Enabling Act does  
53 not mandate that such decisions be made by the ZBA and that it is possible to make such  
54 decisions through alternate channels. Discussion continued.

55

56 *The item was tabled at 7:30 pm.*

57

58 *Chairman Meisel recessed the regular meeting to hold the scheduled public hearing at 7:31 pm.*

59

60 **PUBLIC HEARING #1 (7:31 pm): The Sanctuary at Tyrone Site Condominium**  
61 **Conditional Rezoning Application:**

62

63 Chairman Meisel summarized the application and read the public hearing notice:

64

65 *“Notice is hereby given the Tyrone Township Planning Commission will hold a Public Hearing*  
66 *on Tuesday, December 10, 2019, beginning at 7:30 at the Tyrone Township Hall, 8420 Runyan*  
67 *Lake Road, Fenton, Michigan 48430. The purpose for the Public Hearing is:*

68 *To receive public comments regarding: A request by Dan Boss for a conditional rezoning of*  
69 *vacant parcels # 4704-21-100-021 & # 4704-21-100-022 from the FR (Farming Residential)*  
70 *district to the RE (Rural Estates) district to develop a 36-unit single-family detached site*  
71 *condominium, located off of Runyan Lake Rd between Center Rd and Gordon Rd.”*

72

73 Dan Boss (applicant) introduced himself and his associates Dan White, Steve Morgan, and Brent  
74 LaVanway. He indicated to the Planning Commission that they have decided to change the  
75 name of the proposed site condominium from the “Sanctuary at Tyrone” to the “Oaks of  
76 Tyrone”. He then addressed the public in attendance and provided a brief history of the site and  
77 the project. He explained that the property was purchased as an investment and sold in 2005 as  
78 two separate parcels, one being 10-acres and the other being 62-acres. He stated that the Future  
79 Land Use map in the Township Master Plan calls for the site to be zoned for low density single-  
80 family residential. While they would have liked to present a plan for development of the entire  
81 72-acres, they were unable to acquire the 10-acre parcel, so they made the best of what was  
82 available. It was at that time (2017) when they presented the original plan for development of  
83 the 62-acre site and obtained concept plan approval. In 2018, the Township amended it’s Zoning  
84 Ordinance, changing the minimum lot sizes in the FR zoning district from 2 acres (plus an  
85 additional 50% open space) to 3-acres [with no open space requirement]. At the time following  
86 the concept plan approval but prior to the acquisition of the additional 10-acres, they were  
87 working with the Fire Department having jurisdiction and various Livingston County agencies  
88 when it was determined that there would need to be revisions to the concept plan to meet  
89 standards for approval. The 10-acre parcel was finally obtained and they decided to rework the  
90 plan to come up with a layout substantially similar to what is being currently presented. After  
91 some preliminary discussion with Township officials and the Planning Commission, it was  
92 determined that the general consensus of the new plan was overall positive since the design

93 would allow for a more efficient road design and mostly contiguous open space. The Planning  
94 Commission found the plan to be better than the previous design which had been granted concept  
95 plan approval, but there were some procedural difficulties with allowing a development with the  
96 overall density being proposed. He stated that their attorney discussed the issue with the  
97 Township attorney before they came to the conclusion that a conditional rezoning could  
98 potentially allow them to approve the plan with a higher density than what the current zoning  
99 would allow for. Dan Boss noted again that the latest proposal is not for the maximum permitted  
100 density if the conditional rezoning is granted. He stated that it would be possible to develop 41  
101 units, however, they are only requesting a total of 36 units. He stated that he is here tonight to  
102 ask for a motion to approve the development and conditional rezoning as proposed for 36 units  
103 on the 72-acre site.

104  
105 Chairman Meisel thanked Dan Boss for his comments.

106  
107 Steve Bissell (residing on Indian View Trail) asked Dan Boss for clarification on the proposed  
108 open space buffer between the northernmost units and the north property line. Dan Boss stated  
109 that the open space and required rear yard setback for the northernmost units would create a one  
110 hundred and fifty-foot (150') buffer between the rear of the building envelopes and the north  
111 property boundary.

112  
113 Chairman Meisel took a moment to explain the procedure for the public hearing. He then  
114 summarized the procedure for the review and recommendation of the conditional rezoning  
115 application. He explained that the previous version of the plan only received conceptual approval  
116 and not final approval. He stated that the revised plan is a new application and the purpose of the  
117 public hearing is to review the latest proposal for a conditional rezoning. He explained that  
118 under the previous zoning district requirements for minimum lot area, a 2-acre parcel plus the  
119 required 50% open space would result in the equivalent of a 3-acre parcel in the FR zoning  
120 district. He continued, stating that the statutory requirements for utilizing the CDO remain the  
121 same as they were with the previous application. He stated that if the Conditional Rezoning is  
122 granted, the development itself will still need to go through the prescribed approval process  
123 inclusive of agency reviews.

124  
125 *Chairman Meisel opened the floor to take public comments and questions regarding the*  
126 *proposed conditional rezoning.*

127  
128 Ed Wolf (residing on Runyan Lake Road) stated that he had concerns regarding the water table  
129 in the immediate area and inquired how the development would be supplied with potable water  
130 for each unit. Chairman Meisel indicated that the development is being proposed to utilize  
131 individual (private) wells for each dwelling unit. He continued, stating that the Livingston  
132 County Health Department (LCHD) requires that a series of test wells are drilled throughout the  
133 site to demonstrate that there would not be any significant adverse impacts to surrounding private  
134 wells if the development is approved. He stated that the likelihood of thirty-six (36) new wells at  
135 the site causing well water issues in the immediate area is relatively low due to the size and  
136 quality of the local aquifer.

137

138 Steve Bissell made a statement indicating that he had personally experienced issues with the  
139 water table in the area. He stated that he recently had to have a new eighty-foot (80') well drilled  
140 after his previous well had only lasted sixteen (16) years. He stated that he is skeptical that the  
141 proposed development would not adversely affect existing wells in the area. He then asked for  
142 clarification on the test well process. Brent LaVanway (applicant) explained the test well  
143 process. He indicated that the LCHD requires a minimum flow of ten (10) gallons-per-minute  
144 (GPM) for each test well, which is significantly less than what those on site produced.  
145

146 Steve Bissell inquired about sanitary waste disposal/sewage treatment for the proposed  
147 development. Brent LaVanway explained that the development would utilize a community  
148 septic system. He explained that the system would have pre-treatment septic tanks and disposal  
149 systems which function similarly to that of a single-family septic system. He explained that the  
150 primary difference between the proposed community septic system and private single-family  
151 systems is that the standards for treatment are at a significantly higher level. He indicated that  
152 the proposed septic field would be ten-thousand (10,000) square feet. Steve Bissell asked  
153 whether the system would be gravity fed or pressurized. Brent LaVanway indicated that it would  
154 be gravity fed from the individual units to the tanks before being pumped to the field.  
155

156 Steve Bissell inquired about the stormwater runoff management for the proposed development.  
157 Brent LaVanway explained that the stormwater runoff is designed to flow from west to east into  
158 the retention basin to prevent overflow onto adjacent properties. Steve Bissell stated that he has  
159 concerns about the proposed drainage system and how it would function in relation to the  
160 existing natural wetland areas. He stated that the wetland area on Units 4 and 5 ["Unregulated  
161 Wetland B"] currently drains onto his property. Brent LaVanway explained that they are  
162 proposing to construct an overflow basin system which would divert the water through the road  
163 system into the retention basin. Steve Bissell asked whether there are any wetland areas on the  
164 site which are regulated through the State of Michigan. Brent LaVanway stated that there is one  
165 regulated wetland area at the northeast corner on the site, which is proposed to remain  
166 undisturbed.  
167

168 Jack Reese (residing on Indian View Trail) asked where alterations to the existing wetlands  
169 would occur. Brent LaVanway explained, using the site plan as a visual aid.  
170

171 Mark Klumpp (residing on Carole Lane) asked how the 50% open space requirement would be  
172 met. Brent LaVanway explained that there is lot open space allocated to individual units in  
173 addition to the development open space. Mark Klumpp asked how the open space would be  
174 preserved long-term. Brent LaVanway stated that the condominium documents (Master Deed  
175 and Bylaws) would be a function and responsibility of the condominium association. He  
176 continued, stating that it would be self-policed to a certain extent, however, it is much less likely  
177 that the open space area would be encroached upon since they intend to use a single builder for  
178 the entire development. Mark Klumpp stated to the Planning Commission that he doesn't  
179 believe that the association would preserve the open space areas as intended since it is something  
180 that is frequently ignored or not enforced in other developments.

181 Steve Morgan (applicant) addressed Mark Klumpp's comment regarding the preservation of  
182 open space areas. He stated that he lives in a site condominium development and explained his  
183 personal experiences in association-maintained property. Chairman Meisel indicated to Mark

184 Klumpp that the Planning Commission shares concerns with the open space preservation and  
185 will need to continue to work with the applicants to solidify a plan.

186  
187 Mark Klumpp stated that he has concerns surrounding the proposed community septic system,  
188 primarily the proximity to the existing wetland areas. He asked how the community septic  
189 system would be monitored and maintained. Brent LaVanway explained that the State of  
190 Michigan requires that community septic systems be monitored and maintained through a State-  
191 licensed operator. He continued, stating that the operator would be required to submit annual  
192 reports to the LCHD for monitoring purposes.

193  
194 Steve Bissell asked who the contracted builder for the development would be. Dan Boss stated  
195 that they have hired Big Sky Development as the contractor for the project. He cited some  
196 examples of work performed by Big Sky Development for reference.

197  
198 Tiffany Reese (residing on Indian View Trail) asked the Planning Commission if the Township  
199 will be requiring a development agreement. Chairman Meisel explained that the site plan, if  
200 approved, would act as a development agreement. He explained that most condominium  
201 documents can be amended by an association without consent of the municipality, however, site  
202 plan amendments require municipality approval before they can be recorded.

203  
204 Steve Bissell pointed out that the majority of the open space in the area between the proposed  
205 northernmost units and the north property boundary is covered in mostly dead ash trees. He  
206 stated that he would assume that the developer, the association, or the future owners would likely  
207 wish to remove the dead trees since they are unsightly and potentially hazardous. Removal of  
208 the dead trees would result in what is effectively a field between the proposed development and  
209 the existing properties to the north of the site.

210  
211 Mark Klumpp asked what impact the retention basin would have on the existing wetland areas.  
212 Brent LaVanway stated that the surface drainage would flow from the road system to the forebay  
213 and into the retention basin. From the retention basin, some of the water would be absorbed into  
214 the ground and some would evaporate.

215  
216 Steve Bissell stated that filling in the wetland area which is present over proposed Units 4 and 5  
217 ["Unregulated Wetland B"] would be difficult. Brent LaVanway replied, stating that they are  
218 only proposing to fill a portion of that particular wetland for installation of the roadway. He  
219 indicated that the wetland area would remain in the area where Units 4 and 5 are proposed which  
220 reduces the building envelopes for each of those units. Steve Bissell indicated that he still has  
221 concerns that filling in the portion of the wetlands as proposed would significantly affect the site  
222 drainage. He also pointed out that it would force any structures built on Units 4 and 5 to be as  
223 far north as possible, reducing the potential buffer between the adjacent properties to the north.

224  
225 Steve Buza (residing on Older Lane) asked what the houses in the development would look like.  
226 Dan Boss pointed out the Hills of Tyrone West as an example of the type of architecture that  
227 would be used. He stated that Big Sky Development follows building trends and changes the  
228 style of the homes annually. He stated that they do not build identical homes directly next to  
229 each other and are not in any way "cookie cutter" style houses. Steve Buza asked what the

230 approximate price point of the homes would be. Dan Boss indicated that prices would be in the  
231 neighborhood of around five hundred thousand dollars (\$500,000.00).

232

233 Steve Bissell asked if accessory structures would be permitted in the development. Dan Boss  
234 stated that accessory structures would be permitted but they would be required to match the  
235 architecture of the principal structure. A brief discussion amongst the public in attendance and  
236 the applicants regarding proposed architectural design standards ensued.

237

238 Tiffany Reese urged the Planning Commission to require planting of trees in the open space area  
239 between the northernmost units and the north property boundary to replace some of the dead ash  
240 trees and establish a more significant buffer. Steve Bissell stated that when the Baptist State  
241 Convention Ministries built the church office building located at 8420 Runyan Lake Road  
242 (Currently the Tyrone Township Hall), the owners approached himself and the other adjacent  
243 property owners and offered to plant a row of pine trees along their common property  
244 boundaries. He continued, stating that they were even considerate enough to give them a few  
245 additional trees. He stated that he believes there definitely needs to be more significant of a  
246 natural buffer in the open space area between the northernmost units and the north property  
247 boundary. Dan Boss indicated that the open space area is intended to remain undisturbed and  
248 that they currently do not have any plans to plant trees in the area in question.

249

250 *Chairman Meisel closed the public comment/question portion of the public hearing at 8:44 pm*  
251 *and opened the floor to the Planning Commission for questions and comments.*

252

253 Dan Stickel stated that he believed that the lot open space should not be included in the overall  
254 open space calculations since it is unlikely that it would meet the intent of open space as defined  
255 in the Zoning Ordinance. Dave Wardin stated that he does not believe the proposed open space  
256 areas would be enough to meet the 50% minimum required for CDO developments under the  
257 MZEA. Dan Stickel noted that he believes granting approval without meeting the minimum  
258 open space requirements would be precedent setting and, therefore, should not be considered.  
259 The Planning commission briefly discussed the open space calculations provided by the  
260 applicants versus the Zoning Ordinance and MZEA standards for CDO developments.

261

262 Dan Boss stated that the previous proposal for 31 units on 62 acres was essentially the same as  
263 the current proposal for 36 units on 72 acres. He stated that the new plan is logical and should  
264 follow the same criteria as the last approval. Chairman Meisel indicated that the previous plan  
265 had only received concept approval and, therefore, there was no guarantee that final approval  
266 would be granted if problems were found during agency reviews and/or final Township review.  
267 Dan Boss asked if that meant that one could theoretically receive concept plan approval, obtain  
268 all necessary agency approvals, and potentially get denied during final Township review. The  
269 Planning Commission briefly discussed the procedure for approval of a site condominium and a  
270 conditional rezoning with the applicants.

271

272 Steve Morgan indicated to the Planning Commission that he believes the proposed open space  
273 would fulfill the requirements set forth in the MZEA. He stated that the Zoning Ordinance also  
274 allows the Planning Commission to permit open space in required yard locations within a lot,  
275 unit, or parcel (lot open space). He stated that with a combination of the perimeter open space

276 combined with the lot open space, the 50% minimum requirement for CDO would be met. The  
277 Planning Commission discussed the Zoning Ordinance definition for open space as well as the  
278 MZEA requirements for CDO with the applicants.

279  
280 Bill Wood stated that he believes it is likely the open space areas consisting primarily of dead  
281 ash trees would likely be cleared because it would be considered to be unsightly to most people  
282 looking to purchase a home in the price range being proposed. Dan Boss stated that he doesn't  
283 necessarily disagree but, based on the Zoning Ordinance definition of open space, he's not sure  
284 how they could plant trees if the intent is for open space to remain in an unaltered state for  
285 perpetuity. The Planning Commission briefly discussed the definition of open space with the  
286 applicants.

287  
288 Chairman Meisel summarized the elements of the application and discussed the procedure. He  
289 stated that the application is for a conditional rezoning from FR to RE combined with the  
290 proposed CDO development, therefore, the development would need to comply with the RE  
291 district standards. Greg Elliott emphasized that granting of the conditional rezoning must still  
292 comply with the standards for the zoning district, therefore, the CDO development must be  
293 subject to a subset of standards for the RE district. The Planning Commission briefly discussed.

294  
295 *Chairman Meisel closed the public hearing at 9:10 pm.*

296  
297 **OLD BUSINESS #1 (9:11 pm): The Sanctuary at Tyrone Site Condominium Conditional**  
298 **Rezoning Application:**

299  
300 The Planning Commission briefly discussed the application amongst themselves. Chairman  
301 Meisel stated that there are concerns from the Planning Commission regarding the wetland areas  
302 on the site as well as the amount of open space to be eligible for the CDO. He continued, stating  
303 that, overall, the Planning Commission agrees that the proposed layout is logical, however,  
304 because of the aforementioned items, additional information may be necessary before proceeding  
305 with the review. Dave Wardin commented that he has heard a lot of negative comments  
306 regarding condominium developments and how they are managed. He continued, stating that  
307 condominiums can be much better than subdivisions in a number of ways.

308  
309 Chairman Meisel stated that the Planning Commission has received the conditional rezoning  
310 application and held the required public hearing so they have a few options on how to proceed;  
311 They can (1) make a recommendation for approval or denial based on the information that has  
312 been provided, (2) require agency reviews as a condition for a recommendation, or (3) table the  
313 application. Dan Boss stated that tabling the application would kill the project. Chairman  
314 Meisel briefly explained the steps of the approval process. He indicated that the Planning  
315 Commission is not trying to kill the project, however, they cannot violate the MZEA or Zoning  
316 Ordinance in making a recommendation for approval. Dave Wardin reiterated that he does not  
317 believe the MZEA allows for lot open space to be included in the overall open space calculations  
318 of a CDO.

319  
320 Perry Green made a motion to recommend approval of the Sanctuary at Tyrone conditional  
321 rezoning application to the Township Board. Bill Wood supported the motion. Roll call vote:

322 Dan Stickel- no, Rich Erickson- no, Perry Green- yes, Mark Meisel- no, Dave Wardin- no, Kurt  
323 Schulze- no, Bill Wood- yes. Motion failed 2:5.

324

325 Dave Wardin made a motion to recommend denial of the Sanctuary at Tyrone conditional  
326 rezoning offer to rezone 72 acres from FR to RE based on the fact that it does not comply with  
327 [Michigan] PA 110 of 2006 requiring 50% of undeveloped open space for a CDO  
328 development. Dan Stickel supported the motion. Roll call vote: Dan Stickel- yes, Rich  
329 Erickson- yes, Perry Green- no, Mark Meisel- yes, Dave Wardin- yes, Kurt Schulze- yes, Bill  
330 Wood- no. Motion carried 5:2.

331

332

333 *The item was closed at 9:55 pm*

334

335 *Dan Stickel made a motion to table all remaining business items. Dave Wardin supported the*  
336 *motion.*

337

338 *The meeting was adjourned at 10:00 pm by Chairman Meisel.*