

**CHESTERTON ADVISORY PLAN COMMISSION**  
**AUGUST 18, 2016**  
**6:30 P.M.**

The meeting was called to order at 6:30 P.M. Present were members J. Trout, T. Kopko, J. Ton, R. Poparad, J. Kowalski and President G. Stone. Attorney C. Parkinson and C. Nolan were present as legal advisors. Town Engineer M. O'Dell and Town Manager B. Doyle were in attendance. Member F. Owens was absent. The pledge of allegiance was recited.

**APPROVAL OF MINUTES**

Member T. Kopko moved approval of the minutes from July 21, 2106 seconded by member J. Trout and passed by unanimous voice vote.

**COMMENTS FROM THE PUBLIC- None**

**PRELIMINARY HEARINGS- None**

**CONCEPT REVIEW- None**

**PUBLIC HEARINGS**

**Von Tobel Corp. Petition to Amend The Villages of Sand Creek Planned Unit Development.** Attorney T. Hiestand the legal representation in this matter respectfully requested to continue this item.

Member J. Trout moved to continue this item seconded by member T. Kopko and passed by unanimous voice vote.

**The Villages of Sand Creek Owners Association, Inc. Petition to Amend The Villages Of Sand Creek Planned Unit Development.** Attorney T. Leeth was present as legal representation for petitioner. He was accompanied by Ken Phlipppo, President of Von Tobel and John Sturgill, of McCann & Assoc. He told the board Von Tobel has been in business in NWI for over 50 years. They have owned this property since 2001. Attorney T. Leeth said they would essentially be creating a neighborhood within a neighborhood. In 1993 when this project was approved as a Planned Unit Development the requirements in place were not as refined as they currently are. There is no Ordinance on file for Villages of Sand Creek. The development is basically defined in a series of 18 drawings that are filed with the town but were never recorded. Over time the developer went through a series of five phases and recorded each plat of subdivision. The Von Tobel Corp. owns a 4.23 acre parcel that's platted as A-2 located on Porter Avenue just east of the entrance into Villages of Sand Creek. The plat allows for 48 multi-family homes with ten development standards indicated. In 1999 a Phase 5 Plat of the subdivision came along. The Phase 5 drawings and the 1993 drawings are the same 4.23 acres. The Phase 5 drawings are the platted A-2. The Von Tobel Corp. is looking to amend those restrictions which are indicated on

**ADVISORY PLAN COMMISSION**  
**AUGUST 18, 2016**  
**PAGE 2**

the plat A-2. The plat allows for 48 multi-family homes consisting of 6, eight unit buildings. Von Tobel's are interested in reducing the number of dwelling units from 48 to 28 and reducing the style of home from 6 eight unit buildings to 14 duplexes to be known as Greystone.

Von Tobel's would be partnering with Steiner Homes to provide quality building. The condominium community would be maintenance free living. They would have their own condominium association within the 4.2 acres which would include lawn care, snow plowing, sidewalk shoveling and all other outside maintenance of the units. The architecture allows the homeowner to choose as the building progresses two story or three story units. Steiner Homes provides a quality premium package which includes granite countertops, hardwood floors and trim details throughout. The units would range from \$200,000.00 for a 2 story unit and \$300,000.00 for a three story unit. There would be a private road into the parcel from Eagles Nest Drive with access out to Porter Ave it would be a private road called Greystone. Access onto Porter Ave. would be a right in right out only. Attorney Leeth told the board there is one unit a little different than the others. Thirteen units would have the same footprint but Units 126 & 127, located near the floodplain would have different architecture and sit a little more turned on the lot. While the original plan has been approved for 48 units, the floodplain considered, a reduction to 28 units is significantly less. The conceptual plan and floodplain area has been mapped by McCann Assoc. In 1995, there was a declaration of restriction land use done by SW Corp. who signed the declaration. It restricted the protected area in the parcel, which was again delineated by McCann Assoc.

Attorney Leeth directed attention to a power point presentation which would include a site plan drawing and outlined the terms of the Ordinance which talks about amending A-2 only. A copy of the changes to the 1993 drawings in the form of an Ordinance and variances is; hereto attached and made a part of these minutes. There was a meeting held with Villages of Sand Creeks Board of Directors and the HOA. As result of that meeting, developers have agreed to pay into the association 40 percent of whatever assessment to a single family would pay into the homeowners association. He clarified that by his interpretation of the covenants this 4 acre parcel is not required to pay any assessments. He viewed this gesture as a win/win for homeowners. He noted that once the site plan is reviewed recommendations by the town staff regarding roads and storm water would be finalized and incorporated into the Ordinance. There would be no subdivision plat. He respectfully requested the board to consider sending a favorable recommendation to the town council.

There was no one present to speak in support of the petition.

Laura Elliott of 1691 E. Porter Ave. Chesterton was present to speak in opposition to the petition. She expressed concerns regarding traffic. She wondered if the condos don't sell at this price points will the developers be allowed to rent these units. She felt that a 3 story unit would upset the character of the neighborhood.

**ADVISORY PLAN COMMISSION**

**AUGUST 18, 2016**

**PAGE 3**

Sherry Shippy of 1523 Colonial Dr., Chesterton was present to speak in opposition to the petition. She said her backyard is Porter Ave. She expressed concerns about traffic given the numerous joggers, bikers and pedestrians along Porter Ave. There is currently no easement along the road. She commented, "Another entrance there would be deadly."

Randy Fleming of 1745 Lost Tree Drive, Chesterton was present to speak in opposition to the petition. He mentioned he had a difficult time conceptualizing the developer's exhibits. He expressed concerns with the flooding that this new development could potentially cause. Documents from the Army Corp of Engineers indicate that someone has dumped fill material from the A-2 location. He asked that the dumped material be removed by the developers. He said there are no connecting sidewalks on Eagles Nest and pedestrians have to walk on the road. Increased traffic would surely cause safety concerns. He wondered if the proposed sign would be consistent with the existing Villages signs. He said that by his interpretation, this parcel would have to comply with the declarations and restrictions of the covenants of Villages of Sand Creek therefore they should pay 100% of the dues. He commented that Von Tobel owned lots within Villages and many of those lots still do not have sidewalks and walking paths finished.

David Mann of 420 Lost Tree Drive, Chesterton was present to speak in opposition to the petition. He expressed concerns about traffic. He commented that there was not much parking for visitors to Greystone. He echoed concerns about storm water and questioned the capacity to handle sewage as well.

Sharon Downs of 1711 Lost Tree Drive, Chesterton was present to speak in opposition to the petition. She commented that these buildings are up against the protected wetlands. Once this area is disturbed and things die off you can't put it back. "The concept is flawed."

Sue Kuelto of 479 Eagle Nest Dr. Chesterton was present to speak in opposition to the petition. Ms. Kuelto said she had watched a neighboring home located on Lot 402 fill up with rainwater. There are 5 retention ponds located in Villages. For the last year there has been a pump that is not working in the front pond. The four other ponds are at the brim with rainwater from the recent storms. This is where the developer wants the rainwater for their project to go. Those ponds are 24 years old. That means the other four pond liners are subject to the same kind of failure as the front pond. She suggested to the HOA that they should get their own engineer to assess the capacity of those ponds. She expressed concerns about the narrow streets.

Written objections to the petition were entered into the file from Lisa C. Mish, Sue Kuelto and Randy Fleming.

Attorney Leeth in rebuttal commented that traffic issues seem to be a common concern. The right in right out requirement is meant to alleviate the flow of traffic concerns on Porter Avenue. He said there are no restrictions in the covenants within Villages of Sand Creek regarding renters. He suggested because these are condominiums and the exterior maintenance will be

**ADVISORY PLAN COMMISSION**

**AUGUST 18, 2016**

**PAGE 4**

taken care of through the HOA, there would be no outward appearance of renters or owners of the units. Because of the floodplain developers did not want to dig deeper or offer basements that is why they have chosen to build upwards resulting in the variance request to build to a height of 39 feet. He commented that there are homes in the Villages that are built higher than 35 feet. He said they would anticipate town staff requiring some deceleration lanes along Porter Ave.

Attorney Leeth said that he had not been advised that there is fill located on the A-2 parcel. He had been in touch with the Indiana Department of Environmental Management with regard to clearing for surveying work. The concern was that they had been in the protected area. A depiction of the clearing was determined to be outside of the protected area. He commented that if there is a problem with lack of sidewalks within the Villages he could not control that shortcoming. Greystone would have sidewalks. The sign would be in keeping with the rest of the community. He said the proposed units 126 and 127 would be 8 feet from the new private road known Greystone and 32 feet from the public street in the community.

Attorney Leeth said he was in disagreement with Mr. Fleming that this development pay full into the HOA. The answer lies in the definition within the 1993 restrictive covenants as to what lots are. There are three types of lots in the covenants on the plats of subdivision. There are lettered lots, and numbered lots and there are double lettered lots. The specific covenants state the assessments that are required to be paid by the owners of the lots apply to the numbered lots and the and double lettered lots. A-2 is a lettered lot and not a numbered of double lettered lot. On the plats of subdivision within each of the phases of dedications of roads or easements A-2 is not included. Parcels that are deeded to HOA do not include A-2. Von Tobel has offered to pay 40% of the assessments throughout the community. It is by no obligation of the law. Tonight we are amending the PUD Ordinance we are not amending the covenants therefore a majority vote is not required from the HOA. Attorney Leeth said William H. Wagner is not an equity owner of SW Corp. William H. Wagner is not the Wagner in SW Corporation he served as their attorney. He served in a corporate capacity as assistant secretary to aid in the execution of documents. Von Tobel has never been a developer in the Villages of Sand Creek they were simply a lot owner. He said this plan is a net gain for Village. There are 48 homes approved right now. He suggested that 48 homes would be irresponsible developing but they could easily get 32 to 36 homes in that location. There would be garages and driveways and on street parking would be minimal it is allowed and meets code. Concerns about sewers were also a concern. Attorney Leeth said that is something that would be addressed by the requirements of the Ordinance. The details of the plan are given to department heads and upon their determination plans would be adjusted. All the units would be constructed outside the flood plain. Not one shovel of dirt will be turned until department head approvals are received. He respectfully solicited comments from the board.

The public comment portion of the public hearing was declared closed.

**ADVISORY PLAN COMMISSION**  
**AUGUST 18, 2016**  
**PAGE 5**

President G. Stone noted a correction on Page 4. He asked, "How vital is Unit 126 & 127 to this project?"

Attorney Leeth asked that Units 126 & 127 stay. Although it looks like the odd man out, the architecture is different but many of the components are the same. While its inched between the road and flood plain it is a significant part. It is one fourteenth of the development. If we lose that other things may suffer.

Member J. Kowalski said his biggest concern is that the original plat is for 48 units. There is a developer here wanting to reduce the density but there's still that other plat. The details of the development would be handled by a competent town staff and building commissioner. He commented that he would like to study the options and consider tonight's position by both the petitioner and remonstrators. He was unwilling to make a decision tonight.

Member J. Trout commented that a number of issues do not have to do with this project. He felt the issues with Mr. Meyers have added some rub with the incomplete development, the lack of sidewalks. The commitment by Von Tobel to pay 40% could go a long way in addressing some of these issues. A lot has changed over the years and a storm water board has been established to help with those concerns. We have competent staff and boards in place countywide. He was in agreement with member Kowalski about making a decision tonight.

Attorney Leeth said once the town takes its looks they would follow their recommendations. It could be less homes or more infrastructure. Either way these details would be worked out at the staff level.

President G. Stone insisted that the project infrastructure and public improvements be completed at the front end and not be phased out.

Attorney Leeth said it's too small of a project not install all the infrastructure at the front end. The construction of units would be driven by the market.

Member T. Kopko asked if Von Tobel would pay 40% of special assessments. Attorney Leeth said they would. He commented that he still had a problem with the right in right out entrance. He expressed concerns about on street parking. He clarified that the developer is working with the most recent flood plain delineations. He was in agreement with President Stone and felt the sore thumb lot should be removed.

Town Engineer M. O'Dell said there would be a barrier curd installed with the right in right out ingress/egress.

Attorney Leeth said when they reduce the street width they sometimes limit parking to one side of the street. He said they would restrict parking in the island area.

**ADVISORY PLAN COMMISSION  
AUGUST 18, 2016  
PAGE 6**

Town Engineer M. O'Dell suggested having aerial photography taken to delineate the flood plain and display it at the town hall.

Attorney Parkinson asked if Marty Mauppin would be visiting the site within the next few weeks. He commented that based on his review of the construction drawings Mr. Mauppin had no concerns.

Attorney Leeth said when he last spoke to Mr. Mauppin he was pleased to learn that they had not encroaching on the protected area based on the photographs and would be making a site visit.

Attorney Parkinson said any results of the site visit should be shared with the board and staff.

Member J. Trout moved to continue the public hearing seconded by member J. Kowalski and passed by unanimous voice vote.

**Lake Erie Land Company, Coffee Creek Center Phase A & B, Lot 8 Primary Plat (Replat of Lot 8, 9, 10, 11 and Part of Lot 38) To be known as "Residents At Coffee Creek"**  
Rules for conducting a public hearing were read aloud. Attorney T. Hiestand was present as legal representation for the petitioner. He was accompanied by Mr. F. Jachim and Laurie McLaughlin of Westshore and Tom Panzica of Panzica Building Corp.

Mr. Panzica told the board the twenty million dollar senior living facility would contain 110 senior living units. The assisted living and memory care units would be contained within a three story building. The five separate parcels where the building would be constructed would be replatted into one parcel. He respectfully requested the board's approval.

There was no one present to speak in support of the petition.

There was no one present to speak in opposition to the petition. The public comment portion of the public hearing was declared closed.

Member J. Trout moved to approve the primary plat for this item seconded by member T. Kopko and passed by unanimous voice vote.

**ADVISORY PLAN COMMISSION  
AUGUST 18, 2016  
PAGE 7**

**OLD BUSINESS- None**

**NEW BUSINESS- None**

**MISCELLANEOUS BUSINESS- None**

**ADJOURNMENT**

There being no further business before the board member T. Kopko moved adjournment seconded by member J. Ton and passed by unanimous voice vote. The meeting adjourned at 8:18 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

President G. Stone

# VON TOBEL CORPORATION

H JOEPPNER  
&  
WAGNER  
EVANS LLP  
ATTORNEYS AT LAW

## EXISTING STANDARDS PURSUANT TO PUD DOCUMENTS

Maximum Density = 6 - 8 unit buildings = 48 units

Units will be developed as condominiums

Minimum lot width = 75'

Minimum lot depth = 80'

Minimum lot area = 6,000 S.F.

Minimum setback from perimeter streets = 20'

Minimum side yard = 10' for principal structure

Minimum rear yard = 10' for principal structure

Offstreet parking places = 3 per unit

Maximum building height = 35'

## NEW STANDARDS ESTABLISHED

Maximum Density - 28 single family attached units

Units will be developed as condominiums

Not applicable

Not applicable

Not applicable

See below for setback to public right-of-way.

Minimum building separation shall be no less than 10'.

Minimum distance from buildings to rear property lines of the Property shall be no less than 15'.

Offstreet parking places = 3 per unit

Maximum building height = 39'6"

Minimum distance from buildings to public right-of-way shall be no less than 30'.

Minimum setback from new private street to buildings shall be no less than 20', except that the building with Units 126 and 127 (see Concept Plan) shall be no less than 8'.

The Ordinance (continued):

Variations - §4

1. Width of private street  
24' v 30'
2. Sidewalks integrated - 5' wide
3. No platting - not applicable to condominium
4. Block + Lot Requirements - Not applicable
5. Greystone sign - 64 sq. ft.

No fences