

**CHESTERTON ADVISORY PLAN COMMISSION
NOVEMBER 19, 2015
6:30 P.M.**

The meeting was called to order at 6:30 P.M. Present were members F. Owens, E. DeLaney, T Kopko, J. Ton and J. Kowalski. Attorney C. Parkinson was present as legal advisor. Member J. Trout was absent. The pledge of allegiance was recited.

APPROVAL OF MINUTES

Member T. Kopko moved approval of the minutes from October 15, 2015 seconded by member F. Owens and passed by unanimous voice vote.

COMMENTS FROM THE PUBLIC

Nicholas and Michelle Glinski were present. Mrs. Glinski told the board they had purchased property in Villages of Sand Creek Subdivision where it has come to their attention that there is a stop work order issue on the property. She said they bought the property in December of 2013 and the stop order was not disclosed to them at that time. They went to their closing with a clear title. They recently wanted to sell the parcel located at 393 Lost Tree and were informed of the stop order. She respectfully requested the board to lift the stop work order taking into consideration the fact that they purchased the property without knowledge of the stop work order. They have since reconsidered selling the parcels and would like to build on it themselves.

Attorney C. Parkinson said the stop work order was recorded in May or June of 2012. In the past this board had given relief to homeowners on a case by case basis but that was prior to the stop work order being recorded. The question is whether an individual takes title to property with knowledge there is a stop work order verses this case where the individual unknowingly takes title. The homeowners proof of title work does not show this information being disclosed.

Member E. DeLaney questioned Mrs. Glinski on how she came to know of the stop work order.

Mrs. Glinski said their realtor had questioned them about it when they had listed the property to sell. She commented that the title company did not disclose the stop order at the time of closing. She said they purchased the parcel from the developer Don Meyers.

Member DeLaney gave a brief history as to the reason for the stop work order.

Attorney C. Parkinson said there was a bond on this but by the time the board acted on the bond it was about \$43,000.00 which Mr. Meyers voluntarily turned over to the town. At the same time the Plan Commission declared default cashed the bond in and put the stop work order in place. He clarified that Mr. Meyers is still in business and owns many lots out there. This board has invited the homeowners association and developer to come in and redo the PUD. The PUD redo would either eliminate the walking paths or substitute some other kind of open space. This

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is a lien on the remaining lots which are primarily located in Phase 4 and 5. He said that long ago there was a disagreement between the homeowners and the developer whether the walking paths were the best idea.

Attorney C. Parkinson advised the board that they have the ability to lift the restriction for any particular parcel. The biggest problem is the walking paths still remain a requirement of the PUD.

Nichole Cherep and Nancy Simko were present. As board members for the Villages of Sand Creek Subdivision Homeowners Association, they told the board that they would just assume the stop work order be lifted so these properties could be built on. They commented that Mr. Meyers is not maintaining the unsold lots and a tree from one of the lots fell on a neighboring home. She said they have spent money in legal fees trying to get the developer to maintain the lots. The developer is not paying dues and owes the HOA about \$9,000.00 per lot. "It's come to a stalemate and we would just like to be done with him."

Attorney C. Parkinson said the HOA needs to figure out some alternative to the walking paths as a green space requirement and the PUD can be changed. He said he would need to look into who could legally initiate a change to the PUD once a plan decided. Typically it's 100% of the owners of the property.

Member E. DeLaney questioned who would be responsible for maintaining the green space.

Representatives for the HOA said they are already responsible for maintaining some of the current green space. She commented that most of the property in question is wooded.

Member E. DeLaney moved to lift the stop work order on Lot 412 & 413 seconded by member J. Ton and passed by unanimous voice vote.

Attorney Parkinson advised the HOA representatives to send a letter to First American Management formally requesting them to sit down with a designate of the board and start to work out a long term solution to this. He commented that they would eventually have to balance the interest of the owners with the interests of the town in having green space.

Member J. Kowalski invited discussion once again between interested parties.

Villages of Sand Creek resident Nancy Simko asked if there was any possibility of stopping the train horns from blowing.

It was the general consensus of the board and attorney that there was nothing that could be done. It's the law.

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PRELIMINARY HEARINGS- None

CONCEPT REVIEW-None

PUBLIC HEARINGS- None

OLD BUSINESS

Lake Erie Land Company Lot 1 of Block 2 of Phase B of the Fourth Addition to Coffee Creek Center Secondary Plat (Approved October meeting Mylar's need signatures) There was no new information. The necessary changes had been made. This item would be removed from the agenda.

Sign Ordinance Revisions

President G. Stone reported that a sign committee had been reviewing and eliminating content as an addition in the Sign Ordinance. He said they have reviewed residential and will soon be moving into commercial and maybe have a revised ordinance to bring to the board at the December meeting.

Member J. Kowalski as a representative of the BZA asked the board to consider revising the Sign Ordinance with the consideration of eliminating freestanding signs. He commented that many communities only allow monument styles signs.

President G. Stone commented that might be a consideration in the near future.

NEW BUSINESS

Stone Meadows Subdivision

President G. Stone informed the board that Stone Meadows wishes to replace their letters of credit with checks to be held by the town. Attorney C. Parkinson said the checks are in the correct amount.

Member T. Kopko moved to accept the checks and release the letters of credit back to Centier Bank seconded by member E. DeLaney and passed by unanimous voice vote.

Venturi Sidewalk Guarantee

Attorney C. Parkinson said the maintenance sidewalk guarantee for Venturi will expire in January of 2016. Attorney G. Babcock has requested the board to consider releasing the

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maintenance guarantee one month before the expiration. They have a company they would like to wrap up business with before the year's end. There is a maintenance guarantee which the town is holding in the form of a certified check. They would be required to do another tax return for 2016 if the check was not released to the members in January. Attorney Parkinson advised the board to have someone check the sidewalks which are guaranteed with this check before Attorney Babcock makes his formal request in December.

Attorney C. Parkinson would speak to M. O'Dell regarding the sidewalk inspection.

MISCELLANEOUS BUSINESS- None

ADJOURNMENT

There being no further business before the board member T. Kopko moved adjournment seconded by member F. Owens and passed by unanimous voice vote. The meeting adjourned at 7:25 P.M.

Respectfully submitted,

Gail A. Murawski, Secretary

Approved;

G. Stone, President