

**Bear Creek Township Planning Commission Meeting
February 23, 2022**

I. Called to order: 6:32 p.m.

II. Roll Call: Kargol, Radatovich, Mays, Brown, Haven

a. Absent: Cyphert, Gunderson

b. Others in Attendance: Tammy Doernenburg, Denny Keiser, Hillary Taylor, Jeff Anneke, Becca Nelson, Tom Felley, Sheldon Buckmaster, Karla Buckmaster, Abby Badgley, Carlin Smith, Sally Lydy, Doug Kendziorski, Dylan Borland

III. Pledge of Allegiance

IV. Approval of Minutes

a. **Motion** by Mays to approve the minutes of the January 26, 2022 meeting. 2nd by Kargol.

Passed

V. Case PSPR21-009 Grand Management & Development, SITE PLAN REVIEW- Auto Parts Retail Establishment, US 131 Hwy- APPLICANT REQUESTED POSTPONEMENT

Applicant requested postponement and the case was not discussed.

VI. Case PSRAD21-02 David Kimble, AIA for Top of Michigan Trails Council, 1687 Harbor-Petoskey Rd

Tammy Doernenburg gave a background to this case:

Doernenburg noted that this site is on M-119 and is the location of the Top of Michigan Trails Council. The parcel has frontage on M-119 and has a trail that runs in front of that. The property adjacent is owned by the Little Traverse Bay Band of Odawa Indians. There is an existing driveway with an office that was converted to the trails council. Parking and the office itself are already established on the site. The existing plan was approved administratively for a pavilion and trellis as well as a bathroom on the backside of the building. All of the setbacks have been met for both structures and they will be doing some landscaping as well. This was administratively approved on condition that they provide a sealed drainage plan. The site is very sandy and there is very little impervious surfaces, so the Planning Commission could approve a waiver of the sealed drainage plan. The property is zoned B-2 and is 0.76 acres. Zoning to the north and west is B-2 and across M-119 is Spring Lake Park. No additional parking is proposed and there is no change of use. The site plan was administratively approved August 30, 2021. The site is served by private sewer septic and well. There are no proposed changes to snow management or outdoor lighting. The proposal is for a request for a waiver of the sealed drainage plan for this site plan.

The applicant addressed the Planning Commission in regards to this case:

Becca Nelson is here as a representative. Brown noted that there are a lot of sandy soils, so this doesn't seem to be an issue.

Motion by Mays to approve Case #PSRAD21-02 David Kimble for Top of Michigan Trails Council for Site Plan Review - for a new bathroom addition and outdoor seating area with a request for a waiver to the required sealed drainage plan, on property located at 1687 M-119, Section 27, Bear Creek Township, tax parcel 24-01-16-27-300-19, as shown on the site plan dated Received August 30, 2021 because the standards of Articles 11, 20, and 22 have been met based on the facts presented in this case and on condition that any exterior lighting and signage changes be reviewed by the Zoning Administrator. 2nd by Haven.

Roll Call: Radatovich, Brown, Kargol, Mays, Haven

Yes: Radatovich, Brown, Kargol, Mays, Haven

Absent: Cyphert, Gunderson

Passed

VII. Case PPUDP22-01 Alexander Petoskey LLC, PRELIMINARY PLANNED UNIT DEVELOPMENT- Residential Overlay Amendment, 1515 Atkins Rd, Bear Creek Township

Tammy Doernenburg gave a background to this case:

Doernenburg shared that this case is a preliminary PUD amendment. The site received approval in 2021 for a preliminary plan. The parcel is located north of Atkins Rd and west of McDougal Rd. Doernenburg shared that the strip of land that is the frontage on McDougal is owned by the school and there are also existing residences across the road. The original PUD-RO that was approved allows up to 180 multi-family dwelling units. The property is zoned R-1 with the original approval on Oct 7, 2021. The property is 9.94 acres. Doernenburg shared the original preliminary conceptual plan, which had 50ft perimeter setbacks, and access to Atkins and McDougal. Approved complimentary uses at that time were an office, clubhouse, fitness center, and retail and food establishments. Township review is required for this request and the Emmet County Planning Commission will have final authority. At this time, the developer has come back to request a PUD-RO amendment for some modifications to his site plan. One of the changes is to add an additional complimentary use of storage. The Road Commission has jurisdiction over the access points. The site plan has been changed since the case was advertised to add a second access to Atkins Rd, per the request of the fire chief. The amendment request includes a change to two of the buildings, to go from a two story to a three story building, with a maximum peak height of 48ft. The request is also for a modification to the setbacks, to: 40ft on the west, 20ft on the north, 20ft on the east, and maintaining the 50ft setback on the south side. Doernenburg received elevation drawings. Our ordinance currently has a height limit of 30ft measured halfway between the peak and the eave. The midpoint of the three story buildings proposed is 40'4.25" with a peak height of 48'. This is the preliminary amendment to this case. If this is approved, the applicant can proceed as amended, but if it is not approved, the applicant can still proceed as originally approved. The applicant has added the storage units to the plan for onsite residential use. The modified site plan also requests a change in size of the clubhouse from 2,000sq ft to 3,500 sq ft. Another request is for parking spaces

to be reduced to 9ft wide (our ordinance requires 10ft). We have previously approved 9.5ft for other housing developments. The other request for modification is for two of the buildings to be allowed to be three story, with a maximum peak height of 48'9". Two accesses are proposed off Atkins Rd. There is no proposed change to the originally approved density. One of the significant modification requests is for a change to the setbacks. There is specific language in the zoning ordinance which allows the applicant to ask for modifications. The fire chief submitted comments, most of which will come into play at a later time.

Mays asked about the fact that the original preliminary plan showed four buildings and this plan shows six. Doernenburg clarified that the density remains the same, even though the number of buildings has changed.

Brown asked if the proposed number of parking spaces at 9ft width is the minimum, or if there is some room to remove parking spaces to make some wider. Doernenburg noted that the ordinance requires 1.5 parking spaces per unit, plus some parking for the club house and storage units. 10ft is our normally required width. Radatovich asked if there is a distance requirement for parking, as there is no parking in front of the clubhouse and the storage units. If people are coming to use the lifestyle center, rent kayaks, go to the market, etc, they will need a parking space. Doernenburg clarified that there is a distance requirement and it is met.

Radatovich asked if there is a required ratio in the ordinance for snow storage/storm drainage to impervious surfaces. Doernenburg noted that there is and it will come into play in the final.

The applicant addressed the Planning Commission in regards to this case:

Dylan Borland explained that from a developer's perspective, there are many things in this project that are critical. As they started to work on this project, they discovered that they need to have at least 150 units for the project to be financially feasible. In addition, the unit mix matters, and they feel they have discovered what the correct number of each type of units would be. There are also value-add components to this project, which are important to make this project come together financially. Some of these value-add items include storage, reserved parking, a lifestyle fee, a retail space for a neighborhood farmer's market. He has also added the dog park, playground, pond, and a community garden which is available to the residents. In regards to the accesses, Borland shared that they tried to place driveways in such a way that the lights will not shine into the neighbor's homes. He explained the reasoning for the setback modification request. As it stands, 3.3 acres of the property is in setbacks, which would limit this to a 120 unit project. They are asking to reduce the setbacks to make the project feasible and are trying to do it in a way that has minimal impact on the community. On the McDougal side, there is also the school's strip of land to act as a buffer. It was important for them to leave the full 50ft on Atkins to protect the neighbors. Borland shared that he approached the school about obtaining 100ft behind their property or even to get the access easement to McDougal. At this time, the school is not ready to agree to that, however, Borland is still going to pursue that for the future. Borland noted that they would like to start on this project in June, in order to have foundations in by winter. He noted that they added in recycling areas. In regards to the three story buildings, Borland does not prefer three stories, but it makes more sense to add them on a few buildings to hit the 150 unit mark. They attempted to put the three story buildings in the rear to limit the impact of the height of those buildings. Borland noted that they left the buffer on Atkins and are hoping to have mature treelines there someday to provide a shield to the neighbors.

Jeff Anneke, the engineer for the project, shared the perspective that the silo that is currently there is taller than the proposed three story buildings. He feels that those buildings will nestle in well and you will not see them much behind the two story buildings. They are hoping to make this an attractive project.

Brown asked about the proposed biofilters. Borland noted that it will be space for snow storage and drainage. Anneke agreed that it will mostly be to handle water retention.

Mays asked how the backside unit tenants will enter. Anneke clarified that it will be through the front side of the building, the main doors. Residents will enter in and go down the hallway. The front and backside of the building will be identical.

Haven asked about the fence detail. Anneke noted that the fence would be to help keep a separation. They want to be creative with landscaping and trees. Brown noted that we will need to see the landscape plan and maintenance agreement for those biofilters.

Radatovich noted that if the biofilters are to be used for snow storage, there may be an issue with location. Where the biofilters are now, the buildings are blocking you from pushing snow into them. Brown noted that you also cannot store snow in a fire truck access. Anneke explained that he spoke with the fire chief and the fire dept needs a maintained accesses to the rear of the building. Borland noted that they will need to engineer the best way to push snow out.

In regard to parking, Borland explained that they need 234 parking spaces, so they have a good surplus right now. Brown noted that he is hesitant about the 9ft parking spaces. Someone with a truck may have trouble parking. He would suggest reducing the number of parking spaces and having them be 9.5 or 10ft. Anneke noted that 9ft is allowable per ADA standards. They have a surplus at 9ft, which would allow them some more room for snow storage.

Borland noted that the majority of the units will be market rate housing, and they will have 16 units set aside for affordable/workforce housing. They want to reduce the rates for people in the trades, to encourage more tradesmen in the area.

Brown noted that there is no parking in front of the clubhouse. Anneke explained that they are trying to reduce the traffic in front of the clubhouse because of the playground and dog park there (for safety reasons). Residents can walk to the clubhouse to access those amenities.

Mays asked about the width of the drives. Anneke believes they are around 24ft.

Brown noted that the storage units are bottlenecked and asked if they could make it a loop. Borland noted that often times, storage is not accessed on a regular basis. You will only occasionally see cars there. Borland can get some income off the storage units which offsets the cost of the development. Brown feels the residents will use these units.

Radatovich noted that she believes the fire access needs to be 150ft behind the buildings of maintained pathways. When the sidewalks were in place, it guaranteed that they would be maintained, however, now that the sidewalks have been removed from the site plan, there is no guarantee that there will be maintained access to the back of the buildings. Brown agreed that it is important that we have sidewalks for the sake of connectivity to the city. Anneke noted that they removed sidewalks from the back of the building for the sake of privacy for the residents. In addition, removing the sidewalks from the site plan takes away \$140,000 of the cost of development. Borland noted that when this project started, this was a \$37 million project. It is now a \$44 million project and they need to bring it down to approximately \$40 million. Removing the sidewalks saved them about \$1 million. Anneke explained that they also reduced the size of the decks to save costs. Borland explained that the infrastructure costs play into this and the interest rate is approximately 7%.

Radatovich expressed a safety concern with the pond. It is directly next to the playground and dog park. You wouldn't want kids to get in an accident at the pond, or even a dog to get in the pond. Will this pond have a fence? Borland noted that it is more decorative or for retention. Radatovich feels that even a decorative pond could be a danger to children.

Brown recommended that Borland speak with some neighbors and offer to put in some trees offsite to help with screening, to prevent car lights shining into their homes (when the cars turn onto the road). Borland is open to speaking with those neighbors. Brown noted that we will need to discuss trees during the final site plan. Borland would like to see heavy trees in the front of the property.

Brown asked about their leasing policy. He wants to ensure there is no short term rentals. Borland noted that they are unsure what the lease rates will be, and the standard length is a 12 month lease. They will be designating 10 units for short term rental units (Airbnb). The short term rentals will bring in about \$200,000 to offset the cost of the project. This is an important revenue source to make the project feasible. He does not want the liability of a lot of short term rentals, and feels 10 maximum would be important. Doernenburg explained that we are currently reviewing a few policies in regard to short-term rentals (accessory dwelling units, cluster housing, and duplexes). She shared that there was a letter of public comment, and most of those questions have been addressed. Borland noted that these short term rentals are important for bringing in income to offset the cost of the project. They will be contained to one of the third floors.

Kargol explained that that corner produces a lot of water in the spring, and it currently goes down McDougal. 80% of this project is going to be impervious surfaces and there may be a runoff issue. He will be interested to see their plan to slow the water down. Radatovich asked if they could collect and reuse the rainwater.

Audience Comments:

Karla Buckmaster asked if the 270 parking spaces are shown on the plan, and if the 9ft spots is what is shown. Brown noted that they are 9ft spots but we will count the spots on the final plan. Buckmaster asked about the setbacks. Haven confirmed there will be a 20ft setback on the north. Buckmaster explained that as a property owner, she is concerned about the setbacks and encroaching onto other people's property (especially with snow storage).

Abby Badgley, a neighbor, understands the importance of affordable housing. She noted that there is a lot of foot traffic on Atkins, between the pedestrians, track team, cyclers, dog walkers, etc. There needs to be sidewalks there for safety, especially with the added traffic. The school easement is currently used by several dog walkers, and she wants to make sure that remains clear. She noted that there are a lot of deer that come through this property. She is very concerned about traffic and safety for pedestrians.

Carlin Smith is here on behalf of the Little Traverse Bay Housing Partnership. There is a dire need for housing, and it is all about inventory. We need over 2,000 units in this area and he wants to see this project proceed.

Sally Lydy is a neighbor and most of her concerns have been addressed, or will be addressed as the plan proceeds. There have been changes made since she received information on this case. She is concerned about the clubhouse and the many uses there. If this opens up to the project, it will be a busy retail area, with even more traffic. She is concerned about screening from the neighbors and is concerned about the sidewalks. In addition, she is concerned about the short term rentals. This is a large complex for this corner.

Karla Buckmaster asked what the controls are over the rental rates. She watched the promotion video for this project and it references a 3% growth rate, and is asking if rents will go up 3% annually. What is the range of lease rates?

Doug Kendzioriski agreed that the sidewalk along Atkins Rd is very important.

Tom Urman is concerned about the setback modifications. The 50ft setbacks were put in for a reason. He shared Article 16 of the zoning ordinance and it is very clear what is stated there. Modifications should not be granted if they are contrary to the objectives of the master plan. He understands trying to cut costs, but the point of a PUD is to guide a development based on what is best for our community. In high density residential, our recommended density is 5-10 units, and we approved up to 180 units for this location. 10 units for these 10 acres would be 100 units. In addition, multi-family developments need safe and efficient egress and walkability. There needs to be access to paved roads and a greenbelt buffer. In addition, PUDs for a high density residential neighborhood need to have undeveloped open space. He made remarks about the fire access and feels it will be tough for a ladder truck to get back there. A PUD is supposed to guide a development for our community.

Denny Keiser noted that the sidewalks are important for access in the front.

Applicant Rebuttal:

Anneke explained that the size of this parcel is 9.27 acres. 50ft setbacks would account for 3.3 acres, which is 35% of the land. They requested the modification to achieve their density goal, and their proposed setbacks still account for 2.1 acres, which is 24% of the land. Article 16.05.1 notes that perimeter setback modifications may be proposed by the applicant to allow continuity of the neighborhood. They are trying to keep the community in the forefront and are veering away from the 180 units allowed. They are attempting to address part of the housing concerns and are working to find a balance that is community focused. There is no development behind this property currently.

Borland noted that he values everyone's opinions, as a neighbor that lives in the area. From a cost perspective, there is room to add tweaks to the plan. He noted that they will have to find a way to add the sidewalk, and maybe there is someone in the community that can help. In terms of rent, they are not low income owner operators. The rentals rates are projected to be \$800-1600 a month, depending on if it is a studio, one bedroom, two bedroom, or three bedroom apartment. The developer will be subsidizing 16 units to be affordable. The majority of the units will be market rate, which is set by the market not by the developer. The 3% growth increase is a standard underwriting based on inflation. Income and expenses typically grow by 3% a year. In regards to the clubhouse, only a small portion of that is retail. It is more of a gathering and fitness center. This is projected to be a value add to the community, to highlight local markets. Residents can access the fitness center and use the loft for gatherings. The fresh market is intended to be a value add for the entire community, not just for residents. The snow storage will be worked out by the engineers. He understands the issue with the sidewalks and noted that he will continue to pursue land with the school. They would love to have access onto McDougal. He asked about the concerns with short term rentals. Urman clarified that the hesitancy about short term rentals is about taking more inventory out of the pool. Borland noted that the short term rentals are important for this project to come into fruition. Anneke noted that when people move into this complex, it will free up other inventory in the housing market.

Karla Buckmaster asked if they are going to have someone to oversee and manage the short term rentals. Borland confirmed that there will be an office staff.

Additional Board Discussion and Questions:

Haven asked for clarification on the height modification. Doernenburg clarified that the 48'9" is the peak height and the 40.5' is the midpoint between the peak and the eave, which is how our ordinance measures.

Kargol noted that housing is housing, and we need to increase the inventory of all levels of housing, not just affordable housing. We cannot ask independent people to provide affordable housing with no subsidies. He noted that developments cannot go far out where they will be out of impact from people, because there is no infrastructure there. The developments have to go where the infrastructure is, which is always going to be close to others. This project is going to impact Atkins Rd considerably. Brown noted that it is likely that high density residential will continue down Atkins and McDougal, which is where we designated it in the master plan.

Radatovich realizes give and take is necessary and can accept the modifications. However, she does not want the short term rentals in this project, simply because it takes up inventory from the market. She asked if it would be better to consider the preliminary and final together, since there are so many interconnected details and questions.

Haven noted that he is in support of the rights of the property owner. He feels that the short term rentals are okay. Typically, he would say no to a setback modification, but because of this particular case and the surrounding properties, he feels the modifications are acceptable. However, he wants to make sure that snow is not pushed onto neighboring properties. He noted that there is 10-12 acres of farmland in the back. The development has some work to do and we can work out more details in the final. He feels we can leave the short term rentals to offset the cost, but limit them to 10 as a compromise.

Brown noted that Article 16 allows for some leeway. There is still buffer from the neighboring properties across Atkins. He appreciates the developer continuing to pursue property from the school. He would have liked to see an entrance off the east side.

Brown noted that he would like to see more detail on the final, to include sidewalks, screening for the neighbors, detail on the biofilters, a mix of some bigger parking spaces, etc.

Mays suggested that if they cannot get an access easement from the school, perhaps they could at least get permission to put their snow there. Borland feels they can accommodate the snow the way the plan is now. He is not giving up on the school and will continue to try to acquire some more land from the school, both behind the property and the frontage on McDougal.

Kargol asked if the sidewalk would be in the road commission right of way. Keiser noted that the sidewalk will likely have to be out of the road right of way. It would be nice to connect the school and the college. He asked about the short term rentals and noted we can have a further discussion about it during the final.

Motion by Haven to **approve** PPUDP22-01, a request by Alexander Petoskey LLC for a Preliminary Planned Unit Development Residential Overlay Amendment on property located at 1515 Atkins Road within Section 5 of Bear Creek Township. The property is zoned R-1 One and Two Family Residential with a PUD Residential Overlay and is tax parcel 01-19-05-400-002. The preliminary approval is to allow a multiple family development with a maximum gross density of 180 units, allow the non-residential uses of a clubhouse, wellness center, office, maintenance building and retail/food establishment not to exceed 3,500 sq. ft., to allow on-site residential storage units. Also, to allow the modifications to the perimeter setback as proposed, to allow the parking spaces to be a combination of 9', 9.5' and 10' wide, to allow two three-story multiple family buildings with a maximum peak height of 48'9" (as shown on the preliminary plan to be located to the rear of the property) and to allow two accesses to the development from Atkins Road as shown on the concept plan (dated 2/17/22) and supporting documentation dated received 2/10/2022. Approval is based on the plans and application packet and the facts presented in this case, the Master Plans for Bear Creek Township and Emmet County support the development, and the applicant has met the standards of Article 16 for a Preliminary PUD-Residential Overlay. Approval authorizes the applicant to proceed to the Final PUD-RO development phase. Additional conditions expected on the final: pedestrian access along Atkins Rd in the form of a sidewalk to connect to City of Petoskey, in addition, that the maximum number of short term rentals be limited to 10 units. 2nd by Mays.

Roll Call: Brown, Kargol, Mays, Haven, Radatovich

Yes: Brown, Kargol, Mays, Haven, Radatovich

Absent: Cyphert, Gunderson

Passed

VIII. Case PSUP22-004 Manthei Development Corp, SPECIAL USE PERMIT- Concrete Batch Plan- 4273 US 131 Hwy, Bear Creek Township

This case was withdrawn by the applicant and was not discussed.

IX. Public Comments:

Karla Buckmaster noted that she appreciates the fact that there are no public funds going to the 1515 Atkins Rd project.

X. Other Business:

Administratively Approved Site Plans- American Spoon Foods- 1588 River Rd (in process)

Doernenburg noted that the site plan for this project is missing critical data, and was sent back to the applicant. The committee will see it again when there is an updated plan. The fire chief also expressed concerns.

Community Revitalization Plan- discussion

Doernenburg noted that Jeff Cyphert shared some links to community revitalization plans. If a community becomes redevelopment ready, there are some grants available for projects. This would help us to identify and promote certain sites.

XI. Next Meeting: March 30, 2022 at 6:30pm

XII. Adjournment: 8:59p.m.

Respectfully Submitted,

Emma Radatovich

Emma Radatovich, Bear Creek Township Clerk

Jim Kargol, Recording Secretary