

**CITY OF HUDSONVILLE
Planning Commission Minutes**

February 3rd, 2021

Approved February 17th, 2021

**3101 AND 3150 ELMWOOD PARK DRIVE – 3101 ELMWOOD - FORMAL FINAL PUD
AMENDMENT**

Chairman VanDenBerg called the meeting to order at 7:03 p.m.

All commissioners are attending the meeting remotely from the City of Hudsonville, Ottawa County, Michigan except Commissioner Raterink who is present from Palmetto, Manatee County, Florida.

Present: Altman, Bendert, Northrup, Nyitray, Raterink, Schmuker, Staal, Strikwerda, Steffens, VanDenBerg, Waterman

Absent: none

PUBLIC COMMENTS (Non agenda items) - none

1. A motion was made by Raterink, with support by Altman, to approve the minutes of the January 20th, 2021 Planning Commission meeting.

Yeas 9, Nays 0

A motion was made by Waterman, with support by Bendert, to limit public comment to 3 minutes a person with one opportunity per person to speak.

Yeas 8, Nays 0, Abstain 1 (Northrup)

**2. 3101 & 3150 Elmwood Park Drive – 3101 Elmwood – Formal Final PUD Amendment –
Public Hearing**

Chairman VanDenBerg opened the public hearing.

A motion was made by Waterman, with support by Bendert, for Mayor Northrup to abstain from discussion on the agenda item for 3101 & 3150 Elmwood Park Drive.

Yeas 8, Nays 0, Abstain 1 (Northrup)

Mike Bosgraaf with Bosgraaf Homes, Chad Koster with Paramount Properties, Michael Corby and Scott Fredricks with Integrated Architecture, Jon Male with Exxel Engineering, Aimee Giacherio with Wade Trim, Bill Sikkel with Sikkel and Associates were all present.

Mike Bosgraaf presented the request. Aimee Giacherio presented the traffic study.

The staff report was presented.

Public comment is as follows:

- Tom Forshee from Dickinson Wright representing the city is here if Commissioners have questions.
- Brad Fowler with Mika Meyers Attorney for the condo association, Section 11-5 G of the Zoning Ordinance seems to be an area looked over by the Planning Commission. Under that provision any major change to a PUD requires compliance with all the standards of the original PUD approval. One of those standards is Section 11-5 G which states that all land included for the purpose of development in the PUD must be under unified control of the applicant seeking to either establish or in this case amend the PUD. The ordinance specifies that the applicant could be an individual, corporation, or a group of individuals with partnerships in corporations, but unified control of all the land is expressly required. Bosgraaf does not have unified control of the land to be developed within the PUD. Therefore, the Planning Commission cannot approve this amendment without acting outside their authority provided by that section of the zoning ordinance. As he and others have said several times during this process in prior meetings and other letters, the Elmwood Condominiums are not next door to this development, they are part of the developed lands within the PUD that the Planning Commission is amending. Not only did the association co-owners buy and develop their units within the PUD in reliance with the PUD plan. But their private property rights are impacted by the standards and shared uses behind this PUD. Therefore, any major change to the PUD can only be approved by this body if the association is part of the application under the ordinance. By approving this application without the associations consent the city would effectively be trampling on the homeowners constitutional, due process and property rights. If the Elmwood PUD truly cannot be developed as originally approved, then the owner of the undeveloped properties is required by the zoning ordinance to talk with the association to work out an alternate plan that is mutually agreeable. Then the two owners can jointly apply for an amendment and it would be a unified application. Because this is not a unified application, the Planning Commission has no authority under the zoning ordinance to approve a major change like this. For this reason and the reasons, he has previously stated, one last time the association respectfully requests the Planning Commission to follow the zoning ordinance and to deny this request and amendment to the association's PUD.
- Steve Butryn 5977 Elmwood Court, it is a positive that the builder is willing to close off the entrance by building A. By the stop sign down by the entrances, can the condos put up private road signs? That would be up to the development. Why is it desirable to have the pathway continue from the dog park to where it rejoins the pathway at the community park? If you close off that section it will discourage non-residents from going through. It would encourage them to use the sidewalk from that point if they want to exit to Balsam Drive. If they use the pathway to the pier, they will come out Elmwood Lake Dr where there is no sidewalk to the closest exit to Balsam Drive. That is the problem for the existing residents, they could go down to the south entrance. For those two points the developer should consider not having the pathway from building L to the community patio.

- Harold Pothoven 5991 Elmwood Ct, request that the Commission consider carefully what they are looking at. They are being asked to change the zoning code. Is adamantly against changing this. Disagree the acreage of water with the buildings. The proposed size of the buildings is too different from the condos. They are calling for rental apartments that would change the atmosphere and traffic in the community. The changes seem unreasonable in the amount of space given. 150 apartments to 46 condos. 79 people with 25% occupied by single people. Unusual amount of change is not acceptable.
- Bob DeVries 6037 Elmwood Lake Dr, the attorney speaking to section 11-5 G, coming to the residents to see what they would think about the project rather than only brought to the Planning Commission. Feel that this was already approved before the meetings happened. Asking if there are any letters of support? The decisions made are not based on who is for or against a project. It is based on rules, regulations and laws. What about all the opposing opinions? Is the traffic study legitimate? The study was done by a reputable company. We were told what was going to be on the property in 2004, but now all the sudden that is no longer the case.
- Norma Pothoven 5991 Elmwood Ct, were there any other properties looked at for this development? There are major changes that are being made to allow for this project, was there any hesitation at all? Did the city think about taxes first before the location of the project was chosen?
- Aron Duby 3175 Barry St, supports the project. The population growth in the city has slowed to a crawl. It is nearly impossible to join the community. Been involved in the community for many years, when you love something you want others to join in. This is not for the taxes to him; this is about recognizing that other people should be able to join the city. Hudsonville is a city on a hill if we want others to join us we have to make sure we are not blocked off, we have to figure out ways to bring in affordable housing like this.
- Jim Holtsclaw 6020 Elmwood Circle, will leave the city if this goes through. Will not stand to look at the proposed property and feels this is a joke and is disgusted to live in Hudsonville.
- Rita Krug 6090 Elmwood Lake Dr, regarding the meeting on January 20th after the public comments were over there was discussion of the 4 main areas of opposition. Someone commented that these were illegitimate oppositions and should not be considered, except traffic. She is not sure why someone else has the right to decide what a legitimate concern is for citizens. Where is the character, integrity and honesty? How do we believe that any of the laws and zoning, any of these regulations that are made, that they will be lived up to? Evidently that is not what part of Hudsonville stands for anymore.
- Phil and Sharon Symko 6067 Elmwood Lake Dr, letters to the residents within 300' are to get comments from those around the projects so why are the opinions that come from the letters ignored? Knew that there was going to be a senior facility but now that agreement does not matter and the rules can change. If they knew this project could have been built then they wouldn't have bought their condo.
- Elaine Aukeman 5983 Elmwood Ct, it was mentioned that Hudsonville is lacking in rental properties. There is Oak Tree that has 102 units, then behind McDonalds which is 60 some, then in the city center, and then right across the border in Jamestown there is 400 and some, then over on Port Sheldon there is arbor something, then she called Ridgeview in Jamestown and they have vacancies. We do need rental properties, but in a 5 square mile

area you have 1000 units. Does Hudsonville want to be known as a city of home ownership or of rentals?

- Pat Butryn 5977 Elmwood Ct, listening to these residents should have happened when the proposal first came to the city's attention, it would have been good productive dialogue. The Commission decided what was best, they did not listen to the residents or knock on their doors to discuss the project. The residents are given three minutes to speak versus the Commissioners getting as much time as they want. The Commission created a situation of hard feelings and chooses to do it their way, not the way that could have had the community and city work together. They were able to be partly dishonest. Now they want to change what is in the PUD without talking to us. Should work with the residents before a decision is made.

Chairman VanDenBerg closed the public hearing.

The following discussion took place with Planning Commissioners:

- Asking for Tom Forshee to address the concern of compliance with the ordinance raised by the Mika Meyers attorney. The cities position is that the unified control provision does not bar this application. Subsequent transfers of property are out of control of the city. The property owner has a property right to apply for an amendment under the code. Further the applicant has unified control of the, and the quoted language is "land included for the purpose of development" now that is actually the subject of this amendment and that is how it is addressed in the planning report. The ordinance says that the amendment will follow all processes of the original, but an amendment can take into account the subsequent transfers of property and the applicant's ability to ask for an amendment. If it was applied as the letter stated it would bar an amendment to the rightful owner of the property. So many years have passed and despite the unified control being the same as it was originally proposed the property was owned separately even upon its inception. The board has to take into account all the evidence that was given to it and determine whether those are zoning consideration or not. He thinks that if the city refused to hear the application it would infringe on the applicant's rights to develop their land. The ordinance language does talk about unified control of the property that is being developed and they do have that in the property that they are developing. So, it is our position that it is being rightfully considered today.
- Traffic analysis pertaining to queuing of traffic on Balsam Drive during peak am time southbound movement approaching Oak Street especially when a train is coming? They looked at the queuing at the intersection of Elmwood Park Drive and Balsam Drive. Any interference with turning movements out of that intersection wouldn't be necessitated or caused by this development, it would be caused by traffic further down the line.
- Rational behind sending letters within 300'. For certain types of applications that is a requirement to be able to gather input from the neighborhood and community. Those comments can be used when reviewing the plan and possibly make changes. These have to be judged on their own merit so we have to look at this application to see if it complies. We cannot legally say the project shouldn't move forward due to neighborhood not wanting it. That is why professional input is sought out including traffic consultants who were hired to look at the traffic and make changes to the project to address issues.
- Unified control, looked at two other city's definitions. Took their definitions to explain there is unified control throughout all phases of the project to allow completion of the project

versus different owners of the properties.

- Tom Forshee cautions looking at other ordinances, we have to look at our ordinance specifically. The Commission was appointed to take all evidence and evaluate all merits to judge the credibility of the information they received as applied to the zoning ordinance.
- The pathway following the lake and down to Balsam Drive. It looks like there is one portion of the pathway that exists out to Elmwood Lake Drive rather than follows the pathway. Is that connection necessary? It allows the condominium association onto the pathway. Is there a plan to put a private sign there? Yes, this connection is existing already so the developer is just connecting to that.
- The berm how tall will it be? The evergreens should be brought down to the south to screen the two condos closer to the southern property line. There is around 40 ft of greenspace so the berm would be 3-4 ft above the road grade with the plants on top of that.
- Snow removal pertaining to the crash gate. Could the crew for the condos also remove the snow on the condominium side of the gate? Yes that can be done.
- The pathway appears to be wider asphalt and the sidewalk in the proposed development is standard sidewalk. What might help with concern is that the pathway curving around the pier and down Elmwood Lake Drive remaining asphalt. But the small arm being the sidewalk would help differentiate it from the public pathway. If there could be a private sign posted there too that would help. If the arm to the condos could go down to concrete that would be fine by the developer. If the arm of the sidewalk were to go down to the thinner concrete that would be up to the condos. Allowing a plow to go through that area might allow for it to be better as asphalt.
- The maintenance of the pathway on this property will be determined with the easement approval.
- The easements are shared by both original property owners. There is one for the pier, it is on the applicant property but is allowing the condos access. The driveways in the Elmwood Condos are not being used by the developer is there any indication that there would be a taking or economic compensation?
- Bill Sikkel attorney for the developer, there is no desire to terminate easement rights. The applicant is just trying to reduce use of those entrances for the sake of the condos. The condos will continue to have access to the main Elmwood Park Drive as well.
- Tom Forshee, the city is not taking away any easement rights from the developer.
- Is there a purpose for the narrow windows on the building elevation? There is stairwell there so the window is there to provide natural light while also defining where the stairs are. Would it make sense to have those match the larger windows? The applicant could have them match the height of the other windows so it wouldn't stand out as much. The narrower window does break up the façade slightly.
- The signage for the entrance of the property has lighting and landscaping around it. It does meet sign requirements as well.
- Are the buildings built on slab? Yes
- The dog park. What is the plan for waste receptacles and cleanup of the park and waste bins? The full time property manager will have the responsibility of emptying the bins out on a regular basis.
- Since there are no basements where would people go in emergency cases? There will be stairwells every 6 units or so that people can use but an area like that is not required by code.

- The community spaces on the beach. Are these decks? What would be the material used to construct those? Those would be concrete or stamped concrete so it would not be wood.
- Bus traffic from schools. How would they turn around and get in and out. Specifically in phase 1? They would not go into the parking lots. For example, they stop on Balsam Drive at Oak Tree Apartments so they would probably do the same here. They would be willing to go to the commercial lot next door but that is not a long term solution. When Balsam Drive is 4 lanes, they stay in the right lane so traffic could go by but if it goes down to three lanes then they would stop traffic going toward Chicago drive. Elmwood Lake Drive is the better option but that requires Elmwood Condo approval.

A motion was made by Waterman, with support by Raterink, to approve and adopt the Statement of Conclusions for the 3101 Elmwood Formal Final PUD in accordance with Section 11-11 E from the Hudsonville Zoning Ordinance and incorporating the findings and extensive evidence presented in the Planning Commission Report and consistent discussion in this and previous meetings as provided for in the applicable meeting minutes.

The Elmwood PUD Operational Analysis for traffic was provided. It provides the information necessary for understanding the traffic within Elmwood PUD will operate within an acceptable range of Level of Service. A left turn lane will be provided to enable improved access onto the property.

This approval is based on finding that the Hudsonville Zoning Ordinance standards have been affirmatively met with the frontage deviation listed and the following conditions:

1. Utility easements will be required to enable access to the water infrastructure.
2. Add a stop sign where Elmwood Lake Drive terminates into Elmwood Park Drive.
3. Provide detail on signage for Zoning Administrator approval that designates “private property” along the public pathway.
4. Provide an easement for the pathway that will allow public use that requires City Commission approval.
5. Provide a performance bond for a possible sidewalk extension to south property line that will remain in effect for 5-years from Final PUD approval.
6. Provide a performance bond with city engineer approval for a left turn lane as part of phase II. The funds will either be used to expand Balsam Drive to allow for a left turn lane or to implement a road diet that includes the turn lane, which will be completed prior to phase II completion.
7. Provide a keybox with a master key with the location requiring Fire Department approval.
8. Remove the driveway that accesses the adjacent commercial lot after construction is completed.
9. Addressing requires Fire Department approval.
10. All landscaping must be planted outside of easements.
11. Add 6-10 additional evergreens at the south end of the Elmwood Lake Drive berm and provide a cross-section of the proposed berm, both of which are to be approved by the Zoning Administrator.
12. All of the driveways must be able to handle a 40’ fire truck.
13. The additional sign indicating private property be installed at the access point off of the pathway to the condominium property.
14. Crash gate access should be kept clear of snow by the owner at all times.

Yeas 8, Nays 0, Abstain 1 (Northrup)

A motion was made by Waterman, with support by Raterink, to allow Mayor Northrup back in the diet.

Yeas 8, Nays 0, Abstain 1 (Northrup)

Discussion

Mayor Northrup, The discussion on tax revenue being the driving force for development. There has never been discussion within city hall on that being the driving factor for approval. We are not driven toward tax revenue as a city, we are driving towards having a pleasant community that is inclusive.

3. ADJOURNMENT

A motion was made by Raterink, with support by Bendert, to adjourn at 8:50 pm.

Yeas 9, Nays 0

Respectfully Submitted,
Sarah Steffens
Planning / Zoning Assistant