

CHARTER TOWNSHIP OF FLUSHING  
6524 N. SEYMOUR ROAD  
FLUSHING, MICHIGAN 48433  
810-659-0800 FAX: 810-659-4212  
**PLANNING COMMISSION WORK SESSION**  
DATE: MAY 25, 2004 TIME: 7:00 P.M.  
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

**PLANNING COMMISSION MEMBERS**

Jerome Doyle, Chair	Aaron Bowron
Robert Gensheimer, Vice Chair	Richard Buell
Eric Swanson, Secretary	David Gibbs
Ronald Flowers, Board of Trustee Representative	

Jerald W. Fitch, Building Inspector  
Julia A. Morford, Recording Secretary

**PRESENT:** Doyle, Gensheimer, Swanson, Bowron, Buell, Flowers, Gibbs, Fitch, Morford, and Attorney Steve Moulton, Township Attorney

**ABSENT:** None

**OTHERS PRESENT:** 48 local residents and elected officials

**I. MEETING CALLED TO ORDER** at 7:10 p.m. by Planning Commission Chair Jerry Doyle. Due to the large number of residents in attendance, **DOYLE** informed the audience that the meeting had been scheduled to be a Planning Commission Work Session but had been changed to a Regular Meeting due to the matter of the item on the Agenda.

**DOYLE** requested the following changes be made to the Agenda: **1)** the minutes for the last meeting would be heard at the next meeting, **2)** the Unfinished Business would be the norm for the Work Session, **3)** addition to the Agenda, listed under New Business, a request by Mark Wolf, of Southwest Flushing Development regarding information of the Hyde Park Development.

**II. ADOPTION OF AGENDA: FLOWERS MOVED**, seconded by Bowron to approve the Agenda with the deletion of the minutes and the addition of Mark Wolf from Southwest Flushing Development. **MOTION CARRIED.**

### III. NEW BUSINESS:

#### 1. Hyde Park PUD Development

**DOYLE** stated the current meeting, which was scheduled as a Work Session, was called due to different structures being placed in Hyde Park from what had originally been approved. The Planning Commission felt the commencement of the work had been contrary to what the ideal of the original Planned Unit Development was all about in the first place; the work has varied from the character of the Hyde Park Subdivision and something had to take place before an approval was accepted on the structures.

**March 8, 2004 Planning Commission Meeting** - there had been a request to change some of the buildings from three (3) and four (4) units to duplexes; the request had been approved. The Planning Commission felt, at this time, they needed to go one step further because if there were any change from the structures that were accepted in the first place in Hyde Park, the matter would have needed to be discussed and put into the minutes concerning the status.

**DOYLE** read an excerpt from the Minutes of March 8, 2004 listed under New Business, No. 2, "*Howard Scheuner – Amend an Existing Special Use Permit Phase I (Hyde Park).*" (See Exhibit A)

**DOYLE** stated there had never been a change of the design or character of the structure, only a change from the three (3) and four (4) plexes to duplexes with less units and setbacks. On the Southwest section of Hyde Park, the portion of the subdivision (64-single family homes) had been adjusted. Nothing else had been changed in the particular subdivision where the plexes were located (Phase I).

#### OUTLINE DISCUSSION/COMMENTS:

##### 1) **JAMES BARNWELL (BARNWELL)** of Desine Inc. of Brighton, Michigan:

- He has no problem with the minutes of March 8, 2004
- Problem – methodology of the construction that is occurring:
  1. pitch of the roof
  2. amount of brick work on the buildings
  3. minimum square footage
- **BARNWELL** thought all the homes had to meet the BOCA code
- homes brought into Hyde Park were modular and built in a factory; garages were to be constructed on site
  1. all would have 7/12 pitch roofs
  2. all would have brick fronts
- **BARNWELL** felt there was a reaction from the local Hyde Park residents of seeing how the homes were brought into the development (on trailers.)

2) **ATTORNEY STEVE MOULTON (ATTORNEY MOULTON)**, gave a detailed outline of what had been applied leading to the duplexes.

- 1999 request by Hyde Park for a Special Use Permit to create a Planned Unit Development (PUD) particular the condominiums
- Main Components:
  1. Assisted Living Facilities East of Wyndham
  2. Future Development (Commercial) Corner of River Road and Elms Road
  3. One Condominium Project was comprised of the remaining 57 acres of the total 74 acres which was the concept when originally purposed in 1999 (all structures to be tri or quad plexes)
- Two Phases were Developed
  1. Phase I – Tris and Quads
  2. Phase II – 64 single family homes
- Division Amendment September 2002
  1. Condominium Project - 57 acres – divided
    - a. Hyde Park – converted to 64 single family dwellings
      1. 34 conditions discussed
      2. Hyde Park Estates
  2. In 1999-2000 – Criteria for Quad and Tri Plexes addressed
- October 2003 – Phase I - Request to convert some of the tri and quad plexes to duplexes (approved)
  1. after review of minutes, Attorney could not find any specific criteria with regard to the construction of the duplex unit only setbacks and number of units addressed

**PURPOSE OF CURRENT MEETING - ATTORNEY MOULTON:**

1. **BARNWELL/SCHEUNER** to clarify for the benefit of the Planning Commission to consider and determine the criteria for the construction of the units.
2. **BARNWELL** – certain criteria for the construction of the 64 single residences were similar – 6/12 pitch roof, certain percentage of brick on the roof; square footages.
3. **BARNWELL** – when came in to request approval for the duplexes, tri and quad plexes it was the intent to maintain the same architectural style and same criteria – The intent was not to change any of the previous conditions other than to go to duplexes.
  - a. **ATTORNEY MOULTON** wanted to know if either **BARNWELL/SCHEUNER** had the specific criteria that would be applicable to the duplexes that would be in a written form.
    1. if **SCHEUNER** sold 10 of the units to another builder, he would know exactly what the criteria would be for the construction for the duplexes
    2. there would be no questions from either **BARNWELL/SCHEUNER** or the Township as to the minimums such as square footage, roof pitch

3. issues such as those addressed with the single family residences would be set out in detail with regard to the duplexes
4. **BARNWELL** stated they would try to be consistent with what was done in the four plexes and three plexes – to his knowledge, nothing has been written down.
  1. Master Deed allows the discretion of the developer to act as an Architectural Control Committee and the items are listed in the Master Deed
5. **DOYLE** made reference to the minutes with the change to the single family residences
  - a. 34 specifications were approved only for one particular section of the subdivision
  - b. request for change in particular section of subdivision only from the regular three and four plex units to single family structures (Minutes of 10/01/02)
6. no mention of style changes, on the third part, from the first original development – no request from **BARNWELL/SCHEUNER** to do anything different
  - a. when the new structures (modulars) were brought in – there were no requests for this particular type of development
  - b. **HOWARD SCHEUNER (SCHEUNER)** of HJM had requested no changes in the specifications for the construction of the units with respect to the guidelines for the three (3) and four (4) units.
    1. permission to go from three and four units to four, three and duplexes
      - a. layout drawing which had been approved by the Planning Commission was for two units, couple of three and a couple of four units
      - b. there were no changes requested – reverting back to the original PUD - Agreements were for the construction of the original condominium, basically limited verbiage, which stated the units have a minimum square footage of 1,175
        1. have to be approved by the Architectural Control Committee
        2. setback distances between the buildings
        3. basis from the original documents
        4. no request was made for changes in the documents
        5. changes have been made in the other division
        6. the full architectural plans are available for the structures that were delivered to the site
          - a. Architectural Control Committee has reviewed the plans and finds the structures are in compliance with the plans
          - b. Architectural Control Committee does not evaluate the structures with respect to township building codes or State BOCA codes, simply evaluated the architecture stands and aesthetics of the unit

- c. Architectural Control Committee has evaluated other units in the development – there are two (2) other units being constructed, known as Building 14 and Building 16
- d. there are building permits for four buildings (8 units) – architectural structures have been reviewed and approved within the Architectural Control Committee
- e. **SCHEUNER** is the Architectural Control Committee

**DOYLE** stated when the Planning Commission first approved the whole PUD unit, the type of structures that were being constructed were those that were originally approved. Since that period of time, there have been different structures constructed. The Planning Commission approved the first section as a single family unit, but this particular section (Phase I – three and four plexes) had not been approved from what had originally been approved as to the character of the subdivision with three and four units of the same type of architect as what had originally started.

**SCHEUNER** stated the architecture of the structures, and proposed structures, are very similar if not identical to what would be constructed at the present time.

**BARNWELL** presented a color view of the elevation views which showed the controversial issues on the most recent structures:

- proposed 7-12 roof pitch
- staggers similar to the existing structures
- brick or stone on 50% of the front
- basically similar to the existing structures
- built to the same BOCA code
- 1,530 square feet on the existing structures (requirements 1,175 per Scheuner)
  - a. 1,300 square feet came in Phase II
  - b. original was 1,175 square feet for condominiums
- current units that are being constructed are very similar
  - a. 6-12 pitch roof
  - b. similar in style and appearance
- **ATTORNEY MOULTON** stated requirements of the single family homes:
  - a. minimum roof pitch was 6-12
  - b. minimum square footage of 1,300
  - c. a certain percentage of brick on the front
  - d. **ATTORNEY MOULTON** inquired from Scheuner if there would be any problems with any of the units presently being constructed on which permits have been drawn
    1. per Scheuner – “yes” some of the structures being placed in the development would be less than 1,300 square feet

2. per Scheuner – smallest unit being placed in the development would be 1,175 square feet
3. **ATTORNEY MOULTON** stated he was not sure where the 1,175 square feet was arrived from
  - a. Scheuner would review and inform where the 1,175 square feet came from
  - b. Scheuner stated the smallest unit of the three (3) structures that were the replacement units, close to River Road, were 1,175 square feet (tri-plex units)

**DATED INFORMATION:**

- **SWANSON:** September 13, 1999: Planning Commission had the *Preliminary Site Plan* on the PUD – Part of which is 197 condominiums, three and four units between 1,100 and 1,600 square feet – option of one (1) or two (2) bedrooms upstairs in the loft area. Also approved at the particular time was a Senior Citizen Center.
- **DOYLE:** March 8, 2004: Planning Commission Meeting - 1,300 to 1,500 square feet for two-unit ranches which were recently approved for square footage, setbacks, and the change from tri plexes and four plexes to duplexes – conditions that were placed on the approval. No changes were made on the style requirement or conditions that were originally placed on the development by the Planning Commission. What is trying to be maintained is what was originally approved in the first place as to what the two (2) and three (3) story units would look like, which is the character and aesthetics of the subdivision.

**SWANSON'S COMMENTS ABOUT THE WHOLE DEVELOPMENT IN GENERAL:**

- Preliminary Site Plan: approved and accepted as a Senior Citizens Community
- October 1999: Site Plan Review presented by Alan Lawrence; recommended changes for the golf course, entrances, and all buildings would have to comply with the architecture proposed by the Association – also subdivision name changed to Hyde Park
- January 2000: Site Plan Review for the Assisted Living Center; more discussion regarding the condominium development changes with regards to entrances and safety issues; golf course was eventually removed – after January 2000, nothing was brought back to the Planning Commission
- Next Appearance: informal discussion on the 64-single family development
- **SWANSON** wanted to know: 1) when and how was the Senior Concept approval removed, 2) when and how did the architectural design change from the extra bedrooms in the loft, and 3) when and how did the whole PUD get changed from the Senior Citizen Condominium Development to a Modular Condominium Development without the Planning Commission's involvement?

**DOYLE** stated on October 1, 2002 changes had been made from tri plexes and four plexes to single family homes which had been approved with conditions.

**ATTORNEY MOULTON** stated that he was in attendance at some of the early Planning Commission Meetings and there was extensive discussion about the development being an age

restricted Senior Citizens Community. After some research, there are a number of legal technicalities involved. After extensive discussion, it was never a part of the development that it be an age restricted development. **SWANSON** stated there were motions which stated to approve the Preliminary Site Plan as a Senior Citizen Development. **SWANSON** stated the State had two (2) different laws regarding Senior Citizen Complexes. **ATTORNEY MOULTON** stated he did not recall the Senior Development being a part of the project that had originally been approved.

One of the developers has come before the Planning Commission on several occasions with the issues of the 64-single family residences which has not been an issue; the project has been approved with the conditions set forth in the Planning Commission minutes.

**ATTORNEY MOULTON'S OPINION ON DISCRIMINATION:**

**ATTORNEY MOULTON** stated the approval of the conversion of a number of the tri plexes and quad plexes to duplexes, in Phase I, is not an issue; the only issue was what were the specific criteria to be applied to the construction of the units (duplexes). **ATTORNEY MOULTON** has already given a written Opinion stating there could not be discrimination between site built, modular built, or component built because as long as the construction codes are approved by the State of Michigan, the Planning Commission could not discriminate. The decision to review construction types is not up to the municipality. The Township adopted the State Construction Code by Reference which in turn adopted the International Building Codes which had incorporate any number of standards by reference. If the applicable codes have been satisfied regardless if the unit has been described as a modular unit, a component unit, or a site built unit, the Township could not refuse to allow the construction in the Township.

**SWANSON** stated that he had no issue with the construction being a modular, component, or stick built constructed as long as it had met the requirements that have been set aside for the design. **SWANSON** felt that **SCHEUNER** should have had the courtesy to inform the Planning Commission as to what they were doing. **ATTORNEY MOULTON** stated that perhaps **SCHEUNER** thought the matter had been taken care of at the March 2004 meeting. **ATTORNEY MOULTON** quoted No. 11 of the Minutes of March 8, 2004 which indicated that square footage would remain the same as original requested: 1,300 to 1,500 square feet for the two (2) unit ranches. **SCHEUNER** stated he thought the square footage was supposed to be 1,175.

**ATTORNEY MOULTON** stated that per his review of the Planning Commission minutes from beginning of the project until March 8, 2004, they indicated that everything has been approved. The legitimate construction criteria applicable to the duplexes were not available. **SCHEUNER** stated there were none.

**SCHEUNER'S OPINION CONCERNING ORIGINAL ARCHITECTURAL STRUCTURE:**

**DOYLE** stated that in the estimation of the Planning Commission, there had never been any requests for an approval from the last request made by **SCHEUNER** concerning changes, which had been made from the original aesthetic character of the structures. **SCHEUNER** stated he felt and still feels they did not change from the original architectural structure. After having reviewed the architectural structures in the complex and photographs which were reviewed by the Planning Commission, all had been similar but with slight variations; there was always an option.

**DOYLE** stated that certain parts of the PUD were adjusted and changed because **SCHEUNER** had come before the Planning Commission for a request to change. **DOYLE** stated the aesthetics and character of the subdivision had to be maintained unless there had been a request to change an item, which there had not been a request; the viewpoint of the Planning Commission, for a request to go to two (2) units, with different setbacks would also be different. The Planning Commission gave their approval only on the two (2) issues (duplexes and setbacks).

The view of the Planning Commission would be to look at the units which **SCHEUNER** has intended to put together for the rest of the particular section of the subdivision, along with the existing, and decide whether the units would have the same character which the Planning Commission allowed in the first place for the PUD. **SCHEUNER** stated there had been an Architecture Review, and based on that statement, it was still his (Scheuner) position the structures are architecturally similar. **SCHEUNER** felt that **ATTORNEY MOULTON** was referring to establishing more guidelines for the structures. **DOYLE** felt the Planning Commission had to review the situation and look at it from the view point from whether it had been changed, or not changed enough, to have a problem and a decision had to be made as to what was the acceptable guideline to continue the PUD as to what was approved in the first place. **SCHEUNER** stated he had no problem with the guidelines.

**SCHEUNER** felt there were some issues to be determined:

1. building permits have been issued for four (4) units under construction by Riske Builders
2. building permits have been issued to Panther Construction
3. eight (8) building permits have been requested by Mr. Dombrowski

**SCHEUNER** felt the time period would be two (2) to three (3) months for a decision in the duplex issue. **DOYLE** stated the interest of the Planning Commission would be to review the situation and decide to agree, or not agree, to go along with the same theme that was given to the PUD in the first place; the intent was never to change the aesthetic. The point would be to try and follow the original intent that was granted in the first place and the Planning Commission would not go back on that because it has been approved originally.

The Southwest section (64-single family homes) consisted of 34 conditions). There were no conditions placed on the section in question regarding the duplexes.

**RECOMMENDATION TO SCHEUNER FOR DUPLEXES:**

It was recommended that **SCHEUNER** 1) state his proposed conditions (similar to the 64 single family homes), in writing, for the section in question, 2) come back before the Planning



Commission, 3) in turn the Planning Commission would decide if those particular conditions go with the same character and aesthetics as the original approval.

**BOWRON** felt the Planning Commission did not have enough information at the current time to make a decision. The Planning Commission, currently, could not guarantee if the material already in existence compared with what **SCHEUNER** has proposed. **SCHEUNER** stated the approval of a structure had always been at the discretion of the Developer or Architectural Control Committee. **DOYLE** stated the request had been approved with the information that was to be constructed at the time; anything from there would be a variation.

**DOYLE** stated the intent of the Planning Commission would be to make sure, not only the Planning Commission but the residents of Hyde Park so there would be no changes from the original conditions that were placed on the PUD subdivision in the first place. If there are changes, the Planning Commission needed to know exactly what the changes are so they could be approved or disapproved. The information would be discussed at the June 14, 2004 Planning Commission Meeting. **GENSHEIMER** stated the Planning Commission always had the best of intentions for the residents of the township; it has never been hinted or mentioned there would be the type of proposed construction mentioned. **SCHEUNER** stated construction had never been mentioned; he (Scheuner) thought the issue had been architectural standard.

**BARNWELL** stated the methods and modes of construction are more in question, at the current meeting, than the final quality. Mr. Dombrowski, a house builder in the complex, had proposed stick-built homes; the building permit application had been turned in to the Township. **BARNWELL** would like to move forward with the progress of the construction of the structures, especially with Mr. Dombrowski's construction and recommended some type of criteria, from the past, be used to make sure the homes are compatible so as not to have to detain him (Mr. Dombrowski) due to an issue with another project in the development. Time is of an essence.

#### **RECOMMENDATIONS:**

**DOYLE** stated the Planning Commission would like for **SCHEUNER/BARNWELL** to put together the specifications being requested, as compared to the original approval, and attend the next Regular Planning Commission Meeting scheduled for Monday, June 14, 2004. The request, for the particular phase, would be the same as what had been granted for the first original constructed structures; the ones located on site as compared to what has been requested and to decide if the structure is or isn't aesthetically the same or has the same character. **DOYLE** would like for **SCHEUNER/BARNWELL** to put together the specifications that have to do with the structures also.

**ATTORNEY MOULTON** wanted to know how soon **SCHEUNER** could assemble a list of the minimum criteria, both aesthetics and construction techniques, for the duplexes in question; there are 15 structures. **DOYLE** stated everyone had to follow the same codes.

**BUELL** inquired as to who was the Architectural Review Committee? **HOWARD SCHEUNER** – the developer would be the Architectural Review Committee until 75% of the development has been sold; at that particular time it would be turned over to the Association.

**DOYLE** explained in most cases it would be fifty (50%) percent then other individuals would be on the board. When the development has been completed, the residents, themselves, are the Association.

### **8:22 P.M. - OPEN TO THE PUBLIC**

1. **Barbara Goebel, 7170 Kings Way, Flushing** – “wearing two hats” 1) Professional Status – when 64-single family homes were being considered, supportive of the homes – thought it would take two (2) or three (3) years to construct the homes which would give the school district time to plan for the growth of the number of children attending Flushing Schools; new middle school would not open until January 2006 – only one empty classroom – K through 12; concerned about the 64-single family homes but now it will be both the single family homes and the condominiums.  
  
2) Personal – concerned about the construction of the basement foundations; impact on the Association of fees for the stick built homes verses the modular homes.”
2. **David Woods, 7156 River Road, Flushing** – “no problem on how the construction occurs; modulares don’t look the same as the other homes would be the real issue; thought the people of Hyde Park were deceived.”
3. **Jeff Cole – 7204 Kings Way, Flushing** – “wanted to know the division line for the different districts; wanted to know the number of manufactured homes that would be placed in the subdivision; would it bring down the value of homes.”

(A) **DOYLE** stated that when the first development was approved as a PUD, it was all one (1) unit which included: (A) a Commercial Corner at River Road and Elms Road; (B) there was a hospital on the Southeast corner; (C) the rest of the acreage was two (2) and three (3) unit, two-story and some cases three story, if the back of the home was open, single residential units. The next request had been to change a small section of the area, on the Potter Road, side to small two-unit town houses (condominiums), which was a request from the original owner of the property due to a desire to construct something less expensive for seniors and families just starting out in life. The next request had been for the Southeast corner (located off Potter Road) which would adjoin into the other subdivision recently changed from two (2) and three (3) unit condominiums to single-family structures. The most recent would be the middle section of the subdivision on the North side of the River Road side which would extend from the entrance of the East end of River Road back into the first part of the subdivision.

(B) **SHERMAN HUBBARD** of Panther Constructions stated there have been two (2) modulares in the process of being completed; a basement is in the process of being installed for a total of four (4) homes.

4. **Randy Miholowski, 7160 Kings Way, Flushing** – “distinct look in the siding of the modulares; wanted to know the asking price of the homes (Per Hubbard - \$159,000-\$180,000); wanted to know the statistics of the home itself; has no problem with the homes; concerned about the aesthetics.”

5. **Phyllis Campbell, 7151 Kings Way, Flushing** – “recently purchased a condominium in Hyde Park; appreciate the Planning Commission being concerned about the residents and their opinions/interests; concerned about the aesthetics; put a stop to the building and not let anymore buildings be placed in Hyde Park.”
6. **Janis Dye, 7222 W. Potter Road, Flushing** – “price of \$159,000 to \$180,000 will not cut it; she has a home on Potter Road for sale for two years – appraised at \$212,000 – nice home – best offer on her home \$181,900; when start changing the aesthetics you won’t get the quality.”
7. **Sue Kuintus, 4097 Pine Glenn Crossing, Flushing** – “lived in the Flushing Community for 41 years; lived on River Road but bought a condominium in Hyde Park; seniors need a place to live and activities for seniors; modulars do not look like the picture that was presented.”
8. **Dave Johnson, P.O. Box 465, Swartz Creek** – “purchased lots in Hyde Park to construct homes on based on a Master Deed and plans that were on file in Flushing Township office; felt there were real potential to do great things in Hyde Park; concern is current owners in Hyde Park haven’t been given the proper consideration of what has been purchased; Planning Commission needs to consider the investment of the people of Hyde Park.”
9. **Charles Asher, 7140 Kings Way, Flushing** – Letter of Correspondence – “unhappy with manufactured homes being placed on Kings Way; concerned about the aesthetic value of the homes; anyway to stop additional manufactured units from coming into Hyde Park.”

#### **8:55 P.M. CLOSED TO THE PUBLIC**

**SWANSON MOVED**, seconded by Gensheimer to postpone the matter until June 14, 2004 so the Planning Commission could further investigate and get information from all parties involved so a decision could be made on the matter. **MOTION CARRIED.**

**GIBBS** wanted to know if: 1) there would be one meeting, 2) have a discussion, and 3) then make a judgment or: 1) would there be a meeting, 2) discuss the matter, 3) come back for a meeting later, and 4) vote on the matter. **DOYLE** stated he understood the motion stated information would be gathered from all sides. In the meantime, each Planning Commission member should review what had been presented, and at the next meeting, whether a final decision would be made or not, and discuss the conditions. **SCHEUNER** would make another list of the conditions that would go along with the first conditions; all the information would be reviewed and discussed to determine if a decision could be made.

**FITCH** stated that Mr. Dombrowski has eight (8) building permits that are waiting to be issued. **DOYLE** stated the units that have already been granted building permits would proceed. **FITCH** stated there is a possibility that two (2) buildings for a total of four (4) units could be up by June 14, 2004 which would be the next Planning Commission Meeting.

**ATTORNEY MOULTON** recommended, as the Township Attorney, to not issue “Stop Work” orders on permits that have been validly issued; the Township could not interfere with ones right to make a living who had come to the Township on good faith and obtained permits. It was recommended to not issue “Stop Work” orders; it was suggested no additional building permits be issued until the current meeting from which the Planning Commission could hear from all sides with regards to the issuance of further building. It would be the discretion of the Planning Commission, at that point, to decide if the Planning Commission felt it would be appropriate between now and the next meeting to issue permits.

The building permits would be for the modular home only in the particular subdivision in question. **FITCH** stated he had eight (8) stick-built unit applications for Mr. Dombrowski that had not been acted upon. **ATTORNEY MOULTON** stated that Mr. Dombrowski was caught in the middle of the issue because his applications had been received by **FITCH**, but at that point **ATTORNEY MOULTON** recommended that building permits for further issuance be placed on hold.

**GENSHEIMER** recommended putting a hold on “all” construction in Hyde Park until the next meeting regardless of the manner in which the homes are or will be constructed. **SWANSON** recommended placing a 30-day moratorium on all building permits for Hyde Park. **ATTORNEY MOULTON** stated the only issue in question was Phase I; would there be a moratorium beyond June 14, 2004?

**ORIGINAL MOTION: SWANSOM MOVED**, seconded by Gensheimer to postpone the matter until June 14, 2004 so the Planning Commission could further investigate and get information from all parties involved so a decision could be made on the matter. **MOTION CARRIED.**

**AMENDMENT TO THE MOTION:**

**SWANSON MOVED**, seconded by Gensheimer to hold up the construction of the new permits on Hyde Park until after June 14, 2004 for the opportunity to decide on conditions for the new buildings permits in Hyde Park; building permits already in existence do not apply toward the moratorium.

**ROLL CALL VOTE:**

**AYES:** Gensheimer, Buell, Gibbs, Bowron, Swanson, and Doyle

**NAYS:** Flowers      **MOTION CARRIED.**

2. **Informational Meeting - Mark Wolf of Southwest Flushing Associates LLC – Hyde Park**

**MARK WOLF (WOLF)** of Southwest Flushing Associates LLC was present with **ATTORNEY HENRY SANDWEISS (SANDWEISS)**, concerning lot splits and potential building envelopes in Phase II, Hyde Park Estates. **SANDWEISS** stated he and **WOLF** had acquired an option under contract and titles for Lots 1-5 of Hyde Park Estates; they would be

applying for building permits soon. **SANDWEISS** and **WOLF** have been operating and housing plans have been developed to fit the conditions and guidelines which the Planning Commission established August 2002, with respect to the 64-single family homes. Listed under the conditions, out of the 64 homes, 59 would have to be 1,400 square feet or more; five (5) homes can be as small as 1,300 square feet.

**SANDWEISS** stated that within each lot there is a building envelope; in the particular Site Condominium envelope the requirements have been twenty-five (25) foot setback for front, thirty-five (35) foot setback on the back, and ten (10) feet on each side. There could not be more than five (5) houses with 1,300 square feet. Relief of building envelope would not be needed on Lots 1-5.

**SANDWEISS** stated there are a number of building envelopes that would not allow for a 1,300 square foot structure. **SANDWEISS** does not desire to construct smaller homes, but would if he and **WOLF** were forced to adhere to some of the building envelopes. **SANDWEISS** stated that one building envelope is approximately 40 foot x 40 foot; the plans call for 22 foot x 20 foot, 440 square feet; the rest of the house would only be 20 foot wide. There are obstacles with pie-shaped lots. With the garage located in front of the structure and after the setback for the front has been met, it would force the house back into the lot, and because it is narrower in the back of the lot, the house would not fit the building envelope. The solution would be to change the rear setback requirements where the lot borders against an open area; there would be no request for relief where another house is behind the proposed house.

#### **PROPOSED HOUSE STRUCTURES BY SANDWEISS AND WOLF:**

- Constructed of the highest standards
- worthiness would be pleasing
- built to the highest level of finish of any of the homes
- Lucy Ham would be the Real Estate Representative
- of the five (5) models, four (4) would be ranch type homes
  1. the homes come in different width: 48' wide; 52' wide; 56' wide; and 60' wide.
  2. The 60' wide "Arlington" will be the model and professionally decorated with elaborate décor and architect design
- floor plans would all be different; there would be one (1) two story floor plan  
**SANDWEISS** stated that out of their 29 home designs, only the two-story home would fit on the lot
- The homes are modular homes purchased from Patriot Homes Inc.
- All of the homes will have:
  1. 9' ceiling on the first floor
  2. high level of carpet
  3. customized cabinets
  4. tile in the bathrooms and foyer
  5. many of the homes would have fireplaces
  6. the superior wall basements would be 9' deep
- homes would sell for \$200,000

- **SANDWEISS** will come to the office with the drawing which **JAMES BARNWELL** of Desine Inc. prepared for Lot 14.

**DOYLE** stated that since the current Planning Commission Meeting was only an informal discussion, there would be no action; **SANDWEISS** would need to put together all the things he would like to request and come to the Planning Commission, they (the Planning Commission) would entertain the matter.

The question was raised if **SANDWEISS** could proceed with the building permits. **ATTORNEY MOULTON** stated that his interpretation would be that the models which **SANDWEISS** and **WOLF** intended to construct would already meet the building envelopes. Per **ATTORNEY MOULTON**, if they (Sandweiss and Wolf) had come to the Township with building applications on Phase II, Hyde Park Estates, and it would meet all the criteria (34 conditions) required by the Planning Commission, and all criteria mandated in the Planning Commission Minutes of October 2002 and they were detailed with the 34 conditions, if everything has been met, they were entitled to the building permits.

**SANDWEISS** and **WOLF** are only stating to the Planning Commission there are a number of homes, which they intend to build, that would not meet the existing conditions for the window envelope so they intend to come back and ask for relief; the matter would be a separate issue.

A discussion was held regarding the term “discrimination” of building permits. **ATTORNEY MOULTON** stated he understood the term “discrimination” had come with the nature of allowing someone who was proposing site-built homes to proceed forward when someone would be restricted with modular homes. **ATTORNEY MOULTON** stated he understood the motion to apply to Hyde Park Condominium. The whole purpose of the current meeting was to address the issue of the criteria to be applied to the duplexes in Phase I, so he is not sure how the Phase I issue flowed over into Phase II. There were mixed opinions as to whom the motion regarding the hold on building permits, applied.

**SANDWEISS** stated Phase II has a separate Master Deed and separate By-Laws.

**DOYLE** stated when the Master Deed and By-Laws were changed, there was a discussion regarding breaking up the subdivision, where there are different rules and regulations for each part of the subdivision. It was discussed that the whole PUD would stay the same even though there were changes in the way some of the structures would be constructed. **SCHEUNER** stated at present there were four (4) Master Deeds.

**DOYLE** stated that if **SANDWEISS** would like to request a building permit, he would have the right to request the permit. Conditions whereby the structures have been built, everything would be in order, and the developer wanted to make the request, the Planning Commission, as the Commission that gave the approval for the PUD in the first place, have a right to know what the conditions would be. If there is a Special Use Permit and it states certain items in the permit, the conditions have to be followed or they would have to come back to the Planning Commission.

**DOYLE** stated the original motion that was passed took into consideration all of Hyde Park.

**DOYLE** stated the position of the Planning Commission was to make the issue legal, the Planning Commission needed a formal request on whatever and the petitioner had to go through the proper channels to have it approved. **WOLF** stated he had followed all the conditions of Phase II.

**GENSHEIMER** stated that Hyde Park had started with a vision and over the years the concern had grown to a “real” concern and fear for the development. Hyde Park is one of the largest developments in Flushing Township.

#### **COMMISSION COMMENTS:**

##### **1. Trespassing Potential**

**BOWRON** stated that last month the question came before the Planning Commission regarding authorization, before any Commission Members went on any property, to evert any potential action against “trespassing”. It might be a good idea to incorporate, into the Preliminary Site Plan, an area where it would grant the petitioner the right to grant the Planning Commission the option to go on the property to inspect a particular petitioned matter. The authorization would pertain to anytime the Planning Commission would need to go on another person’s property for a specific purpose.

**DOYLE** recommended the matter be placed in the Planning Ordinance to request that anytime the Planning Commission needed to go on someone’s property for a formal request, the Planning Commission ask the petitioner for approval. **BOWRON** thought it might be easier to incorporate the matter on the Building Permit Application. **ATTORNEY MOULTON** stated that it would be easier to have on the application submitted and signed by the property owner to state:

“In making this application, I hereby express the authorized members of the Planning Commission and Building Inspector or other appropriate officials to come onto my property during the hours of 8:00 a.m. in the morning and 5:00 p.m. in the evening for the purpose of conducting any inspections that may be necessary acting on this request.”

**ATTORNEY MOULTON** stated the Planning Commission would be covered. **DOYLE** wanted to know if someone came to the Planning Commission for an informational meeting, would the Planning Commission be able to go onto their property. Per **ATTORNEY MOULTON**, if the individual had given the Planning Commission permission, it would not have to be in writing to check out the matter in question. The Planning Commission should use common sense, if there should be a question, make sure that someone would be available for a Planning Commission member to come onto the property.

It was determined the *Permission to Enter the Property* would be placed on the Building Permit Application.

**2. Additional Planning Commission Meeting**

**FLOWERS** stated that he had been informed by Supervisor Trogot that if the Planning Commission needed another Special Meeting in June, to proceed.

**MEETING SCHEDULE:**

**SPECIAL SCHEDULED MEETING – TUESDAY, JUNE 1, 2004 – 7:00 P.M.**

**REGULAR SCHEDULED MEETING – MONDAY, JUNE 14, 2004 – 7:00 P.M.**

**PROBABLE WORK SESSION – TUESDAY, JUNE 29, 2004 – 7:00 P.M.**

**REGULAR SCHEDULED MEETING – MONDAY, JULY 12, 2004 – 7:00 P.M.**

**VIII. ADJOURNMENT:** There being no further Work Session business, **DOYLE** adjourned the Planning Commission Meeting at 10:00 p.m.

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JEROME DOYLE, Chair

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JULIA A. MORFORD, Recording Secretary

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ERIC SWANSON, Secretary

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Date of Approval

Planningminutes 05/25/04