

## ROUND HILL PUD

### TIMELINE FROM BEGINNING OF DEVELOPMENT PROCESS

Draft of July 30, 2021

#### SUMMARY TIMELINE OF MAJOR ITEMS FOR ROUND HILL PUD

**2015** - Either RJV Ventures or Driftwood Ventures approached CCT to amend the Sentinel Pointe PUD to replace the 40 unit elderly housing facility with a 15-single family detached units in a condo to be called Round Hill.

**3/9/2016 – BOT approved the amended PUD (Ordinance #1 of 2016).** This was after the project was initially approved by the PC in December 2015, first considered by the BOT and tabled to be sent back to the PC on matters relating primarily to the stormwater retention system, and only approved by the BOT after several changes were made.

- This approval was for a 10 unit traditional condominium development, with specific building envelopes for each unit. The units were to have a minimum of approximately 1,300 - 1,600 sq. ft. of livable area.
- From the start, after seeing the initial site plan, there was opposition from Mr. and Mrs. Rohde, the neighbors to the southeast, and their counsel.
- One of the changes was to require performance bonds from the Developer.

**There is almost a year's gap in identified (from the public record) activity by the developer.**

**2/21/2017** – D&B applied for a Soil Erosion and Sedimentation Control (SESC) Permit by submitting the Site Plan, and showing SESC measures, including construction of 700+ feet of retaining walls. (Finko LLC. is now identified as the developer).

**6/2017** – Tree clearing began and thereafter proceeded with earthwork on the site.

**10/30/2017** – KCRC issued a Notice of Violation to builder

**12/12/2017** – Building Permit for Unit 8 granted (PB17001811).

Then the Builder built a house far different than that on Site Plan. The owner of Unit 8 failed to obtain the required SESC permit as required by Michigan Law.

**2/15/2018** - Building Permit for Unit 8 (6538 Round Hill Court) granted (earlier one on 12/12/17 also granted) (PB18000151)

**4/27/2018** - Finko recorded the Master Deed of Round Hill Condominium with KC Register of Deeds.

But according to Rohde counsel's letter to CCT Board on 8/6/2019, Exhibit B to the Master Deed is the Condominium Subdivision Plan. That subdivision plan deviates substantially from the approved Site Plan in numerous respects.

Guisti changed the original traditional condo form to a site condo with lots for each unit.

It fails to include the earth retention structures that are required by the Site Plan. Also, by changing it to a site condo, these retention structures would become the responsibility of the unit owner on whose property they are located. There would be no reserve fund of the HOA for major repairs, etc.

**5/17/2018 - Violation Notice sent by KCRC to Tom Guisti demanding changes be done by 5/24/2018.**

This was based on inspection done by Bruce Schutte and Andrew Reinhardt on 5/15/2018

Violations include:

Silt fences needed, concrete spillway & retaining wall not installed.

Potential for sediment to leave the site. Lift station road and lower property line into creek.

Sediment is leaving the site. Lower sides of site across property lines - lift station road from upper unprotected soils. Must restore with adjoining property owner and approvals from other landholders needed.

Total site vegetation is needed

Permit has expired.

KCRC continued its monthly visits and repeatedly indicated violations of its stormwater and erosion plan

The Rohde's also made numerous formal complaints with CCT during this 2017-2-2019

**3/28/2019 - Building Permit for Unit 3 issued (PB 19006308)**

**4/15/2019 - Finko recorded an amendment to the Master Deed modifying the boundaries and lot sizes of six of the ten units, dramatically decreasing the size of at least one lot and dramatically increasing the size of another.**

**5/2019** - Mr. Rohde contends that in May of 2019, the Unit 8 address was changed to 6546 Round Hill Ave. But there were liens filed on the old 6538 address that did not come over to the new address.

**5/20/2019 - Major Planning Commission Meeting -**

See Detailed for details, but Steve Peterson answered a number of the complaints by Mr. Rohde and others.

**8/6/2019 - Letter from Hilger Hammond, counsel for the Rohde's, requesting CCT to:**

Put RH on its next BOT meeting agenda

Withdraw approval of Ordinance #1 of 2016 amending the Sentinel Pointe PUD

Direct the Planning Director to issue a C&D Order halting activity on the site, and

Direct the Building Inspector to revoke the Bldg Permit for Unit #3 and revoke the Occupancy Permit for Unit #8.

It also, among other things, confirms that the Developer never recorded the Ordinance, and responses of CCT to FOIA requests confirms that the CCT does not have a signed, recorded copy of the amended PUD. It also alleges that Finko did not sign and date the PUD and affirm a statement that Finko read, understood, and agreed to abide by all requirements of PUD. It goes on to say that these requirements are critical for control of the development, enforcement of ordinance requirements, and protection of purchasers and adjoining landowners. The amended PUD “expressly states that failure to comply with each of these conditions of approval ‘shall be deemed to be both a nuisance per se and a violation of the CCT Zoning Ordinance.’ That is the basis of the request to withdraw approval of the Ordinance from 2016 or in the alternative direct the PD to issue a C&D order halting all work on the site.

The letter was 8 pages and was cc’d to all the then Trustees (other than Rob, to whom the letter was official sent, as the representative of the Board). It also copies Ben (YM) and Cliff Bloom.

It appears on a quick look not to do this or we will sue, but rather do this or we must have a sit down meeting within 7 days

#### **8/27/2019 -**

Letter from Steve Peterson to Tom Guisti saying that the Twp will not be issuing an occupancy permit for the home under construction or any other permits for the development.

#### **9/26/2019 – Litigation filed by Rohde’s against the Developer/Builder/CCT/Steve Peterson as PD - Suit was for damages against the Developer/Builder and Mandamus action against CCT**

Developer graded the site in a manner that created steep slopes of unsecured earth extending to and sloughing beyond the property boundaries of Round Hill and onto adjacent property owned by Plaintiffs.

Developer submitted a site plan with 700+ linear feet of retaining walls to hold the steep slopes in place and protect against soil erosion and sedimentation impacting adjoining property and the Thornapple County Drain and the Thornapple River.

Multiple allegations against CCT; among others that CCT did not require Developer and Builder to comply with township ordinances and the approved site plan.

#### **12/10/2019 - Fishbeck Report on Site Plan Review**

Review based on Revised Site Plan dated Nov. 20, 2019 given to them by CCT.

Fishbeck notes in its first page that “a **previous site plan for this location was approved in 2015 with construction onsite occurring since that time. The developer did not construct several elements according to the 2015 site plan. The current site plan resembles the previously approved site plan; however, there are several changes that have occurred since 2015. We believe that most people involved with this site plan are aware of the number of changes and history wight the site; therefore, we will attempt to limit our review to the changes and updated site plan and provide some history only where necessary for clarification purposes.**

## **DETAILED TIMELINE**

**2015** – Either RJV Ventures or Driftwood Ventures approached CCT to amend the Sentinel Pointe PUD to replace the 40 unit elderly housing facility with a 15 single family detached units in a condo to be called Round Hill. Director Peterson, in answer to a question at the 12/7/15 meeting, said that RJV Ventures changed its name to Driftwood Ventures.

**3/2/2015 – PC** Review of a new proposal by RJV Ventures to amend the Sentinel Pointe PUD:

1. This would be a development of 15 units of detached single family homes in a traditional condominium with no lots for a unit.
2. Each unit was to be approximately 2,500 sq ft on one floor with a basement (no walk outs).
3. They were planning on a 15 foot perimeter set back and 20 feet between houses.
4. There were a number of issues that needed to be addressed but this was the preliminary plan review meeting. Erosion, retaining walls, density on site for 15 units, stormwater drainage, parking, access to the library and a number of other questions were asked.
5. Tom Guisti made the presentation for RJV, with Nederveld as the engineering firm for the developer.

**1/13/2015 - Preliminary Proposed 15 Condo PUD Submission to CCT**

**4/22/2015 - Mark Rohde submitted a 40+ page engineering analysis to the Planning Commission**

**7/6/2015 - Planning Commission Meeting**

Received a request to approve a PUD for a 10 house condo project named “Round Hill”

**7/27/2021 - Mark Rohde and Sentinel Pointe Retirement Community submitted an opposition packet of materials to the Planning Commission.**

This packet supplemented the April 22 submission with more analysis and detail. He had sections about:

- Grading and Retaining Wall Issues
- Storm Sewer and Retention Pond

**12/7/2015 – PC** Approval of original plan for PUD – Driftwood Ventures was the Developer.

This was for 10 single family detached units in a condominium. It is unclear whether the units consisted of only the houses or whether this was more of a site condo.

There was discussion of the need for a Landscaping Plan and Director Peterson said that those were not normally required in single family residential developments nor are there “buffer yard requirements”. But they have been required in some projects.

PC voted unanimously to send this to the BOT for approval, with Staff conditions. (32 minute meeting, with two projects on the agenda, RH and the Cascade Animal Hospital expansion)

**1/14/2016 – Handwritten letter/note from the Deputy Managing Director of KCRC, on RH**

They have preformed a “cursory review of the proposed SESC Plan and feel if adequately maintained will be sufficient for the proposed grading associated with the proposed development..” Then asks for a \$5,000 surety in cash or an L/C. Was it ever obtained?

**1/16/2016 – BOT** had a public hearing and then considered whether or not to approve the proposed “Approval of Ordinance to Amend P.U.D #55 to permit 10 Unit Single Family Detached homes for Roundhill.”

1. **Board in the end tabled the motion and remanded it to the PC** to deal with three issues:
  - a. Landscape Plan to create some more detailed buffering from the visual eyesore that could develop there.
  - b. Bonding requirements to protect against soil erosion during construction.
  - c. Tightening up on the Maintenance Agreement relating to soil erosion.
2. Both of the last two would apply even after the developer obtained its county approval of a soil erosion plan.

**1/25/2016 – Rohde** letter opposing the RH development plan. He recited the Board’s concerns expressed on 1/16 and puts in his analysis of why the Board is right to be concerned:

1. Retaining wall is within the 15’ setbacks
2. There should have been a landscaping plan required in approved version
3. Retention pond had many potential flaws, most particularly that it is inaccessible to maintain.

**2/1/2016 - PC** considered items asked them by the BOT to work out the three issues the BOT asked them to:

1. Performance bond consideration to address soil erosion
2. Review of stormwater maintenance agreement to provide additional protection,
3. Landscape Buffer plan

PC considered:

1. Landscape plan presented by D&B that purported to include a buffer around perimeter and a modified storm water maintenance agreement.
2. D&B represented that they would be planting scrubs to soften views of the retaining walls on the south and north sides of the site.

3. D&B agreed that each unit of RH would have to have a soil erosion permit at time of construction. Township Engineer recommended a \$50,000 performance bond for soil erosion during construction phase.
4. PC decided:
  - a. \$8,500 performance bond for landscaping around the site as per site plan.
  - b. New stormwater maintenance agreement and a \$50,000 performance bond.

**2/24/2016 – BOT – Considered approval of the PUD Amendment**

Cliff Bloom continues to be the lawyer for CCT.

Board reviewed Peterson's presentation of a new landscape plan as well as the amended Maintenance Agreement for stormwater. There is also a \$8,200 bond to be put in place for landscaping.

A \$50,000 performance bond was also agreed to be put in place "until the site stabilized".

Because there were only 4 members of the BOT present, all needed to vote in favor under the Zoning Enabling Act. The final vote was 3-1 (Peirce has consistently voted against RH's development. So, action was tabled. McDonald, Koessel and Beahan voted in favor.

**3/9/2016 – BOT approved the amended PUD (Ordinance #1 of 2016)**

1. Approval of PUD Amendment with the following items:
  - a. Approval of the amended Landscape plan dated 1/22/2016 with an \$8,200 performance bond.
  - b. Bloom has tightened the Maintenance Agreement for Stormwater. Kent County Road Commission (KCRC) has reviewed the developer's SESC control plan and is agreeable to it.
  - c. The \$50,000 performance bond has been agreed to by the applicant to be in place until the site stabilizes.
2. Peterson mentions a packet of information from Mr. Rohde challenging some of the interpretations of prior BOT decisions on RH and other matters and said that Mr. Rohde's material did not accurately reflect the Township BOT's decision. He also noted that Mr. Rohde's attorney had sent in a separate letter. Both Mr. Rohde and his attorney want the project stopped.
3. Peterson recommended approval of the amendment to the PUD with the above conditions set forth in it.
4. The Maintenance Agreement provides for remedies that include the Township doing the needed work and then putting a lien on all units for repayment. There is also a SAD provision allowing the immediate creation of an SAD of the unit owners for collection of costs incurred, including admin and legal costs.

5. The Ordinance itself:
- a. 10 unit condominium
  - b. The development must be done in strict compliance with the Ordinance, the site plan and the condition. This approval also had “no modifications” or “deviations” except as approved by formal written approval by the Township. “So-called minor deviations shall not occur or be made unilaterally by the Developer.”
  - c. Any deviation is to be considered a violation of CCT’s Zoning Ordinance as well as this Ordinance being approved.
  - d. Failure to comply with the site plan or any condition of approval shall be deemed to be both a nuisance per se and a violation of the CCT Zoning Ordinance.”
  - e. Ordinance must be filed with land records of Kent County before any construction, and as filed document evidencing the filing must be given to CCT.
  - f. Project “shall be developed in exact accordance with the site plan approved by the Township. No alterations, expansions, or additions may occur as to the Project with a formal amendment to this Ordinance, unless expressly otherwise authorized herein.”
    - i. Minimum of 1300 livable sq. ft on one story units; minimum of 1600 sq ft on two story units (at least 800 sq. ft on first floor).
  - g. The Township must be supplied with an engineer’s “as-built” certification that the Facilities, as built and installed, matches the approved design.
  - h. Soil erosion control plan must show all temporary and permanent soil erosion control measures to be taken before, during and after construction. Plan to be reviewed with Township Engineer prior to commencing any excavation on the site.
  - i. Site Plan approved was left undated in the Ordinance in packet for this meeting.

*Note from Ben to CNM 6-17-2021*

*Good seeing you today – going through the files there are a couple different iterations of the Round Hill site plan, I’m not sure which are the approved one and I don’t want to send you the wrong ones. I will ask Steve or Brian to send you the approved ones. For what it is worth, this is what was in the Township Board packet in January 2016. It was tabled and remanded back to the Planning Commission for changes to the Landscaping Plan.*

*Thanks,  
Ben*

**Guisti never provided – and query if CCT asked for – the required performance bonds?**

**2/21/2017** – Developer authorized the Builder to obtain any necessary permits to begin work on RH.

**2/21/2017** – D&B applied for a Soil Erosion and Sedimentation Control (SESC) Permit by submitting the Site Plan, and showing SESC measures, including construction of 700+ feet of retaining walls. (now this shows Finko LLC.)

**3/13/2017** – KCRC issued a SESC Permit and required the D&B to install controls as specified on the SESC plan.

**4/22/2017** – Nederveld Engineering, for Developer, staked the RH property for tree clearing.

**6/2017** – Tree clearing began and thereafter proceeded with earthwork on the site.

Soon very clear in non-compliance with SESC Plan. In particular, no retaining walls.

**7/2017** - Mark Rohde inquired if there was a revised site plan showing elimination of the required retaining walls; he was told none existed.

In his letter to the PC on 5/20/2019, he said that he requested a copy of the drawings for the Project and was rejected.

**7-9/2017** – underground utilities and cul-de-sac done.

Developer and Builder (D&B) then removed 3 acres of old growth trees and cut into the hill to create a level area. D&B represented that they would replace the trees and that landscaping would be dense and very nice.

Developer and Builder built first unit substantially bigger than 2,700 sq. ft. and in 2019 (at time of complaint in lawsuit) a second bigger than 2,700 sq. ft. is being built.

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*RH was a traditional condo without separate lots; 2,700 sq. ft. of living area and 477 sq ft. of garage space. Price point: \$500x-\$600x. Complaint Para. 23&24*

*All condo buildings and structures shall be placed with the building footprint area as shown on the final approved site plan dated \_\_\_\_\_ . (in complaint it still is a blank)*

*Nothing to be built or planted or placed over any of the Facilities (that are part of the stormwater system or drains, etc.)*

*Site plan appears to have northern retaining wall and a “massive earth retention wall approx. 700 ft long and top height of 10+ feet.*

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**6/16/2017** – after D&B cleared trees and before the new grading happened (Exh 3 to Complaint).

**9/10/2017** – after D&B graded the site (Exh. 4 to Complaint).

**9/2017** – Rohde alerted KCRC and CCT of site grading, drainage, erosion problems.

**10/1/2017** Rohde sent a letter to the PC, KCRC and CCT notifying them of sedimentation issues

**10/30/2017** – KCRC issued a Notice of Violation to builder

**12/12/2017** – Building Permit for Unit 8 granted (PB17001811).

Then the Builder built a house far different than that on Site Plan. The owner of Unit 8 failed to obtain the required SESC permit as required by Michigan Law.

**2/15/2018** - Building Permit for Unit 8 (6538 Round Hill Court) granted (earlier one on 12/12/17 also granted) (PB18000151)

**4/6/2018** - General Permit? for 3000 Thornhills Ave. SE - (PB - 18000546)

**4/9/2018** - Electrical Permit for Unit 8 issued (PE18000658)

**4/27/2018** - Finko recorded the Master Deed of Round Hill Condominium with KC Register of Deeds.

**But according to Rohde counsel's letter to CCT Board on 8/6/2019, Exhibit B to the Master Deed is the Condominium Subdivision Plan. That subdivision plan deviates substantially from the approved Site Plan in numerous respects.**

**Guisti changed the original traditional condo form to a site condo with lots for each unit.**

**It fails to include the earth retention structures that are required by the Site Plan. Also, by changing it to a site condo, these retention structures would become the responsibility of the unit owner on whose property they are located. There would be no reserve fund of the HOA for major repairs, etc.**

**5/17/2018** - Violation Notice sent by KCRC to Tom Guisti demanding changes be done by 5/24/2018.

This was based on inspection done by Bruce Schutte and Andrew Reinhardt on 5/15/2018

**Violations include:**

**Silt fences needed, concrete spillway & retaining wall not installed.**

**Potential for sediment to leave the site. Lift station road and lower property line into creek.**

**Sediment is leaving the site. Lower sides of site across property lines - lift station road from upper unprotected soils. Must restore with adjoining property owner and approvals from other landholders needed.**

**Total site vegetation is needed**

**Permit has expired.**

**5/25/18** - Mechanical Permit for Unit 8 issued (PM180001234)

At some point in 2019, Tom Guisti filed for PUD changes in building envelopes and grading (Case No. 19-3527). The records show no final action on it (but this is from a 2019 report).

**6/11/2018** - Another KCRC Site Inspection Report

**It says that violation notice is recommended, as it was on 11/6/17 and 5/17/18**

**Based on site visit by Bruce Schutte and Andrew Reinhardt**

**It finds that:**

**RETAINING WALLS NEED TO BE BUILT [THEIR CAPS]**

**Potential for sediment to leave the site.**

**Sediment is leaving the site along south property line Lots 6 & 7.**

**Vegetation needs to be established - Pond needs top soil and reseeding with blanket per plan.**

**6/15/2018 - Another KCRC Site Inspection Report.**

**It finds that**

**Earth change has begun, controls not installed per plan**

**Permit remains expired.**

**It highlights in yellow that the retaining wall must be installed ASAP. "Soil is still leaving the site on the south side of property, coordinate soil recovery with neighboring property owner." "Finish grade, topsoil, seed and blanket slopes as soon as possible to establish growth. Perimeter of property should be vegetated to create buffer between open soils and adjacent properties. Topsoil and reseed pond area. Install silt sacks as discussed at on-site meeting. Fix and maintain silt fence. Site remains in violation as long as soils have the potential to leave the property.**

**Same two inspectors.**

**7/19/2018 - Another KCRC Site Inspection Report**

**It finds that little has changed and more problems have arisen with sewer washout on northside of driveway near the entrance. As for south side, it uses phrases such as "Southeast corner of property is extremely vulnerable to washouts due to steep, unprotected slopes very close to property lines. This area is in desperate need of stabilization before any substantial rainfall that could cause runoff onto neighboring properties. Silt fence is full and needs repairs in many areas around the site. This site continues to be in violation due to soils leaving the property."**

**Same two inspectors.**

**8/1/2018 - Another KCRC Site Inspection Report**

**This one goes one step further than just reporting continuing violations. This recommends another violation notice go to Guisti and it does by certified mail and email. This says corrections must occur by 8/8/2018.**

**8/9/2018 - Another KCRC Site Inspection Report**

**This is a follow up to see what Guisti has done since 8/1 Notice of Violation. Improvements have occurred.**

Silt fences were repaired along Mr. Rohde's property line and "most of the soils were recovered." But soils above the fences are still bare and "extremely vulnerable to washouts."

"Retaining wall needs to be installed and vegetation needs to be established ASAP."

The north side "large washout" near entrance was not address and "I gave him until 8/13 to fix this problem.

"The site needs vegetation and permanent controls to stabilize ASAP."

#### **9/18/2018 - Another KCRC Site Inspection Report**

"An attempt was made at recovering soils from Mr. Rohde's property in SE corner, but there is still a lot of soils remaining that will need to be removed by hand. I would strongly recommend additional silt fence rows in this area to avoid more soils lost off of the property. This area continues to be extremely volatile, this area needs to be stabilized with a retaining wall and vegetation ASAP."

#### **2/4/2019 - Another KCRC Site Inspection Report**

This is a progress report. Site is mostly snow covered, but is melting at a very fast rate. Overall, sediment is not leaving the site and the SESC are working but need to be maintained. Some silt fences are down and needs repair. The retaining wall has been staked but no work has started.

#### **28/2019 - Building Permit for Unit 3 issued (PB 19006308)**

**4/15/2019 - Finko recorded an amendment to the Master Deed modifying the boundaries and lot sizes of six of the ten units, dramatically decreasing the size of at least one lot and dramatically increasing the size of another.**

**Mr. Rohde contends that in May of 2019, the Unit 8 address was changed to 6546 Round Hill Ave. But there were liens filed on the old 6538 address that did not come over to the new address.**

#### **5/20/2019 – Planning Commission Meeting –**

There was a long discussion of the problems at RH. Mark Rohde's son, Judd, read a statement by his father, citing that Mark had done an analysis, code review, and presentation to the PC regarding the then proposed RH PUD. He said that he found two design elements that violated Michigan law.

Mr. Peterson did set forth answers to the issues raised in the public hearing and the concerns raised in letters delivered to the township:s

1. As to soil erosion, he said it was not his responsibility. It was the County's; he also said that they had said that Gusti's paperwork was in order. No one at CCT seemed able to point out to them that the retaining wall was not built and that there had been numerous complaints. Also, in the XXXXX, soil erosion is in the Cascade zoning duties as well.
2. The claim that the PUD site development plan completely changed during construction. Peterson said that he does not find this to be the case, but says that the project is not yet finished, so it is not unusual for final grades to be completed until the project is done. If

there is something that they want to change, they will have to apply for an amendment, or build as originally approved.

3. Home size has violated the PUD approval requirements. "Peterson stated that the buildings are limited to the building envelopes . . . . The current home and second home that has been started are both within those envelopes." Only minimum house size would be regulated, not maximum so long as it is within the envelope.
4. Deck not inside envelope; Peterson said that was the reason for the meeting today.
5. Landscape buffer element requirement can not be constructed as required. Peterson said that was always done at the end of projects, not during construction.
6. Site fill was improperly compacted at the south property unit locations. This was a concern of Mr. Rohde though the minutes are unclear what they are talking about. Peterson said Rohde had been spoken with and the Building Department was made aware of it and it is up to them whether or not to require any testing.
7. There was discussion of a letter from Varnum about retaining walls. Peterson said that letter was written at a time when Varnum was not the Twp's attorney.
8. Sperla asked about whether there had been any contact with the DNR regarding silt and materials drifting into the river. Peterson said no recent contacts, but the Township has sent its engineer out in the past to do tests in the bayou for materials and tests have come back as mostly organic to the river. He also talked about a big drain completed to stabilize a hill near Centennial Park, west of Thornhills and east of the condo project, where it was believed a lot of fill was coming from and flowing into the river. They have both been completed in the past few years.

In the Staff Analysis for the 12/16/2019 Meeting of the PC, Para. #1 says that "**During that meeting [the May 20 meeting] we learned that they also had plans to remove the large retaining walls that were part of the original approved site plan and some concern was raised that they may have expanded beyond the approved building envelope.**"

**8/6/2019 - Letter from Hilger Hammond, counsel for the Rohde's, requesting CCT to:**

**Put RH on its next BOT meeting agenda**

**Withdraw approval of Ordinance #1 of 2016 amending the Sentinel Pointe PUD**

**Direct the Planning Director to issue a C&D Order halting activity on the site, and**

**Direct the Building Inspector to revoke the Bldg Permit for Unit #3 and revoke the Occupancy Permit for Unit #8.**

**It also, among other things, confirms that the Developer never recorded the Ordinance, and responses of CCT to FOIA requests confirms that the CCT does not have a signed, recorded copy of the amended PUD. It also alleges that Finko did not sign and date the PUD and affirm a statement that Finko read, understood, and agreed to abide by all requirements of PUD. It goes on to say that these requirements are critical for control of the development, enforcement of ordinance requirements, and protection of purchasers and adjoining landowners. The amended PUD "expressly states that failure to comply with each of these conditions of approval 'shall be deemed to be both a nuisance per se and**

**a violation of the CCT Zoning Ordinance.” That is the basis of the request to withdraw approval of the Ordinance from 2016 or in the alternative direct the PD to issue a C&D order halting all work on the site.**

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Multiple complaints to CCT; yet CCT did not require Developer and Builder to comply with township ordinances and the approved site plan.

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Fishbeck notes in its first page that **“a previous site plan for this location was approved in 2015 with construction onsite occurring since that time. The developer did not construct several elements according to the 2015 site plan. The current site plan resembles the previously approved site plan; however, there are several changes that have occurred since 2015. We believe that most people involved with this site plan are aware of the number of changes and history with the site; therefore, we will attempt to limit our review to the changes and updated site plan and provide some history only where necessary for clarification purposes.”**

The report listed several particular areas of changes:

**-Storm Sewer and Grading along north property line.** Not done as per 2015 Site Plan; **new site plan “is acceptable”, but “storm sewer and grading existing structures are critical to the design and function of the retention basin.”** At end, this new plan “should accomplish the original goal of routing the offsite runoff around the new retention basin **provided the grading work is constructed properly.”**

**Retention Basin**

**Storm Sewer Outlet at Retention Basin**

## **Basin Emergency Overflow**

### **Grading South of Units 6-10**

**Slope Restoration South of Unit 6** - this notes that a retention wall was to have been built previously and comments on Guisti's new plan for this area without a wall.

The conclusion says, among other things, that:

the additional work called out in the site plan must be done promptly and **"recommends a \$100,000 bond at a minimum."**

**The site improvements should be inspected by CCT on a regular basis until final construction. There is no way to ignore the fact that the site was not constructed according to the 2015 approved site pIN. Given the history, we would not be comfortable recommending an approval with some sort of additional oversight. The oversight can be completed by CCT staff or if Fishbeck is expected to provide that oversight," then a \$20,000 escrow account is needed.in case the work is not completed.**

**[more to be added from report]**

### **6/10/2020 – BOT Meeting with Public Hearing - Approval of Amended PUD Ordinance**

Minutes indicate that BOT approved changes to the Sentinel Pointe PUD pertaining to Round Hill without any indication of what they were. Also, while indicating that there was a public hearing, no mention is made of how long it was, how many spoke or on what aspects of RH. The minutes are a total waste of paper.

The Staff report, recommending approval of the revised PUD Ordinance says that:

1. The "developer has made several mistakes during the development of this project. Most notably, these include constructing the units outside of the approved envelopes, not obtaining a building permit for the deck before construction and not adhering to the approved site engineering." Para. 2
2. The new buildings built on the site (probably means the two units on the north side (units 3 and 4?) and excluding unit 8) have building permits; the deck does not have one. So, unit 8 has a temporary occupancy permit, conditioned on the settlement of this deck issue (a zoning violation). Also, CCT has said it will issue no other permits until this zoning issue is resolved. Para. 4.
3. Developer wants to modify building envelopes for all of the units. Para. 5.

The Materials Testing Consultants (MTC) report of 4/2/20 on the retaining wall on the south side contains a description of some negotiations between Hula Eng. And MTC over what materials to use in the wall. MTC was more concerned about the gravity wall when it got too high. The report also recommends some part-time observation and testing by CCT of the building process

to ensure that it is built as per agreed specs. Did CCT do the part-time observation and testing. (pp. 379-381 of the 6/10/20 BOT packet).

**6/28/2021:** Email from Craig Meurlin, PC member, to Scott Rissi and Steve Peterson [relaying](#) a complaint by Mr. and Mrs. Grunske, who own the property abutting that bayou, of water running directly from the retaining wall (seemingly under or through the wall) and down the hillside across the street from them to the culvert under Thornapple River Drive to the bayou and stopping there for now furthering the build up of silt and dirt from RH. There was heavy rain on Friday and at various times throughout the weekend, but it was not close to the 100 year flood.

**7/6/2021** – Members Meurlin and Noordhoek did a visual inspection of the wall and the Rohde property (with Mr. Rohde) that indicated possibly much more severe problems:

1. Missing major catch basin (#106) required in the stormwater retention system
2. No water was coming through the tiles at bottom of the wall into the Rohde spillways (which were part of the overall system); instead water was coming up primarily on one side of the slopes of the natural culvert on the Rohde property a good bit away (estimate of mine is 20-50 yards away) from the Retainer Wall; this might indicate groundwater being forced up which may indicate water coming under the wall (because the existing system is clogged by sand and silt (no silt containment mesh was on the catch basin we did look at). This might over time undermine the foundation of the retainer wall. Also, Mr. Grunske reports after one of the rains in the past 10 days that he walked up to the Wall and saw water and sand was coming through the wall. The questions that arise are:
  - a. Was the wall built according to specifications?
  - b. Is the wall structurally sound after making it higher and if water is coming under the wall where no catch basin is?
3. We also could not find a way down to maintain the containment pond at Round Hill.

#### **7-9-2021 - KCRC Site Inspection Report**

1. There were official “no violations” noted for particular notice. Andrew Reinhardt visited.
2. But the report said that:
  - a. There is still the potential for sediment to leave the site. Catch basins on the southside of the site are not protected. Silt fence and vegetation should be established around them ASAP. Sediment laden water is entering the detention basin from the unprotected catch basins. The slope above the retaining wall needs to be regraded and vegetated, sediment is accumulating above the retaining wall. The South slope behind the active construction needs to be graded and stabilized, sediment is accumulating at the silt fence at the bottom of the slope.
  - b. Corrections must be completed by ASAP.

### **7-12-2021 - PC Meeting**

1. There was discussion of the safety of the existing large retaining wall itself. Members Meurlin, Moxley and Noordhoek all have toured the site and are concerned about the safety of the wall. The drainage system of the development did not seem to be working, with the spillways dry and catch basin 106 not being visible behind the wall.
2. The PC asked PD Peterson to have our engineers visit the site and report back to the PC on the safety of the Wall.

### **7-20-2021 - KCRC Site Inspection Report**

1. The visit was by Andrew Reinhardt.
2. This report is a bit more negative. The itemized issues included a "Controls full of sediment on Southside of site.
3. Below in the notes, it says that the catch basins have silt fence around them on the southside, there are still several catch basins that need protection. Suggests that Guisti topseed, seed and install erosion blanket around all catch basins and install protection around the perimeter to keep sediment out of the storm sewer. SESC controls are full of sediment at the bottom of the slope on the southside. Must clean out and maintain all controls. There are alot of washouts on the hill slope above the retaining wall. This slope needs to be regraded, covered with topsoil, seed and erosion blanket, sediment is accumulating above the retaining wall.

**ROUND HILL AFTER ACTION REPORT WORK PLAN  
(INCLUDING RECENT EXCAVATION)**

Draft of 7-30-2021

**GOALS:**

**Round Hill Facts:**

1. **The Initial Approval of the Development; was it done ‘by the book?’** Determine the actual happenings in 2015-2016 in the approval process for the RH development? What representations/commitments were made by Mr. Guisti in seeking approval for his development?
2. **2016-2019 Actions of Developer and Staff; Round Hill Litigation.** Determine the actions of the developer/builder and the Township Staff relating to Round Hill between 2016 and 2019. Why did Guisti wait a year to develop the property? Integrate CCT actions with other regulators (e.g., KCRC). Investigate the litigation as it applies to CCT. Did Unit #8’s address get changed such that liens were moved from Unit 8 to a vacant lot?
3. **2020 Ordinance and 2020-2021 Actions:** Determine what representations or commitments that were made by Mr. Guisti in seeking approval of the amended ordinance in late 2019 and that was approved in 1/2020; and the actions since that time by the developer or his contractors.

**Examination of alleged Conspiracy Theories**

- **Conspiracy Theory #1:** Connection of Tom Guisti with 6370 28<sup>th</sup> Street property (property behind Culver’s Restaurant).
- **Conspiracy Theory #2:** Round Hill was supposed to be where Fire Station #1 would be built, to link to the new Townhall connected to the Wisner Center. To have an administrative complex. That is why RH sat undeveloped for a period of time in 2016-2017.

**General Zoning Enforcement Policy and Process (and as used in RH Development):**

- Determine the General Process Used by CCT in Enforcing Zoning Ordinances to Ensure Developments are built as per CCT approved plans.
  - How proactive is CCT in ensuring developers are building projects as per approved site plan? Does it have regular site visits?
  - How is a citizen complaint handled and responded to? Is there always an initial investigation to determine validity of complaint?
  - Was the General Process Used by CCT in zoning enforcement used in RH?

- What is the philosophy used by Planning Director in enforcing ordinance/resolutions approving projects?
  - How much flexibility does it use with developers/builders?
  - How does it avoid the “selective enforcement/non-enforcement” complaint?
  - Did Round Hill developer get more dispensation than other developers have received?
- What remedies does CCT’s staff have against developer who violates the ordinance or site plan approved? How often do they use them?
- Does PD keep any overall status document for developments in CCT?
- Recommendation for new zoning enforcement process, which has staff buy-in.

**Final Report:**

4. Accurate analysis of the facts of RH – what CCT did well and what it did not do well. What the Developer did wrong. Both substantively and with appropriate transparency. Most importantly, why did this have to end in litigation?
  - a. Buy-in from staff and from public to findings due to transparent process. Hopefully put to bed the conspiracy theories and build trust between the public and the government of CCT.
  - b. Assessment of the current process of zoning enforcement (general process and as exhibited in RH)
    - How proactive is CCT in ensuring developers are building projects as per approved site plan? Does it have regular site visits?
    - How is a citizen complaint handled and responded to? Is there always an initial investigation to determine validity of complaint?
    - What remedies does CCT’s staff have against developer who violates the ordinance or site plan approved? How often do they use them?
    - Does PD keep any overall status document for developments in CCT?
5. Recommended improvements in the process of enforcement for CCT Zoning Ordinances to ensure that no further RH’s occur, that there is a consistency in enforcement (sufficient to avoid selective enforcement claims), that protects neighboring property owners, and to assure that all developments built in CCT are built as promised in their approval.

**General Issues and Decisions for Our Committee Process:**

- All meetings will be done in compliance with OMA requirements. That means proper notice/posting; ability of public to attend and ask questions; minutes prepared and posted.

## First Meeting (Organizational Meeting)

- General
  - Review Goals Listed above.
  - Create Work Plan and Schedule of Additional Meetings and Major Process Markers for this Committee
  - Determine interest of people in various components of investigation and their schedules.
    - Can we use Google Docs for adding material to our master documents without violating OMA? Or do we do independent document reviews and questions for follow up interviews (if needed), and only report added findings at our public meetings?
    - Compile document request to be delivered to TM and PD (and consultants for CCT) and neighbors.
- b. Phased Work Process:** I suggest that we complete this effort in multiple phases? With reports to the full PC as each Phase is completed. Those reports will include all written work product.
  - Phase #1: First collect as much public information and from initial input from staff on timeline and document request and written answers to our questions. Pure factual compilation. [Interview Staff members – principally Steve P., Ben S. and inspectors.]
  - Phase #2: Moving to interview our consultants and getting into reviewing laptops for items undisclosed. Also, leave interviews with Guisti and Bloom and Rohde to this second phase. Additional more intrusive factual compilation.
  - Phase #3: Investigation of conspiracy theories [perhaps we should not wait this long to start this effort.]
    1. Check land records and foreclosures.
    2. Any presence of Guisti in property behind Culvers?
    3. Interview Ben S and Steve P about any coincidental times of activities.
  - Phase #4:
    1. Coming to conclusions on what our report should contain. Compile first draft of report of factual findings.
    2. Obtain any staff comments on ideas of process changes that could be recommended.

3. Determining what if any recommendations to make as to policy or process or ordinance changes.
  4. Coming to conclusions on what our report should contain on these conspiracy theories. Compile first draft of report of factual findings.
- Phase #5: After getting input from PC and staff and any public comments on interim draft, finalize report.
    1. After report finalization, send report to Chair of PC for distribution to the PC. Report will be on website as well.
    2. After PC approval, send it to BOT for review.
- c. Establish rules for Interviews (i.e., have two members of committee in each interview to make sure everything is heard and reported; can we tape the interviews? Should we? Always be civil but do not be deterred from follow up questions if you don't completely understand the first answer (be aware of "bureaucratese" answers) and follow-up with questions on new lines of inquiry that arise during the interview.
  - d. Create assured pathway for Staff involvement in the factual findings, possible process changes and capabilities shortfalls at Twp to implement these possible changes and the totality of the final report:
    1. Their interviews for some.
    2. Their ability to ask to speak to members of the Committee with additional input (either confidentially or on the record).
    3. Their ability to comment on each draft of the Report
    4. Their participation in the recommendations for process improvements to the zoning enforcement process.
    5. Their ability to write a dissent or rebuttal to the Committee report.
  - e. Homier question list (for answer at second meeting):
    1. *What is CCT's standard policy on rights to inspect municipality owned computers and their content? If legal and viewed as important to a degree sufficient to override the obvious symbolism of distrust and privacy concerns, take independent look at computers of some key people involved in foreclosures and in Round Hill.*
    2. *When should we advise anyone of their right to counsel? Homier needs to address. I would hope that this never arises. Is it only criminal issues or also issues that could lead to adverse employment actions?*
    3. *When must/should we go into closed session? Discuss criteria in answer to this question (practical criteria with examples): e.g., to discuss adverse employment actions; to discuss just evaluations of conduct of*

*individuals; if there are possible criminal actions uncovered or actions that could result in further CCT liability).*

**6. Future Meetings:**

- a. Will depend on progress on actual collection of factual information. Meetings will not be regularly scheduled.
- b. At each meeting, we will make:
  - Make assignments for work to be done
  - Review RH Timeline to ensure common understanding of basic facts; correct as necessary.
  - Set secondary (10,000 ft level) target dates for interim reports of progress and mechanisms for reporting to PC every 60 days.
  - Determine software so that all committee members can see accomplishments of others pursuing other lines of inquiries; have reports of important new insights and facts available for rest of committee to see.
  - Create drafting committee and means of input by staff into tentative findings.
  - Answers from Mike Homier to list of questions that may be last asked by us.
  - Try to have the meetings at regular intervals, using a software sharing app to keep the others up to date on accomplishment of secondary targets to make certain no line of inquiry is getting too far behind the others.
  - This is where the insights of each line of inquiry can be integrated by key finding reports of each member. And coordination of next steps (perhaps combining two lines of analysis to interview a person).
  - **Ultimately, these meetings will be where draft sections of the Report will be presented and the integrated Report reviewed so that we can hopefully have a Report signed by all of the members of the Committee and the TM.**

**7. Phase #1: Collection of Facts:**

(this will inevitably be linked with Phase #2 – as lines of inquiry are pursued, further questions will arise and more documents and interviews will be needed)

*Interviews (this will be an iterative process, as further questions develop during Lines of Inquiry investigations)*

- a. Steve Peterson:
  - Evidence of Steve Peterson’s continued role as PD in light of answers to allegations in paragraphs ##12 and 13 of the complaint in litigation.

**PR #12: “SP is the Community Development Director of Cascade Township.”**

- **CCT answer admits this fact.**

**PR #13: “Upon information and belief, Peterson is responsible for implementing the Township’s zoning ordinances.”**

- **CCT’s answer to #13: “Township defendants deny, in the form and manner stated, for the reason the same is untrue. In further response, the Township Defendants admit that Peterson has those responsibilities set forth in the Ordinance.”**

- Have Steve Peterson create a process map of the zoning enforcement action steps and decision criteria at CCT currently. Do these apply to DDA projects as well?
- What is the process for ensuring that ordinances get filed as they should and why wasn’t the process followed in the case of Round Hill? Was the Master Plan/Site Plan that was filed checked for accuracy against that approved by the BOT in 2016? In retrospect, was it consistent? If not, what did you do about it?
- What, if anything, has changed in the enforcement process map since the settlement of the litigation in 2019?
- His view of his responsibility for enforcement? What coordination occurs with other regulators, in particular the KCRC?
- What is CD director’s approach to enforcement of zoning issues? What constitutes a violation in his mind for a development in process? Did that approach differ with the RH development?
- What is CCT’s current philosophy of enforcement of zoning ordinances?
- When did Steve Peterson become aware of what to a non-professional planner, would seem easily discoverable violations of Zoning Ordinance at RH?
- Why weren’t the required performance bonds obtained for RH? What is the normal process for obtaining performance bonds? When projects go dormant for a period of time, what system is in place so that top of mind items when the project is stopped are captured and easily brought back to top of mind?
- Why wasn’t the retaining wall built as required? Particularly when the lack of it was causing significant damage to neighboring property owners. Did you view that as not your responsibility because it was part of the Storm water and Soil Erosion system under the control of the KCRC?
- How much do you rely on consultants as the identifiers of violations?
- How often did he brief the PC or TM or Supervisor about complaints received of zoning violations? If he were to enforce a violation and try to obtain remedies, would he have gone before the PC for approval first?

- Now that he has a complaint from Mr. and Mrs. Grunske about the water run-off from the retaining wall at RH, how if at all would he propose to respond to that complaint?
- Does the DDA have any process for ensuring compliance with their projects?
- Do you coordinate with any other group (DDA, Inspections in the TWP or other agencies outside the Township) in keeping track of what is happening at developments underway in CCT?
- Do you know if Tom Guisti has any other principal in Finko, LLC and any other entity of his of which you are aware?
- Do you (or, to the best of your knowledge, any member of you or your spouse's extended family) have, or at any time had, any other business or personal relationship with any of the following entities, or any manager, member, major shareholder of, or principal in any of the these entities: **Riebel Development, AWMP Cascade, LLC, Lexton, LLC., Driftwood Ventures, RJV Ventures or Rumsey Ventures?** If the answer to any of these is yes, please explain what that relationship is? on
- Do you (or, to the best of your knowledge, any member of you or your spouse's extended family) have or at any time had, any other business or personal relationship with any of the following individuals (or of any entity in which any of these individuals was or is a manager, member, major shareholder of, or principal): **Robert O. Van Kalken, Ayin Valdes, or Raleigh J. Finkelstein?**
- Is there any other fact (or inference from a fact) that could be the basis or any rumors of your involvement with the property behind Culver's and Macatawa Bank on 28<sup>th</sup> Street (the property that we think has an address of 6370 28<sup>th</sup> Street?

b. For whomever was his secretary during the 2016-2019 time period?

- What was the process for complaints and zoning enforcement then? Has that process changed at all since the settlement of the litigation?
- Am I correct that complaints addressed to Steve would go immediately to him? What about zoning ordinance complaints not directed to Steve – it they went to the TM, would he send them along to Steve? How long would that take? Did you have any log-in system so you would know how long someone's complaint had been laying there without a response?
- How were complaints handled? Formally? Informally? By staff below him? How many went without any response?
- Have you ever heard of any of the following entities or individuals:  
**Riebel Development, AWMP Cascade, LLC, Lexton, LLC., Driftwood Ventures, RJ Ventures, RJV Ventures or Rumsey Ventures?**  
**Robert O. Van Kalken, Ayin Valdes, or Raleigh J. Finkelstein?**

c. Ben Swayze:

- When did you become aware of the issues surrounding Round Hill?

- Do you get notice as a general matter of any significant complaint filed with any department of CCT, and more precisely, with Steve Peterson or the Planning Department, or Community Development Department of CCT?
- Do you know if Tom Guisti has any other principal in Finko, LLC and any other entity of his of which you are aware?
- Do you (or, to the best of your knowledge, any member of you or your spouse's extended family) have, or at any time had, any other business or personal relationship with any of the following entities, or any manager, member, major shareholder of, or principal in any of the these entities: **Riebel Development, AWMP Cascade, LLC, Lexton, LLC., Driftwood Ventures, RJ Ventures, RJV Ventures or Rumsey Ventures?** If the answer to any of these is yes, please explain what that relationship is? on
- Do you (or, to the best of your knowledge, any member of you or your spouse's extended family) have or at any time had, any other business or personal relationship with any of the following individuals (or of any entity in which any of these individuals was or is a manager, member, major shareholder of, or principal): **Robert O. Van Kalken, Ayin Valdes, or Raleigh J. Finkelstein?**
- Is there any other fact (or inference from a fact) that could be the basis or any rumors of your involvement with the property behind Culver's and Macatawa Bank on 28<sup>th</sup> Street (the property that we think has an address of 6370 28<sup>th</sup> Street)?
- How often was the Board or the PC briefed on RH complaints?

d. Fishbeck and other consultants used in RH.

- Did you express any oral unease at the behavior of the developer or builder at Round Hill? (We have separately asked for any opinions or letters you had with anyone at CCT relating in any way to Round Hill and its development.)
- Did you have to issue any findings, or certifications as to, certain facts as a condition to CCT granting any permit or other approval relating to Round Hill?
- Did you ever express any hesitancy about issuing any such certifications or findings of fact?
- If you had a person go out to the site to investigate a particular matter and that person saw something else that, using either his or her professional expertise or just by using common sense, seemed to be a problem involving the development or any portion thereof, would that person have a duty to report that to anyone senior at your firm or to make it known to CCT? If not, how do you cover the white spaces between the separate silos of your organization (e.g., between electrical engineering and landscaping or stormwater and soil erosion control systems)?

e. Cliff Bloom

- What were the terms of your engagement on the Round Hill matter? Is there an engagement letter evidencing that?

- From when to when were you engaged or performed legal services for CCT on the Round Hill matter?
  - Was the Twp open in its information sharing? Did you have multiple contact points at CCT when you needed something? If you only had one, who was it? If you had multiple contact persons, who were they?
  - Did you speak with multiple people to ensure the answers given to the complaint were correct?
  - Were you allowed direct access to everyone with CCT or any consultant of CCT with whom you expressed an interest in talking? Were you allowed direct access to the entire paper and email history of the Round Hill development? Do you believe that you have a reasonable basis for telling us your views as to what really happened in the RH situation that led ultimately to the litigation?
  - What is his view of what happened?
- f. Whomever is in charge of foreclosures for tax liens? How were they handled in 2016?
- About the parcel behind Culver's. (Parcel 41-19-17-226-012)
  - When did the County get notified of this Parcel's delinquency?
  - How much was the amount in arrears and for what years were they in arrears?
- g. Trustees on Committee of BOT overseeing zoning and Robert Van Kalker, Tom Guisti and others involved in the 6470 28<sup>th</sup> Street Property. (Hold for next phase)

**General Topics for Questions:**

- h. The Enforcement Process – Who is responsible and how are the zoning ordinances enforced? Many of these will be asked of Steve and Brian at initial interviews. Some will be follow up for second interview.**
- In the CCT job descriptions, where does ultimate responsibility lie for zoning ordinance enforcement?
  - Analyze the process map that Steve Peterson delivered against what happened at RH and what has happened in situations with other developers?
    1. Confirm if the litigation or post-litigation resulted in any operational changes to the process?
    2. Does the Twp do any pre-emptive site visits to confirm important elements of the ordinances relating to the development (or other building activity in the city are complied with? Or is their enforcement entirely reactive?
    3. What happens normally when a complaint is received by someone in CCT? Is it immediately brought to attention of PD? What would enforcement process look like?
  - What is the policy of the Twp about handling complaints from neighbors about developments?
    1. Any internal investigations?

2. Site visits?
  3. Use of consultants?
  4. Discussion with developer?
- When has the PD issued zoning violation citations and forced corrective action during the construction period for a development?
  - Was that normal process followed in RH? If we asked 5 developers who work regularly in CCT, would we see a similar 'flexibility' as shown in Round Hill?
  - Why was there a two-year delay in dealing with the erosion to neighbor property and to bayou and Thornapple River (2017-2019)?
  - When, if ever, exactly did he cite the RH development or Developer or Builder for violations, and if so, what remedies did he impose and for what time periods?
    1. He has mentioned that there were a couple of times when he stated to Guisti that no more permits would be issued until certain corrective actions were taken by Guisti. When were those prohibitions in place and when were they released (and for what reasons in both)?
    2. Were there any other actions taken against Guisti or the builder by CCT?
  - Why didn't the complaints of the MDEQ and the KCRC do more to encourage CCT to move on the violations as well?
  - Were violations of the plain language of the ordinance about RH not considered violations upon which enforcement action should be taken?
  - In other enforcement actions around the Twp, what remedies has the Twp used against Developers?
  - Finally, does anyone (Staff member or consultant) use common sense and if they see what looks like a violation (even if it is not a violation of what they came looking for or in their silo of investigation), report it for further inquiries?

**i. RH Approval Process and PC and BOT Oversight**

- Was the development approved a traditional condominium or a site condominium?
- Was the ordinance passed in 2016 filed with Kent County Land Records immediately as required?
- Was the site plan filed with the Land Records the same site plan approved by the Board of Trustees?
- Why is even TM uncertain he has the final site plan for RH – see his note on Timeline to me.
- Review the legislative process and the regular amendments for RH
- Why was there delay in filing the Master Deed (more than 9 months after approval). What role does the Master Deed have versus the Ordinance? Does CCT have to approve the Master Deed? When was the first site plan filed with Kent County?
- Amendment #1 to PUD

**j. 2016-2019 Actions**

- Why were there no performance bonds posted as required?
- Why was the South retainer wall not built as required?
- How did the Staff respond to complaints?
- How did a small development become a significant litigation by a neighbor against the Twp and the Developer?
- What was the process actually used by the Staff to respond to alleged violations of the ordinance of 2016?
- How many violations were there (including those violations of the plain language of the Ordinance that were not treated as violations)?
  1. Was the property cleared and leveled beyond what was shown on the site plan creating sharper slope angles?
  2. Stormwater system – was it installed as required?

**k. 2020 Ordinance and Actions in 2020-2021**

- What violations of the ordinance occurred in 2020 and 2021?
- Was the Twp's oversight more structured in 2020 in order to assure itself that everything was being put in in compliance with the ordinance of 2020? How often were things checked?
- How were violations, if any were found, not found by our consultants or our PD staff?

**l. Any linkage to Parcel 41-19-17-226-012 and Rumsey Ventures?**

- What were the Use Tax delinquencies for the parcel? It indicates they were a special assessment – is that true? What was the total amount due when foreclosure action started?
- How did Rumsey Ventures, two weeks after formation, seem to get a very low cost in its purchase out of foreclosure of the Parcel involved? How was the foreclosure process used and how did Rumsey Ventures win the bid at a negligible price (zero on the transfer tax affidavit – I assume that Rumsey had to pay off the tax liens at least)?
- The common lawyer (Jason Schnelker) involved with AWMP Cascade, Rumsey Ventures and Finko? How did that happen?

## Documents Requested

*Use information gathered to correct/complete the Round Hill Timeline (separate document).*

### Round Hill Development

1. All public filings of the Ordinance #1 of 2016 or Ordinance #26 of 2020:
  - a. The filing dates and copies of the filed material of the Ordinance #1 in 2016 and Ordinance #1 of 2020
2. Prerequisites for development under Ordinance No. 1 of 2016, approved on March 9, 2016? Were they all met prior to development starting?
3. All permits issued by the Twp. or, if you are aware of any, by a county or state agency, as to the development as a whole or any unit of the development.
  - a. What prerequisites existed for the permit?
  - b. How does the PD confirm the prerequisites were met?
  - c. The date of the authorization.
4. All complaints (oral or by email or otherwise in writing) as to the development once work on the site started (starting when the clearing of the site started):
  - a. Who made the complaint?
  - b. The date of the complaint.
  - c. The response of CCT to the complaint
    - i. Who made the response?
    - ii. The date of the response.
    - iii. How was the response communicated to the complainant?
5. All visits and inspections to the site by CCT staff and/or any direct or indirect consultant to CCT:
  - a. The date of the visit or inspection?
  - b. Who from the staff or the consultants made the visit or inspection?
  - c. What was the purpose of the visit or inspection? And where on the site was the inspection or visit?
  - d. Copy of any report generated from the visit or inspection.
6. All correspondence between (either to or from CCT in any way relating, directly or indirectly, to the RH development and:

**When asking for correspondence with an entity, please provide correspondence between CCT and the entity, or any manager, partner, member, owner, counsel, or agent of the entity.**

  - a. RJ Ventures, RJV Ventures, Driftwood Ventures
  - b. Tom Guisti, Finko LLC, Thomas Michael Homes, LLC,
  - c. Hula Engineering, Nederveld Associates, consultants for Guisti.
  - d. All consultants for CCT (including Materials Applied Testing, and Fishbeck)
  - e. Cliff Bloom, special counsel for CCT
  - f. Any other correspondence or notes, reports, etc. with respect to Project Case No. 15-3229, Case #19-3527

Identification of original filed documents describing development and site plan as considered at various meetings of the PC and as approved by BOT in 2016.

Confirm documentation about shift from traditional condominium into a site condominium with each lot being owned by the unit owner? Confirm actual documentation relating to that application and what documents were considered by the PC and then the BOT (and approved)?

Obtain all correspondence relating to complaints about erosion onto neighboring parcels. This includes complaints and all internal correspondence and all responses to the citizens filing the complaints? Obtain all correspondence between Steve Peterson (or others in his Department and on the Staff or with a consultant of CCT) and Rohde's, Grunske's, and any others who complained about water (and silt and dirt and trees, etc.) run-off.

Foreclosure records for CCT properties in first four months of 2016. See how Parcel 41-19-17-226-012 (6370 28<sup>th</sup> Street) was handled and if it was done in a manner consistent with other foreclosures.