



Import

Park Service rejects Harbor Shores plan

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BENTON HARBOR — Federal officials have rejected a plan that would use 22 acres of Jean Klock Park to help create a Jack Nicklaus signature golf course as the centerpiece of the \$400 million Harbor Shores development. In a letter to the Michigan Department of Natural Resources, Ernest Quintana, regional director of the National Park Service, said he is concerned that a development agreement transfers control of the park property to Harbor Shores, rather than having it remain under the control of the city of Benton Harbor. NPS reviewed the proposed development because federal funds were used for park improvements. Harbor Shores officials said now that they have a specific list of federal objections to the plan, they will revise the plan and submit a new one. "We will get with them to see how we can best present the information they need," said Mark Mitchell, president and CEO of the Alliance for World-Class Communities and a board member of Harbor Shores. Land swap proposed In exchange for the 22 acres of parkland, Harbor Shores developers are offering eight parcels nearby totaling 42.5 acres for expansion of the park. The eight parcels would be connected by sidewalks and designated as walking or biking paths. In a five-page letter, the NPS said it denied the request based on "our opinion that the control and tenure of the entirety of Jean Klock Park and that of all of the proposed replacement lands have also been conveyed from Benton Harbor to (Harbor Shores) or one of its affiliates." While Harbor Shores developers say the NPS decision was not a surprise, they said it was a disappointment because they wanted to begin improvements to Jean Klock Park. "We view it as a setback," said Jeff Noel, Whirlpool Corp. vice president of communications and public affairs and a member of the board of trustees for Harbor Shores. "We had hoped to get in there and do the public improvements (in the park) first," said Noel. He said part of the expansion proposal is to provide access to the beach with a road and parking in front of the dunes as well as making repairs to the present bathhouse. Harbor Shores would include 900 housing units, two hotels, two marinas and other commercial development. Noel said developers might add more property to the proposed swap for the 22 acres when they revise their proposal for Jean Klock Park. Carol Drake, co-founder of The Friends of Jean Klock Park, was pleased with the NPS decision. "We've won the scrimmage, but the battle is not over," Drake said. "The National Park Service made the right decision and upheld the law. Any other plan will go against the consent judgment. This is the best and highest use of the park." After four acres of the park were sold for homes, a 2004 Berrien Trial Court consent judgment required that no more parkland be set aside for private use. Harbor Shores would pay the city \$35,000 annually under the 35-year lease agreement for use of the 22 acres inside the park. Bothered by language The NPS is concerned about language in the lease agreement and covenant deeds that grant easement rights to Harbor Shores and Cornerstone Alliance on land Harbor Shores is swapping with the city for parkland. One parcel at the southeast end of Klock Park would allow access to three holes of the golf course. Another, located along the St. Joseph River, would be the site of two proposed private marinas. A third easement would grant Harbor Shores access to the portion of the park that is not involved in the land swap for utilities. The NPS letter implies the easements appear to be exclusive only to Harbor Shores, Cornerstone and any affiliates of the project. "That is incorrect," Noel said. "There is no exclusivity. This is about maintaining the park and the marinas." Mitchell said the easement issues have been taken out of context. "The easements are designated and designed for access and having right-of-ways to the marinas," he said. The NPS also questioned the language in the lease agreement "which allows Harbor Shores to assign this agreement or any interest therein as collateral security or create a sublease by way of mortgage of

(Harbor Shores') leasehold interest." "In summary, we believe the subject Agreement in effect transfers perpetual control and tenure of the entire Jean Klock Park and the proposed replacement lands from Benton Harbor to (Harbor Shores) or its Affiliates," the park service letter states. The NPS did not return calls to The Herald-Palladium on Wednesday. But in telephone interviews two weeks ago, Jim Krejci, outdoor recreation planner for the park's service Midwest Regional Office in Omaha, Neb., said "we are looking at the ownership and those lease agreements," adding any land swapped under the proposal has to "remain in perpetuity" to the city. "It is our opinion that the proposed replacement lands fail to meet the basic L&WCF (federal Land and Water Conservation Fund) eligibility requirements, specifically the equal utility requirement," the NPS letter states. "Property to be converted must be evaluated in order to determine what recreation needs are being fulfilled by the types of outdoor recreation resources and opportunities available." "The property being proposed for substitution must then be evaluated in a similar manner to determine if it will meet recreation needs which are at least like in magnitude and impact to the user community as the converted site." "The NPS said the replacement land must have public access and offer a viable recreation area." "Although the city's proposal refers to the replacement lands being linked together, we see no connectivity to other park units," the letter states. "We also do not believe that any parcel is self sufficient as a viable park or recreation unit. Accordingly, the proposed replacement package comprising 42.57 acres is insufficient in magnitude, capacity, and viability to mitigate the subject 22.11 acre or any larger conversion." Noel said he believes if the NPS officials visited the proposed site they would have a better understanding of what developers are planning for the park expansion project. "They have not been physically on the property," Noel said. "But we're going to invite them." "The NPS also believes the public was not given ample opportunity to comment on the "environmental analysis" of the conversion and replacement proposals and would require such as process if developers return with another conversion proposal. Harbor Shores did pay for an advertisement and request for public comment in The Herald-Palladium on Sept. 17, 2006. But it was not clear whether the NPS had this document to review. Harbor Shores held a number of public forums throughout the city during the summer of 2006. "Given that we have all these documents, I actually am quite pleased that these are the only issues raised," Noel said. He said it is the park service's role in this process to raise objections, and called the agency's letter spelling out its objections "a wonderful opportunity" for Harbor Shores developers to revise their plans knowing the specific objections.

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