

## Developers say they only want 3.8 acres of Klock Park property

By LYNN STEVENS/ H-P Staff Writer | Posted: Friday, August 1, 2003 12:00 am

BENTON HARBOR -- Grand Boulevard Renaissance is interested only in buying 3.8 acres of Jean Klock Park, one of three partners in the development company said Friday.

Charles Ammeson, a St. Joseph lawyer, was countering a claim made at a public hearing earlier this week by a Higman Park resident who said agreements between the city and company open all but 10 acres of the 90-acre park to private development.

Ammeson said his company did ask for an option on a lot the city owns next to the southern end of the park and a right of first refusal for five adjoining lots inside the park, but he denied any plans to build on those parcels.

"The option expires the minute the 3.8 acres goes through," Ammeson said. "The Southern Anchor (the five parcels along Lake Michigan) right of first refusal is to avoid having a competitor come in during the four-year development process."

City commissioners voted June 2 to sell the 3.8 acres along Grand Boulevard, the northern border of Jean Klock Park, to Grand Boulevard Renaissance to be developed into 28 up-scale single family homes.

Seven lots were to be developed each year for four years. Ammeson said the city created the extended development period on the advice of its appraiser, who told city officials the undeveloped land should rise in value as the expensive new houses were built.

The city would make more money from protracted development because the agreement with the company gives the city 75 percent of whichever is greater: the amount for which the developer actually sells a house, or the latest appraised market value minus the cost of development. Presumably, the appraised market value or the prices would rise each year, but such development costs as water and sewer line extensions would be incurred only once. As the gap between selling price and development cost widens, the city would get bigger payments.

But all development is on hold for now.

After the commissioners' vote, a group of people opposed to selling any part of Jean Klock Park sued the city to prohibit any sale of park property.

Berrien County Trial Court Judge John Fields granted a temporary injunction July 16, and a hearing on a permanent injunction is yet to be scheduled.

The two-lane, brick-paved Grand Boulevard is much smaller than its name implies.

The former road to the Jean Klock Park beach lies at the bottom of the hill on which the Higman Park neighborhood is built.

Many of the people concerned over the proposed sale live in Higman Park.

At a public hearing Monday on amending the city's master plan to accommodate the sale, one Higman Park resident said agreements between the city and company open all but 10 acres of the 90-acre park to private development.

Donna Probasco, who is not a plaintiff, said at the hearing that the agreements specifically protect only 10.3 acres of the park defined as "Jean Klock Beach."

Jean Klock Boulevard is not Klock Road, the access road to the parking lot. It is a road parallel to Lake Michigan and west of the dunes.

Probasco said the terms "Beach Lot" and "Southern Anchor" were never used in any public discussion of the sale. The agreement optioning the Beach Lot, and the right of first refusal to buy the Southern Anchor were not discussed publicly, either, she said.

Former Berrien County Trial Court Judge Ron Taylor also opposes the sale. He did not speak during the hearing, but he said afterwards that the Grand Boulevard sale agreement with the option and the right of first refusal agreements all were dropped on the plaintiffs' lawyers' table during the temporary injunction hearing July 1. He said there was not time to read them carefully during the hearing.

Taylor said had they known the exact terms of agreement, the lawyers would have raised the issue of unlimited development back in July.

Ammeson said Friday that his group does not want unlimited development and that is why he wrote the agreement specifically protecting the beach. He could not get further guarantees from the city because, he said, city officials told him they could not promise what their successors might do with other portions of the park.

He said city officials had approached him and his partner, architect John Allegretti, about development in the area near Allegretti's earlier project, Marram Shores. Three houses have been completed in the four-house project just north of Jean Klock Park overlooking Lake Michigan.

Ammeson said officials also suggested developing the lot the city owns on the south border of the park, but agreed instead to use that lot as an exchange in case the developers were not able to get title to the lots along Grand Boulevard. He said the immediate, undeveloped value of the 28 lots at the north end and of the 49-foot-wide beach front lot at the south end are the same, and the lot at the south end could be developed much faster.

"We're not interested in the south end," Ammeson said. "The option is only a security. The option expires once clear title to the 3.8 acres can be delivered.

If the development company can't get that title, he said, "we would swap the 3.8 acres for the beach lot."