

ISABELLA COUNTY
PLANNING COMMISSION

May 10, 2007

A Regular Meeting of the Isabella County Planning Commission was held on May 10, 2007 in Room 225 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Marilyn Fosburg, Craig Schripsema, Jerry Neyer, Gale Willoughby, Richard Recker, Christine Alwood, Vance Johnson, Dan Hess.

MEMBERS ABSENT: Bob Thompson

SUPPORT STAFF PRESENT: Timothy Nieporte, Community Development Director
Michael Zalewski, Planner/Zoning Administrator
Brandy Freed, Recording Secretary

Mr. Willoughby assumed the position of Chairperson

The meeting was called to order by Mr. Willoughby at 7:02 p.m.

The Pledge of Allegiance was recited by the Commission.

APPROVAL OF AGENDA

The agenda was approved as submitted.

PREVIOUS MINUTES

Minutes of the April 12, 2007 regular meeting were circulated to the Commission prior to the meeting for their review.

Ms. Alwood forwarded changes to staff.

Mr. Willoughby stated that the minutes should be amended to say:

Mr. Willoughby expressed his opposition to the by-laws part E. Duties of all members item #6 which states "The duty of the member is to represent the majority opinion" with the following statement.

"I want to make my position perfectly clear, no one can be muzzled or their first amendment rights be rescinded by a majority vote of this board.

I hold to the same philosophy best expressed by one of our forefathers who said something to the effect that, although I vigorously disagree with what you say I will fight to the death for your right to say it.

He also wanted to say that I can not believe that anyone in their right mind would imply in their

conversations a different outcome to a vote by this board than that which actually occurred. It is after all a matter of record and implying otherwise is a blatant lie.”

A motion was made by Mr. Hess, supported by Mr. Johnson, to approve the minutes of the April 12, 2007 meeting as amended.

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker, Alwood, Hess.
No: None.

Motion carried.

PUBLIC COMMENT

Ms. Alwood excused herself from the meeting at 7:04 stating she had another meeting downstairs to attend and would return.

TOWNSHIP CONCERNS

None heard.

LIASON REPORTS

ZBA – Mr. Schripsema reported that the ZBA did not meet last month due to lack of an agenda.

Parks & Recreation Commission – Mr. Willoughby reported that the Parks & Recreation Commission discuss the problems they were having at Coldwater Park with the ramp that was installed. He also discussed some of the activities that are being held at the parks.

PUBLIC HEARING FOR SPECIAL USE PERMIT #07-02

Vice Chairperson Willoughby explained that Kurt Willoughby is requesting a special use permit to establish a Rural Production and Processing Facility in accordance with Article XIX of the Isabella County Zoning Ordinance. The property is located at 2305 E. Coe Road in Section 28 of Lincoln Township. Parcel # 10-028-30-004-00.

Mr. Willoughby excused himself because he had a conflict of interest.

Mr. Neyer assumed the position of chairperson

Mr. Neyer stated that the business is currently operating on the property and the applicant is now trying to come into compliance with the ordinance. A condition of approval should be for the applicant to obtain the variance from the ZBA because the front office and 30' x 30' barn are closer than 100' to the front lot line. The dumpster that is located on the property is required to be screened on all four sides. It is already screened on three sides, but the fourth should be required.

Mr. Zalewski read the letters (attached) that were submitted as part of the record.

Ms. Fosburg asked whether Mr. Kurt Willoughby was planning to expand the business.

Mr. Kurt Willoughby stated they were not intending on expanding their operation.

Mr. Neyer opened the floor for public comment at 7:15 p.m.

Hearing no further comments, the public hearing was closed at 7:15 p.m.

Mr. Recker stated that he would like to compliment Mr. Kurt Willoughby, as he has preserved the appearance of the site.

Mr. Johnson stated that he supports all the comments that were made, it is a good looking site and it is a complement to the community.

Mr. Kim Klumpp of 2363 E. Walton Rd. stated that he lives 3 miles north of Mr. Kurt Willoughby's property. He was supervisor at Mr. Kurt Willoughby's business for 8 years and never heard one complaint.

Mr. Neyer asked whether Mr. Kurt Willoughby would have to come back before the board if he were to expand the number of employees.

Mr. Zalewski stated that if he were to come before the board again it would be for a site plan review. The ordinance limits the number of employees that he can have, to exceed that he would have to apply for a variance.

Mr. Nieporte read the six questions that the board must base their decision on.

Mr. Neyer stated that Mr. Kurt Willoughby answered the questions and it appears as though he has met all of the conditions.

Ms. Fosburg stated that provided he screens the dumpster and obtains a variance for the front lot line.

A motion was made by Mr. Hess, supported by Mr. Recker, to approve Special Use Permit #07-02 with the follow conditions:

1. Construct 6' fence behind dumpster to meet screening requirements.
2. Obtain front setback variance from the Zoning Board of Appeals.

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker, Hess.

No: None.

Motion carried.

Mr. Willoughby resumed the position of Chairperson

Patrick & Tonya Parks are requesting to rezone a parcel of land from Commercial-Industrial (C-I) to General Commercial (C-1). The property is a vacant 5 acre parcel located directly west of 5179 W. Weidman Road in Section 19 of Nottawa Township.

Mr. Willoughby opened public comments at 7:23 p.m.

Mr. Parks stated there are 4 businesses located in the same area as this property, but the business that they are proposing is not permitted under the current zoning. The property would have to be rezoned from Commercial-Industrial to General Commercial in order to allow for mini storage.

Mr. Zalewski stated that the Commercial-Industrial district allows all the uses that are permitted by right in the General Commercial district and the Industrial district. All the uses that require a Special Use Permit in those districts are not permitted in the Commercial-Industrial district. The use Mr. Parks has proposed would require him to get a Special Use Permit in that district, so he is proposing to rezone to General Commercial.

Mr. Willoughby stated that the Master Plan Draft Update already states this, so it will be changed to this anyway.

Mr. Zalewski stated that currently the intersection of Johnson Rd. and Weidman Rd. is set aside as Neighborhood-Commercial; because that is the way the township would like to see it develop.

Discussion was held on why Commercial-Industrial left out all the uses that require a special use permit.

Hearing no other comments the public hearing was closed at 7:28 p.m.

Mr. Nieporte discussed how to make a motion.

Mr. Recker asked if this easement will potentially become a private road.

Mr. Zalewski stated that the property owner has left a portion 66' wide for a future private road, if they would like to develop it.

Mr. Nieporte stated that they have no frontage left on Weidman Rd.

Discussion was held on granting permission on speculation.

Mr. Willoughby stated that the dedicated road, some time in the future, could become a private road.

A motion was made by Mr. Hess, supported by Mr. Neyer, to forward Zoning Amendment #07-06 to the Board of Commissioners with the recommendation that they approve it for adoption because it is

- Consistent with the Master Plan use
- Compatible with the surrounding uses
- Capable of handling any and all uses that are allowed in that zoning district

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker, Hess.
No: None.

Motion carried.

Ms. Alwood returned at 7:35 p.m.

UPDATED MASTER LAND USE PLAN

Vice Chairperson Willoughby opened public comments at 7:36 p.m.

Mr. Gordon Gilchrist of 8100 Forest Park Dr., explained that people who own property across from the lake can only build 840 sq. ft. buildings. These buildings are not large enough to hold much equipment. The Planning Commission should consider allowing larger buildings in these areas.

Mr. Nieporte recommended that the board consider it as a zoning amendment instead of under the Master Land Use Plan.

Mr. Nieporte explained the process in adopting the Master Plan by resolution.

Mr. Willoughby questioned whether the changes were made that were talked about at the last meeting.

Mr. Neyer stated that he had not had the chance to review all the maps. He asked whether all the maps had been updated.

Mr. Nieporte stated that all changes had been made.

Public comments closed at 7:49 p.m.

Mr. Recker asked if more townships were included, would that alter where the Master Plan is today. He also asked if the Master Plan would have to be redone in this case.

Mr. Nieporte explained that the entire document would not have to be redone. Modifications would have to be completed to amend the document.

Discussion was held about working with townships who are now not included in this Master Plan Draft, in the future. It was also discussed, that the townships could come under the County Master Plan, keeping their own Zoning Board of Appeals, Planning Commission, and Zoning Ordinance.

A motion was made by Mr. Schripsema, supported by Mr. Hess, to adopt Planning Commission Resolution # PC 07-02 regarding the adoption of the Updated Master Plan.

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker, Alwood, Hess.
No: None.

Motion carried.

REVIEW OF CHIPPEWA TOWNSHIP REZONING REQUEST

Mr. Zalewski explained that this request was to rezone a 7.45 acre parcel from Residential to Commercial. The Chippewa Township Planning Commission voted to deny the request. According to their minutes, there appeared to be some disagreement over whether or not the request was consistent with the township Master Plan. It is also noted in the minutes that the 'township's policy is to rezone from the corners in'. If it is indeed a policy then it should be stated and addressed as such in their Master Plan. He also noted that it is important to obtain public input in determining if a rezoning request would be compatible with the surrounding uses, however the board needs to make the decision based on their Master Plan and not whether the neighbors approve of the request. Therefore, if there are discrepancies in the Plan or disagreement over what the Plan states, it would be strongly recommended that the Township Planning Commission review their plan and update accordingly.

Ms. Alwood asked Mr. Flaughner, the Chairperson of the Chippewa Township Planning Commission, if they had in their master plan to rezone from the corners in.

Mr. Flaughner of 3948 Foster Rd., stated that no, it is not stated in the document.

Mr. Nieporte asked about the M-20 corridor plan. He also stated that if there are curb cuts every 165' to 180' it will create a dangerous situation.

Mr. Willoughby asked if it was a consensus of the board that, if there are discrepancies in the Plan or disagreement over what the Plan states, it would be strongly recommended that the Township Planning Commission review their plan and update accordingly

Ms. Alwood asked if it would be sent back to their board in written form.

Mr. Zalewski stated that the unapproved minutes and a copy of the recommendations would be sent to Mr. Sunderman.

Discussion was held on decisions that are made based on public sentiment.

Consensus was to have staff forward the recommendation to the Chippewa Township.

REVIEW OF CHIPPEWA TOWNSHIP ZONING ORDINANCE TEXT AMENDMENT

Mr. Zalewski stated the proposed text amendment is to update the Chippewa Township Zoning Ordinance to come into compliance with the public hearing notice changes in the Michigan Zoning Enabling Act. It is noted that the Township is changing their language to state that the notice requirements shall comply with MCL 125.3101. Although there is nothing wrong with this language, it should be noted that staff had discussion on this exact same issue when updating the County Zoning Ordinance. The Planning Commission ultimately opted to spell out the requirements in the ordinance and not simply refer to the MZEA. The intent behind this was to make it easier for the public to read and to understand the notice requirements and they would only have to look in one place for what the notice requirements are.

Mr. Nieporte stated that the general public has a hard time finding these documents so it is much easier to have them right there.

Consensus was to have staff forward the comment to the Chippewa Township.

REVIEW OF UNION TOWNSHIP ZONING ORDINANCE TEXT AMENDMENT

Mr. Zalewski stated the Michigan Zoning Enabling Act changed the requirements for Group Day Cares in Townships. Townships now have the same requirements that Counties have always had. The requirements state that if the Group Day Care meets the requirements of the Act, the permit must be granted. Union Township has suggested Group Day Cares that meet the requirements be permitted by right and therefore handled by the Zoning Administrator. However, those facilities that do not meet the requirements have to apply for a Special Use Permit. Mr. Zalewski would caution Union Township in that the MZEA states that 'a group day care home shall be issued a special use permit, conditional use permit, or other similar permit'. The concern being whether or not a permit by right is a 'similar permit' to a special use permit or conditional use permit.

Mr. Zalewski stated that he does not believe that a permit by right is similar to a special use permit or a conditional use permit.

Mr. Nieporte clarified that state law says if you meet the requirements you have to give it to them, but it also has to go through the special use permit process, which is a public hearing or a conditional use permit, which is a public hearing, or a similar permit. The problem is that administrative review by the Zoning Administrator does not require a public hearing and property owners do not have to be notified. It is recommended that they seek legal council for review.

Mr. Zalewski stated he discussed this concern with Woody Woodruff, Union Township Zoning Administrator.

Discussion was held on the recommendation for Union Township to seek legal council for review of the Zoning Ordinance text amendment.

It was a consensus of the board to suggest that Union Township review the issue with their attorney.

REVIEW OF ISABELLA TOWNSHIP FARMLAND AGREEMENT

Mr. Willoughby stated that the farmland agreement is for a 40 acre farm in Section 5 of Isabella Township and is to run for a period of 90 years. The property is zoned Ag-1 and is designated as Agricultural Conservation on the Future Land Use Map.

Discussion was held on the request.

The consensus of the Planning Commission was to recommend approval of the farmland agreement.

DRAFT UPDATED BYLAWS

Mr. Willoughby stated that Ms. Alwood submitted proposed language for the attendance section.

Mr. Schripsema asked if excused and unexcused needed to be defined or should be left to the Chairperson.

Mr. Willoughby stated that it should be left to the discretion of the Chairperson because creating a list of what is excused and unexcused would be difficult.

Mr. Nieporte explained there should be no excused or unexcused, if you are absent, then you are absent.

Mr. Willoughby stated that if it is left to the Chairperson to decide what is excused or unexcused it would put him in a difficult position.

Mr. Schripsema stated that if you miss 3 meetings whether they are excused or unexcused it can still go to the County Board of Commissioners for a decision.

Ms. Alwood stated that it would simply be documentation at this level.

Mr. Schripsema stated that he did not believe it was necessary to add this language.

Mr. Willoughby stated that the County Commissioners *could* consider removal from the board.

Mr. Schripsema asked whether it mattered if the absence is excused or unexcused.

A vote was called for whether or not to add the proposed language. It was the consensus of the Commission to not add the language.

Mr. Zalewski read a letter from Chairperson Thompson.

Consensus of the board was to add the language suggested by Chairperson Thompson to the Bylaws.

A motion was made by Ms. Fosburg, supported by Mr. Hess, to adopt the updated Bylaws with the additional language submitted by Chairperson Thompson.

Discussion was held on dissenting opinions.

The motion was amended to include the deletion of part E. Duties of all members item #6.

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker.

No: Alwood.

Motion carried.

Board of Commissioners - Ms. Alwood reported that the private road ordinance was adopted.

BYLAW REVIEW/ENFORCEMENT MECHANISM SUBCOMMITTEE UPDATE

Mr. Schripsema stated that he was about half way through making phone calls. So far nobody has had additions or comments. Nobody has been in favor of having an informal meeting with Mr. Burdick as has happened in the past.

Discussion was held on meeting with Mr. Burdick.

Mr. Hess inquired about how many townships had responded thus far.

Mr. Schripsema stated that Rolland Township was the only one so far, currently call backs are being made to give townships one more opportunity to make comments.

Ms. Alwood stated that the next step was to have Mr. Burdick address any concerns.

Mr. Schripsema stated that everyone seemed to think that going to the Council of Governments was a better choice than talking with Mr. Burdick.

Ms. Alwood suggested they have an informational table at the Council of Governments. She also stated that there are still concerns at the board of Commissioners level; more education needs to be provided to.

Mr. Johnson stated that he would like a copy of the document in order to review the procedure for issuing a civil infraction. Is it a formal part of the procedure to let the property owner know that something is wrong and then give the chance for them to respond before issuing a civil infraction, or just a suggested procedure?

Mr. Nieporte stated that several steps would need to be taken, first they would have to gain the support of the public and educate them. Second, the Board of Commissioners would have to adopt a General Civil Infraction Ordinance. Third, because the 2005 Zoning Ordinance was not adopted the text would have to be implemented as an amendment.

Discussion was held on where the document stands today.

Mr. Willoughby stated that he and Mr. Johnson met with a private attorney to discuss Civil Infractions. He also stated that talking to the attorney modified his opinion considerably.

Ms. Fosburg discussed the County as a whole going to Civil Infractions. Many of the problems should be Civil Infractions not misdemeanors.

Mr. Schripsema stated that first the County would have to pass a General Civil Infraction Ordinance.

Mr. Nieporte explained that the ordinance itself would be broad, but within it gets very specific in what the board wants to enforce as Civil Infractions. The ordinance that would be adopted by

the County Commissioners would be County-At-Large.

Discussion was held about Mr. Willoughby sending an email out to update the Commission about what the attorney told them about civil infractions.

PUBLIC COMMENT

Mr. John Graham asked what changes were made to the Private Road Ordinance at last months meeting.

Discussion was held about the revisions that were requested at last months meeting.

STAFF COMMENTS

None heard.

PLANNING COMMISSIONER'S COMMENTS

Ms. Fosburg stated that the workshop on June 4, 2007 will be paid for by the Community Development Department.

ADJOURNMENT

A motion was made by Mr. Hess supported by Ms. Alwood, to adjourn at 8:50 p.m.

Yes: Johnson, Fosburg, Schripsema, Willoughby, Neyer, Recker, Alwood, Hess.

No: None.

Motion carried.

Jerry Neyer, Secretary

Brandy Freed, Recording Secretary