

ISABELLA COUNTY  
PLANNING COMMISSION

November 14, 2013

A Regular Meeting of the Isabella County Planning Commission was held on November 14, 2013 in Room 225 of the Isabella County Building, 200 North Main Street, Mt. Pleasant, Michigan.

MEMBERS PRESENT: Gordon Gilchrist, Jerry Neyer, Cheryl Jindeel, Kelly Bean, Phillip Vogel, Jim Horton

MEMBERS ABSENT: Christine Alwood, Heather Turner, Evelyn Kent

SUPPORT STAFF PRESENT: Tim Nieporte, Community Development Director  
Kim Kennedy, Recording Secretary

The meeting was called to order by Mr. Neyer at 7:00 p.m.

The Pledge of Allegiance was recited by the Commission.

APPROVAL OF AGENDA

A motion was made by Mr. Gilchrist supported by Mr. Bean to approve the agenda as submitted.

Ayes: Jerry Neyer, Phillip Vogel, Jim Horton, Cheryl Jindeel

Nays: none

Motion carried.

PREVIOUS MINUTES

Minutes of the October 10, 2013 regular meeting were circulated to the Commission prior to the meeting for their review.

A motion was made by Mr. Bean supported by Ms. Jindeel to approve the minutes as submitted.

Ayes: Gordon Gilchrist, Jerry Neyer, Phillip Vogel, Jim Horton

Nays: none

Motion carried.

## LIAISON REPORTS

**Zoning Board of Appeals** – Mr. Gilchrist stated that the Board did have a meeting October 23, 2013. There was a request by Carol Quillen for a Variance located in Beal City to construct an 820 sq. ft. addition to an existing house. Due to the size of the lots in this area the structure would not meet the zoned setbacks. She presented her reasons and was granted the variance.

**Parks & Recreation** – none

**Board of Commissioners** – Mr. Horton reported have a new county Administrator Margaret Mcavoy. She is very busy and things are going very well. Abolishment of zoning was not even broached and he believes that issue has been put to bed.

## TOWNSHIP CONCERNS

Jackie Curtis/Denver Township – none presented

Bob Neeland/Isabella Township – none presented

## PUBLIC COMMENT

None heard.

## PUBLIC HEARING ON SPECIAL USE PERMIT #13-04

Mr. Nieporte explained that the Planning Commission will consider taking action on a Special Use Permit request submitted by Glen Mast on behalf of Ben Byler. Mr. Byler is proposing the establishment of a Private (Amish) Cemetery in section 10 of Rolland Township on the east side of Rolland Road. The property is 1.84 acres in size and is currently zoned Agricultural Buffer (AG-3). Cemeteries and Customarily Related Uses (Private or Public) are permitted by Special Land Use in the AG-3 District.

Mr. Nieporte explained that the application for a Special Land Use Permit requires a notice of public hearing published in the news paper and notification to property owners within 300' of the proposed use. He further stated all notifications have been made.

Mr. Nieporte stated that the applicant appears to have met all design standards for special land use under Section 12.05 (G) Cemeteries and Customarily Related Uses (Private or Public) of the Ordinance. Therefore, the Planning Commission shall review, determine and find fact that the general requirements under Section 12.03 of the Ordinance have been met. Please note that Section 12.03 (F) restricts the hours of operation from 8:00 am to 8:00 pm unless otherwise approved by the Planning Commission. Staff would recommend that the Planning Commission remove the restriction based on the fact that the proposed use is a 24 hour operation by definition.

Due to the fact that the Commission has received previous correspondence from the township regarding potential issues and has submitted their Attorney Opinion for review. I request you revisit said letter. Also, a letter of correspondence directed to staff dated July 10, 2013 from the Rolland Township Clerk has been received which outlines that the Township took action at their July 9<sup>th</sup> meeting to provide local approval of Timber Ridge Cemetery as required by the Central Michigan District Health Department.

Mr. Nieporte stated a copy of a correspondence letter from the County Prosecutor regarding our offices request for review of a previous opinion in 1988 by the County Prosecutor the current Prosecutor agrees with the previous opinion from 1988. and agrees that a basis for denial of the Special Land Use permit should not include the potential financial liability of the Township.

Mr Nieporte informed the Board that several email requests were sent to the County Road Commission, County Sherriff and the Central Michigan District Health Department.

Mr. Nieporte explained two other written correspondences were received from Karen Chappell and Tim and Tammy Theisen the major concerns stated in these correspondences was buggy safety on Rolland Rd where the proposed entrance would be. Letters were distributed for the Commission to review.

Mr. Nieporte stated that Sheriff Mioduszewski did respond to his email request on the proposed cemetery and the safety issue on Rolland Rd. At this time he had not been contacted by anyone but if requested to assist with traffic control they would do their best to assist as long as an Officer was available at the time.

Mr. Nieporte received an email from Scott Jones with the Central Michigan Health Department stating that he has already reviewed and issued a permit for land use. Mr. Jones state he reviewed wells in the area and they all seem to have a 20 foot layer confining of protection and could not find a well within 200 + feet of this use. He also stated he did not see any other environmental concerns at this time.

Mr. Nieporte stated Pat Gaffney with Isabella County Road Commission informed him that no driveway permit was applied for at this time and that his office have not looked into the safety of clear vision issues at this location on Rolland Rd. Mr. Nieporte stated he inquired about signage for Buggy warning that maybe used in the area and if there was a standard they were not able to answer that at this time.

Mr. Nieporte suggested that after reviewing the application, the above referenced correspondence, the legal opinions and the response from the Sherriff, staff would suggest that the Commission consider contingencies if they find fact to grant approval. The contingencies suggested are as follows:

- All applications and licensing required at the State level be provided to the Community Development Department and made part of the file prior to any burials.
- All applications and licensing required by the Central Michigan District Health Department be provided to the Community Development Department and made part of the file prior to any burials.

- The applicant works with the County Sherriff if available to assist with traffic safety needs on an availability basis.
- The applicant work with the Road Commission to have installed Buggy Warning signs at a specification, cost and location as determined by the Isabella County Road Commission. Installation shall be made prior to any burials.
- All parking be off the road and not located in the Road Right of Way.
- That the proposed fence and sign meet the current ordinance.

Mr. Neyer inquired if Mr. Mast understood all the contingence that is being placed on this Special Use Permit.

Mr. Mast said yes he does.

Mr. Mast stated he did receive a driveway permit from the road commission and showed it to Mr. Nieporte.

Mr. Neyer inquired if Mr. Mast understood the contingence of working with the Road Commission and incurring the cost of road signage to help with the safety issues.

Mr. Mast stated yes.

Mr. Horton stated he has some concerns that he would like the hours of operation from 8:00 am to 8:00 pm remain in place. He also questioned if this is a religious unit and if a not would a bond be needed to protect the possibility of abandonment.

Discussion occurred.

After discussion Mr. Horton agreed that with the contingencies set forth on this Special Use Permit he is in approval but still would like the hours of operation from 8:00 am to 8:00 pm eastern standard time remain in place.

Mr. Gilchrist asked Mr. Mast if he had any knowledge of any Amish Cemetery every being abandoned.

Mr. Mast stated not to his knowledge.

Mr. Gilchrist inquired if there could be a lane on the side of the road so everyone could get off the roadway.

Mr. Mast stated that yes a drive could be made so everyone could get off the road.

Ms. Jindeel inquired if a driveway could be accessed off Timber Ridge Rd.

Mr. Nieporte stated that there is no access from Timber Ridge Rd that is a private road.

The public hearing was opened at 7:32 p.m.

Mr. George Clemens of 7585 Timber Ridge Way, Blanchard MI had concerns in regards to the entrance of the cemetery. Mr. Nieporte informed Mr. Clemens that access will be off Rolland Rd.

The public hearing was closed at 7:35 p.m.

Mr. Nieporte stated after further review from both County Prosecutors the issue lies with the State Cemetery Commission if they qualify this application for a private Amish cemetery under the act. So by setting contingencies on compliance with the State Cemetery Commission would require them to provide us with something from the state that exempted them or did not exempted them and granted them some type of permit.

Mr. Nieporte further indicated that he believed that if it is not exempt then there is bonding potential and that is at the State level. He stated our decision here has no bearing on or will not impose any greater restriction than what the Cemetery Commission decides on their Cemetery Act if exempt or not.

Mr. Neyer inquired if at this time have we received anything from the State.

Mr. Neyer inquired if Mr. Mast had yet contacted the State.

Mr. Mast replied he was not aware he needed to do that, but is willing to do so.

Discussion occurred and the Board reviewed Section 12.03 and the responses to the Questions submitted by the applicant.

A motion was made by Mr. Horton supported by Ms. Jindeel to approve SUP #13-04 as submitted as they are consistent with the requirements of section 12.03 of the Isabella County Zoning Ordinance. With the following conditions:

- All applications and licensing required at the State level be provided to the Community Development Department and made part of the file prior to any burials.
- All applications and licensing required by the Central Michigan District Health Department be provided to the Community Development Department and made part of the file prior to any burials.
- The applicant works with the County Sheriff if available to assist with traffic safety needs on an availability basis.
- The applicant work with the Road Commission to have installed Buggy Warning signs at a specification, cost and location as determined by the Isabella County Road Commission. Installation shall be made prior to any burials.
- All parking be off the road and not located in the Road Right of Way.
- That the proposed fence and sign meet all the current ordinance.
- That the operations of business be on current time.

Yes: All

No: None

Motion carried.

PUBLIC HEARING ON ZA #13-05 - Conditional Rezoning

Mr. Nieporte explained Ben Byler is proposing to conditionally rezone a piece of property in section 10 of Rolland Township from Agricultural Buffer (AG-3) to General Agriculture (AG-2) with conditions. Mr. Byler is attempting to establish a Milling and Processing Facility (Saw Mill) on his property located at 7455 S Rolland Road. In an effort to rezone the property Mr. Byler has offered to not include certain uses that are customarily allowed in the General Agricultural (AG-2) District. A written offer of conditions by Mr. Byler has been submitted. Mr. Nieporte read the proposed conditions voluntarily offered by the applicant.

Mr. Nieporte explained that Mr. Byler has voluntarily offered all uses in writing that are not allowed in the current AG-3 District which are allowed either by Special Land Use or out right in the proposed AG-2 District be prohibited except for three of them as listed in the Table of Permitted Uses in the Agricultural Districts. The first use is the Milling and Processing of Farm Products which allows for a Saw Mill to operate. The second is a Forest Preserve which will have no impact. The third is the Storage and Sale of seed, feed, fertilizer and other products essential to agricultural production. The first and third use listed above would require Site Plan Approval by the Planning Commission to ensure all conditions of the Ordinance are met.

Mr Nieporte explained Section 15.09 of the County Zoning Ordinance addresses Conditional Rezoning. It is the intent of the ordinance through a conditional rezoning to recognize that there are certain instances where it would be in the best interests of Isabella County, as well as advantageous to property owners seeking a change in zoning boundaries, if certain conditions could be proposed by property owners as part of a request for a rezoning. It is the intent of Section 15.09 to provide a process consistent with the provisions of the Michigan Zoning Enabling Act (P.A. 110 of 2006, as amended) by which an owner seeking a rezoning may voluntarily propose conditions regarding the use and/or development of land as part of the rezoning request.

Mr. Nieporte reviewed several sections of the Ordinance with the Planning Commission.

A Conditional Rezoning is to be reviewed in the same manner as a regular rezoning request without conditions, except as modified by the requirements of Section 15.09.

Section 15.09 (C) Planning Commission Review of the Ordinance states "The Planning Commission, after public hearing may recommend approval, approval with recommended changes or denial of the rezoning; provided, however, that any recommended changes to the offer of conditions are acceptable to and thereafter offered by the owner." The process of review and action

by the Planning Commission is a recommendation to the Isabella County Board of Commissioners for legislative action (final approval).

Section 15.08 (C) Amendment Guidelines shall be used by the Planning Commission in consideration of the proposed amendment to the Zoning Map.

Section 15.08 (C) (2.), Map Amendments reads as follows:

- a) Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Isabella County Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.
- b) Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.
- c) Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks and road lighting.
- d) Other factors deemed appropriate by the Planning Commission.

Mr. Nieporte stated that after a review of the proposal including the conditions offered by Mr. Byler in writing staff would suggest recommending approval to the Board of Commissioners based on the fact that the proposal is in line with the existing Master Plan which calls for the entire area to be Agriculture and based on the fact that nearly no development in this area has taken place since the Master Plan was adopted. The proposed and potential uses are compatible with the surrounding area including the uses which would be allowed that have been offered as a condition to *not be allowed or prohibited* on this property if rezoned.

Mr. Nieporte further stated that this area including most of the area in Rolland Township outside of the unincorporated Village of Blanchard is considered rural or agricultural in nature.

Mr. Nieporte explained that this application for amendment requires a notice of public hearing published in the news paper and notification to property owners within 300' of the proposed zoning change. He further stated all notifications have been made.

Discussion occurred

The public hearing was opened at 8:11 p.m.

No public comments were heard.

The public hearing was closed at 8:12 p.m.

The Commission reviewed Section 15.08 C.2. and further discussion occurred.

Mr. Nieporte pointed out that the current Master land Use Plan defines the Rural Agriculture Residential Areas to continue agricultural activities while balancing low density residential growth.

A motion was made by Mr. Bean supported by Mr. Gilchrist to recommend approval of Conditional Rezoning Amendment (ZA #13-05) as submitted as it is in line with Isabella County Master Plan and it is an agricultural area; and to forward this request to the County Board of Commissioners for final action.

Yes: All

No: None

Motion carried.

Farmland Agreement (PA116) - Mary B Hauck, Nottawa Township

Mr. Nieporte explained that Ms. Hauck is requesting to enter a 38.75 acre parcel of land she owns in section 23 Nottawa Township into the Farmland and Open Space Preservation Program (PA 116). The application appears to be complete, the request is for 10 years and copies including maps are in your monthly packet. The current County Master Plan has this property identified as Agricultural Conservation (AC) and the current Zoning on the Property is Restrictive Agricultural (AG-1). This application appears to be consistent with area and therefore, upon consensus of the commission, staff will forward the application back to the County Clerk with any referenced comments.

The Board reviewed the applications and it was a consensus of the Board to forward comments back to the County Clerk that the applications appeared complete and consistent with the County Master Plan.

Review Union Township Rezoning Request – REZ# 1730, 1525 Airpark Dr. – Mr. Nieporte explained that as per the State enabling legislation Union Township is seeking review and comment on a Rezoning Request to change the zoning of a property located 1525 Airpark Dr. The property is the current location of Maranatha Baptist Church. The request is to rezone the property from Industrial to Agriculture which would make the existing use conforming since public and institutional uses are allowed in the Agricultural District in the Township. Properties on three sides are already zoned Agriculture and it appears to be consistent with the townships Master Plan.

Mr. Nieporte further stated that staff has no additional comments but will forward any and all comments that the Commission has to the Township.

PUBLIC COMMENT None

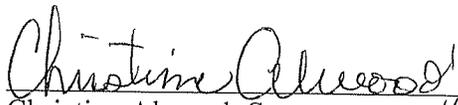
STAFF COMMENTS Mr. Nieporte explained that he has just finished the Coe Master Land Use Plan update and that Wise Township has requested our offices assistance in updating their Master

Land Use Plan. Mr. Nieporte further explained that an Intergovernmental Agreement has been prepared and will be moved to the County Board at their next meeting.

PLANNING COMMISSIONER COMMENTS None

ADJOURNMENT

The meeting was adjourned by the call of the Chairperson at 8:20 p.m.

  
Christine Alwood, Secretary   
Kim Kennedy, Recording Secretary