



**ACME TOWNSHIP PLANNING COMMISSION MEETING  
ACME TOWNSHIP HALL  
6042 Acme Road, Williamsburg MI 49690  
7:00 p.m. Monday, August 28, 2006**

**Meeting called to Order with the Pledge of Allegiance at 7:00 p.m.**

**Members present:** M. Vermetten (Chair), B. Carstens, C. David, R. Hardin, D. Krause, J. Pulcifer, E. Takayama, L. Wikle, P. Yamaguchi

**Members excused:** None

**Staff present:** J. Hull, Zoning Administrator  
S. Corpe, Township Manager/Recording Secretary

**1. Consent Calendar:**

**Motion by Wikle, support by Carstens to approve the Consent Calendar as printed including:**

**Receive and File:**

- a) Draft Unapproved Minutes of:
  - 1. **08/01/06 Regular Board of Trustees Meeting**
  - 2. **08/10/06 Shoreline Preservation Advisory Meeting**
  - 3. **Planning Commissioners Journal Summer 2006**
- b) **New Designs for Growth Development Guidebook/Training scheduled in Five counties**
- c) **Board of Education approval of a proposal from Kingscott Associates to develop a master plan for the school district**

**Approval:**

- d) Approve minutes of the **07/24/06 regular** Commission meeting
- e) Review and approve agenda, inquiry as to conflicts of interest: approved with no conflicts of interest noted

**Motion carried unanimously.**

**2. Correspondence:**

- a. **Concerned Citizens of Acme Township email dated 08/04/06**: received and filed.
- b. **Dickinson Wright e-mail dated 08/18/06**: received and filed.
- c. **Items regarding SUP application #2006-5P from Friends for Yuba Preservation and Hull**: to be dealt with during the public hearing.

**3. Limited Public Comment:**

Margy Goss, 4105 Bay Valley Drive asked about the Dickinson Wright letter and how the township will be informed of its contents. Corpe stated that it is available through the website, and that a letter from township counsel providing additional perspective will also be available soon. This letter will also be available along with other public comment and materials through the website prior to the public hearing regarding the future land use map which we hope to reschedule to October 30. Mrs. Goss asked when the letter was posted to the website, saying she had been unable to access it; Corpe stated that it was posted Thursday or Friday of the previous week. Commissioner Wikle and Nels Veliquette confirmed that they have been able to access it since that time.

**4. Public Hearings:**

- a) **Public Hearing (continue) regarding SUP/Site Plan Application #2006-05P,**

**open-space residential development for Cherries R Us at 9018 US Highway 31 North:** Russ Clark, R. Clark Associates, provided an overview of the application, including photos of the site as it exists today and views to and from the property. He displayed the proposed site plan as of July 24, which provided for 60% open space. A revised site plan provides for 62% open space and respects a request made by the Commission at the July meeting that the individual home site lots be made smaller so that they do not extend down the steep slopes in the middle portion of the property. He also reviewed the two potential properties from which some units of density would be transferred to the subject parcel, noting that the Commission expressed the opinion the Parcel B has more conservation value and should be the sending parcel. Landscaping will be provided to soften the look of the houses as seen from the Yuba Creek Natural Area (YCNA). The configuration of the private road has been changed to conform to Metro Fire Department requirements, and all units including the existing Shaw homestead will access US 31 via the private road.

David asked about the 50' separation area shown on the plans. This is a Health Department-required isolation area to be maintained between wells and septic systems. Structures may be located within this area.

Carstens asked if the proposed homesites are any farther back from the ridgeline than they were before. They are not, but the building setbacks are, which will keep houses and attached decks back from the ridgeline.

Takayama expressed concerns about the potential appearance of homes looking like they are three stories tall when viewed from the YCNA. Hull observed that with the houses set back from the ridgeline rather than atop it, walkout basements would have to be excavated from higher land.

#### **Public Hearing opened at 7:20 p.m.**

Paul Brink, Winter Road, noted that the township has received several letters from the public about this project over the past several months, most from people who made substantial donations to acquire the YCNA. He stated that the people doing the fundraising at that time made assertions that the land surrounding the public land would remain agricultural in character and nature with no new houses. He is still hopeful that the subject parcel can be acquired from the Veliquettes as an addition to the YCNA. Mr. Brink also drew attention to the letter received from Friends for Yuba Preservation this evening regarding concerns about the rounding methods used to establish the allowable housing density for the property. Vermetten suggested that rounding be discussed after the public comment opportunity period has ended.

Mr. Veliquette stated that earlier in the process he believes it was made "abundantly clear" economic considerations are not to be a factor in deliberations about the application.

Lewis Griffith, 5181 Lautner Road feels it is unfair to defer discussion of rounding methods after the public comment period is closed and the public has no opportunity to influence the decision. He also feels the letter and memo discussing rounding should be read so that the public can participate fully.

Mrs. Goss asked if the land in question has historically been and if it remains zoned agricultural, it has been and does. She asked if residential uses are a use by right, they are at a rate of 1 unit per 5 acres (2 units for this property).

Hull discussed his memo, beginning by noting that the Open Space Development (OSD) ordinance under which the application is brought was adopted in response to requirements introduced into state law several years ago, and there is a presumption that it conforms to state law. He noted the question raised in the Friends letter as to whether property that is sending density to another property as part of an OSD can be non-contiguous and whether both properties must have conservation value. The ordinance specifically states that sending and receiving properties may be non-contiguous and that both must have conservation value. At the July meeting the Commission made an actively positive statement finding that "Parcel B" has conservation value qualifying it for density transfer. Hull recited the portion of the ordinance that discuss how density unit rounding is performed and talked through the math to prove that following those rounding requirements with 62% conserved open space the applicant can reach a density of five units on the property. He also noted the portion of the ordinance that gives the Board of Trustees discretion to allow more than 150% of the underlying density as zoned to occur regardless of the rounding methods used.

Takayama noted that the base density for the property is 2 units. He asked if the rounding essentially violates the ordinance that allows no more than 50% of the underlying density to be transferred absent Board action. Hull believes that the language in the ordinance could be clearer in this regard. Takayama also asked what would happen if the parcel sending density applies for development. Could additional density be transferred back to that property? What would happen? Hull is uncertain on this point, but feels it would be a good idea if this application is approved to record as part of the documentation a restriction against building on a specific portion of the sending property. Takayama agreed, further recommending that if 2 units are transferred from the sending parcel, and currently 2 units equals 10 acres, then 10 specific acres should be removed from the gross acreage of the sending parcel as a basis for calculations for any development on that property.

Mr. Griffith asked why there is discussion about placing requirements on the sending parcel. Has the township adopted a regulation regarding density transfer? Hull read aloud Section 8.3.9(2)e which states that a deed must be recorded that reduces the density allowable on a sending parcel, and that doing so does not preclude future development of the parcel, including through an OSD.

**Public Hearing closed at 7:40 p.m.**

Wikle asked if the applicant, in responding to requests made by the Commission for amendments to the application, has removed all possibility of walkout basements. Mr. Clark stated that walkouts could still be developed, but excavation would be required that would add to construction costs. The setback lines used to be below the top of the ridgeline where the development of walkouts would be more feasible, so they are less feasible now. Nels Veliquette echoed the comment that he as an applicant has worked to respect the desire of the Commission to ensure protection of the ridgeline and that the setback lines for construction on the sites has been moved several feet to the west in this spirit.

Wikle asked about how the development will appear from within the YCNA. Mr. Clark demonstrated that if one is at the deepest point in the valley the views will likely be similar to those experienced now – some rooflines of the existing house and barn as partially obscured by vegetation. Standing at different elevations and locations will yield differing results.

Vermetten asked each Commissioner in turn if they had further comments and concerns. David expressed concern over whether the reduction of the likelihood of walkout basements has decreased the value of the properties overmuch. Takayama stated he is “optimistically cautious.” Carstens is concerned because he believes one reason the development sites will be attractive is for views into the YCNA. He fears that for this reason homeowners will install too little vegetations, and would favor a requirement for enough vegetation to break up views of the houses while allowing the homeowners some desirable views. He regrets that the Conservancy has been unable to acquire the property, but feels that a reasonable compromise has been reached between the Commission and the applicant. Vermetten feels it is an excellent development application and appreciates the work put in by the Commission, applicant and staff.

Takayama asked if the conservation easement documents will be prepared prior to Board consideration. Hull replied that generally they are prepared later. Takayama asked that the conservation easement include a prohibition against tree removal except as required for construction or to remove dangerous or diseased trees. Carstens feels that anytime tree trimming is to be undertaken that it should be done in conjunction with township staff.

**Motion by Takayama, support by David to recommend approval of SUP Application #2006-5P conditioned upon the conservation easement documents containing a provision that existing vegetation not be removed unless it is detrimental to the health of other vegetation or the general public. Motion carried by a vote of 8 in favor (David, Hardin, Krause, Pulcifer, Takayama, Vermetten, Wikle, Yamaguchi) and 1 opposed (Carstens).**

**5. Old Business:**

- a) **Consider amendment to Resolution #R-2006-PC2 adopted 07/24/06 changing the date for public hearing regarding the proposed future land use map amendment to the Master Plan from September 25, 2006, to October 30, 2006:** Staff feels it would be beneficial to have representatives from Wade Trim present for the meeting, but they are unavailable for the September date. Staff is therefore recommending that the date of the public hearing commencement be changed to October 30. Vermetten also recommended that the venue for the meeting be changed to a larger space; Corpe will look into obtaining either The Williamsburg or New Hope Church.

**Motion by Takayama, support by Yamaguchi to change the date for commencement of the Future Land Use Map amendment to the Master Plan process public hearing to October 30, 2006. Motion carried unanimously.**

- b) **Consider proposed Development Options amendment to Zoning Ordinance:** Hull is primarily seeking this evening to see if there are concerns, either minor or significant regarding the proposed zoning ordinance amendment as discussed and revised to date, and to move the process along to the public hearing phase. Carstens asked if the proposed ordinance amendments will replace the existing OSD ordinance; it will. Carstens noted that the present OSD ordinance is applicable to all of the residential districts and the agricultural district, but not to the business districts. Corpe observed that only the B-1S, Business Shoreline district of all the business districts allows any residential development. Carstens also noted that the proposed open space ordinance requires 15% open space. Corpe stated that clustered housing by state law requires 50% open space retention, and Hull noted that there is a difference between open space and clustered housing developments in the new ordinance. Carstens also feels that the proposed ordinance gives the township less

flexibility when it comes to transfer of development rights.

Krause observed that there are no minimum lot sizes in the proposed new ordinances; Hull feels this is a good thing because there are smaller properties that would like to develop with mixed uses now that cannot because our Mixed Use Development Ordinance currently requires a 40 acre minimum project size. He also feels that the new ordinance should contain more density bonuses for clustering similar to those in the current OSD ordinance to promote a non-sprawling development pattern through incentives.

Vermetten recommended that there be further discussion about some of the questions raised today at the September 25 meeting with John Iacoangeli from Beckett & Raeder to do a little further “tweaking” before setting a public hearing.

Takayama was reading the proposed conditions for approval, seeing the requirement that an application not promote sprawl and that it conform to the Master Plan. The township is considering adoption of a future land use map as an amendment to the master plan. What if current zoning conflicts with the proposed future land use map? This issue would have to be discussed through the planning process to reconcile any disparate factors. Master Plans are recognized as a significant factor in zoning decisions, including locally by Judge Rodgers. Vermetten feels that the proposed language is very common in his experience with other townships. Carstens also observed that one goal is to move towards better conformity between the zoning ordinance and master plan.

**Motion by Krause, support by Takayama to set a special meeting to discuss proposed ordinance amendments with planner John Iacoangeli.**

Hull noted that the expected schedule for the September 25 meeting currently includes only these ordinance amendments and one application preliminary hearing.

**Motion amended by Krause, supported by Takayama to continue discussion regarding the proposed ordinance amendments with John Iacoangeli at the September 25 meeting. Motion carried unanimously.**

**6. New Business:**

**a) Discuss proposed Business District Revisions amendment to Zoning Ordinance:**

Hull observed that out of six business district designations there are less than a handful of uses by right, primarily one or two-family residential uses in the B-1S Business Shoreline district. Historically perhaps this made sense when there was less development and part time or a relatively small full-time planning and zoning staff. Today it seems overly cumbersome to review every project as a special use through the Planning Commission, both for the landowners and public and for the government. Working with John Iacoangeli, some changes are proposed that would provide a greater range of uses by right that can have site plans approved administratively in the office. If there are some preliminary thoughts they can be conveyed to Mr. Iacoangeli for review and preparation for discussion next month. Krause feels it is a step in the right direction in terms of allowing for more administrative decision making. Hull appreciates the more detailed listing of types of businesses within a broader category such as retail, breaking them down by size and intensity.

**Motion by Takayama, support by Carstens to further discuss the proposed business district ordinance revisions at the September 25 meeting. Motion carried unanimously.**

**7. Public Comment/Any other business that may come before the Commission:**

Noelle Knopf, 5795 US 31 N asked if any feedback from surrounding communities regarding the future land use map has been received. It is not due back until mid-September. Ms. Knopf asked if the proposed ordinance amendments would be distributed to neighboring townships; the law does not require this. The ordinances must by law be provided to County Planning for their non-binding input prior to potential final adoption by the Board.

Dan Rosa, 4707 Hampshire Dr. commented regarding the proposed ordinance amendments about clustered housing. He believes reading siting criteria that he felt were “abusive to personal property rights.” In particular he feels that the requirements to respect viewsheds would cause the prime building areas on a property to lie fallow to protect views for people driving by on thoroughfares. He also disfavours prohibitions against building on hilltops for similar reasons, and feels that protecting “special habitats” or “cultural areas” is too vague and subject to interpretation. He hopes the Commission will review these items from the perspective of the owner of a large tract of land. Hull believes that the ordinance is actually designed to make it easier to develop an otherwise problematic piece of land. Instead of having to develop rigidly with minimum lot sizes it would allow the same density in more creative configurations.

Owen Sherberneau noted that during the visioning process for the proposed future land use map, Nick Lomako from Wade Trim stressed repeatedly that a future land use map is not a zoning map. It informs future decision making, but does not wholesale change what exists today. He also complimented the Veliquettes on the design of their proposed OSD.

Ms. Knopf asked if amendments to the residential districts will also be reviewed. Vermetten feels this will largely be addressed by the pending clustered housing ordinance amendment.

Ms. Goss asked why an interior design studio would be a use by right under the shoreline and professional district designations. Krause feels that this is intended as an example. Ms. Goss feels that it’s an overly specific designation that is “high on somebody’s list.” She also wonders if a movie theater is specifically listed and where it would be permissible. There are designations for entertainment and for auditoriums.

Regarding the Veliquette project, David heard a member of the public ask that the Commission specify whether the allowable density is being considered as per rounding specifications in the ordinance or through discretionary powers, and it is being considered as allowable per rounding.

**Meeting adjourned at 8:42 p.m.**