



ACME TOWNSHIP PLANNING COMMISSION MEETING
WILLIAMSBURG CONFERENCE CENTER
4230 E M72, Williamsburg MI 49690
7:00 p.m. Monday, February 26, 2007

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. Wickle, P. Yamaguchi

Members excused: None

Staff Present: S. Corpe, Township Manager
J. Hull, Zoning Administrator
M. Grant, Township Counsel

1. Consent Calendar:

Motion by David, support by Carstens to approve the Consent Calendar as presented, including:

Receive and File:

- a) Draft Unapproved Minutes of:
- 02/06/07 Regular** Board of Trustees Meeting
 - 02/08/07 Zoning Board of Appeals** Meeting
 - 02/11/07 Shoreline Preservation** Advisory Meeting
 - 01/31/07 Shoreline Subcommittee Communication** Advisory Meeting
 - Planning & Zoning News February 2007**

Action:

- b) Approve minutes of the **12/18/06** and **01/29/07 regular** Commission meeting.
c) Review and approve agenda, inquiry as to conflicts of interest:

Motion carried unanimously.

2. Correspondence:

- a) **Letter from Department of the Interior, Bureau of Indian Affairs regarding application by Grand Traverse Band of Ottawa & Chippewa Indians to place approximately 77 acres of land on M-72 East at the eastern township boundary into trust status:** Rob Kalbfleish from the Tribe was present to answer questions. Carstens asked if a master plan for the project will be prepared and available for review. Mr. Kalbfleish stated that there are no specific plans for the property at this time, even though it is mentioned in the application for trust status that it might be a retail outlet.

David stated that if the property is placed in trust, property taxes will no longer be payable on it. He asked about potential payments to the township in lieu of taxes. Mr. Kalbfleish responded that the Tribe makes grants to local organizations from a pool of money equal to 2% of gaming revenues, and that these often exceed the amount of property tax revenue lost.

Krause stated that all he knows about the project he read in the paper. The paper reported there would be some large retail stores. Steve Feringa, also from the Tribe, noted that an existing retail outlet on Tribal property was used as an example, but the precise mix of retailers is not known at this time. A plan will be developed for the future project.

Yamaguchi asked about the timeline for a decision from the BIA. Mr. Kalbfleish stated that they started this particular process in 2002, and it was only late last year that the BIA moved the process forward. Whitewater and Acme Townships, Grand Traverse County and the State of Michigan have 30 days to respond to a basic inquiry. After that additional studies and reviews are performed, including environmental. The remaining process could take 6 or 8 months.

Takayama noted that there is a small piece of property at Turtle Creek not in trust status and asked why. This is a 1.5 acre parcel and thought was given to including it. The Tribe is being careful to ensure that the BIA understands that the current request is not linked to expanded gaming, and there was a concern that there could be a misunderstanding as to that particular parcel. The Tribe is not looking to expand gaming onto any of the properties included in the application. 77 acres of land are in Acme Township, the remainder of the 145 total acres are in Whitewater Township.

3. Limited Public Comment:

Art Bak, 7108 Hawley Road owns property adjacent to the land the Tribe wishes to place in trust status. He asked why the step is necessary. Mr. Kalbfleish stated that the land is considered “restored tribal lands” and trust status gives the Tribe an opportunity to obtain federal funding not available to non-trust lands, saves on property taxes and allows for a different level of self-determination.

Lewis Griffith, 5181 Lautner Road stated that he saw the trust status application on the news Friday night. Why are we so concerned now with the potential associated loss of revenue, but there has been no concern about loss of revenue from delays in the Meijer project?

4. Special Presentations:

a) **Update from the Shoreline Preservation Advisory:** Krause is a member of the advisory and gave the update. The advisory feels it needs a master plan for acquisition and use of the lands from the Shell station to Bunker Hill Road, and this information will be critical to future fundraising efforts. Krause wrote a request for proposals and received bids from three local planning firms. The advisory feels it would like to work with R. Clark Associates on the project, and is seeking the Planning Commission’s ratification of their request to the Board to move forward with the contract.

David asked why Wade Trim’s bid was much higher than the Mansfield and Clark bids; was the scope of services different? Krause was uncertain, feeling perhaps it was because the staff to be used would have to travel from downstate. Takayama feels that Clark’s bid is extremely reasonable.

Motion by Takayama support by Carstens to give the Shoreline Advisory conceptual support for their request for the Board to hire R. Clark to prepare a shoreline master plan. Motion carried unanimously.

5 Preliminary Hearings:

a) **Preliminary Hearing regarding SUP/Site Plan Application #2007-01P, a cheese factory for Bart Nielsen at 9018 US Highway 31 North:** Mark Lewis of Inland Seas Engineering, Bart Nielsen and his daughter Rebecca Nielsen were present in support of the application. Mr. Nielsen stated that he is a second-generation cheesemaker and believes his children may carry on the transition. He has been involved in the industry for a long time and owned a factory in Wisconsin in the 1990’s. He sold the business to pursue a career on the Great Lakes, training at the

Great Lakes Maritime Academy and falling in love with the Traverse City area. He married and returned to cheesemaking, and has held opening a factory in this area as a long-term goal. He currently works for a large Wisconsin factory. He proposes to open the factory, using family and up to 4 non-related people as workers, and living on a home on the same property. He will buy milk from several local dairy operations. They feel Acme is ideal for their business due to the rural atmosphere and proximity to two major throughfares, one of which is a gateway to Traverse City.

Mr. Lewis reported that the proposed site is an 11-acre parcel about ½ mile south of Yuba road on the east side of US 31 known as the “Shaw Homestead.” As currently proposed, Mr. Nielsen would acquire the western half of the property, with the eastern half potentially acquired by the Grand Traverse Regional Land Conservancy for addition to the surrounding Yuba Creek Natural Area (YCNA). The northern of two houses on the property would be retained for the Nielsen family’s use. The cheese factory would be sited adjacent to the existing circular drive on the south side of the property. Parking spaces adjacent to the building are provided and there is an overflow parking area. Additional screening trees would be placed on the south side of the property, adding to existing mature vegetation.

There will be two sanitary systems, one for the plant and one for the house. The factory wastewater system is being designed by a professional from MSU Extension. A well serving an existing house on the southside of the property will be re-utilized if possible. MDOT is reviewing the plans, and on a preliminary basis has discussed construction of a commercial access near the south end of the property. Mr. Nielsen is also planning to give a permanent no-build conservation easement on the east half of the west half of the property where the steeper slopes occur.

Wikle asked about a proposed drainfield near the existing tennis court; it has been relocated to a position away from the conservation easement area.

Mr. Lewis stated that stormwater runoff from the factory and parking lot will be collected and directed to a sedimentation pond with an emergency overflow. The Drain Commissioner’s office has indicated conceptual approval, although formal application must be submitted.

Wikle stated that cheese production can cause odors, and asked how impact on neighbors will be managed. The property is surrounded by the YCNA, but there are houses across the street. Mr. Nielsen stated that the only time a bad odor occurs is if whey is handled improperly. His whey will be extracted from the wastewater stream, collected and used for animal feed or by local farmers for fertilizer. The nearest houses across the street are at least 400’ away from the proposed plant, other than his house which will be closest and most easily impacted.

About 500 gallons of process water will be generated each production day. This water comes from washing down equipment after use and washing the floors. One 1,500 gallon batch of whey will be produced 4 days per week. Whey will be stored in separate tanks and pumped out into trucks for hauling.

Takayama asked if whey leaves every day it is made; it does. If whey sits around it develops an odor. He asked if heat on the outside whey tank will add to problems; the tanks are insulated to minimize temperature change and problems. The inner wall is stainless steel, followed by several inches of insulation and an outer jacket. Sometimes there are heating/cooling coils in the insulation for enhanced temperature management. Milk is 38 degrees when received and must be kept from heating more

than 7 degrees in 72 hours.

Takayama asked why the cheese would be made between 4 a.m. and noon. Mr. Nielsen stated that in part it's tradition, but starting early helps empty milk silos from the day before so that there is a place to store the morning's milking. He hopes to sell cheese curds, which should be sold fresh the day they are made. If you start early in the morning they are ready when the customers are.

Vermetten feels the project is a positive agribusiness for the community. He asked when Mr. Nielsen could be ready for a public hearing presentation, particularly in terms of having agency approvals in hand. Yamaguchi is particularly interested in seeing the factory wastewater disposal system design, particularly since there have been concerns over how wastewater from WRS Receiving in Whitewater Township has been handled. Dr. Loudon at MSU has designed many systems, including one in Antrim County. Most of the permits will come rapidly, but DEQ and Department of Agriculture permits may take somewhat longer.

Krause suggested that several trees on the plan be relocated to enhance the landscaping.

Motion by Takayama, support by Wikle to set a public hearing regarding Application #2007-1P for the March 26 meeting. Motion carried by unanimous roll call vote.

A five minute recess was declared between 7:55 and 8:00 p.m.

6. Public Hearings:

a) **Continuation of public hearings regarding proposed Development Options and Business Districts regulation amendments to the Acme Township Zoning Ordinance:** Vermetten encouraged a free flow of ideas between Commissioners and public. Hull reported that the matter was delayed a month because counsel identified some potential legal concerns. The final draft after conversation between Chris Bzdok and John Iacoangeli was placed on the tables this evening.

There are no major changes from previous drafts. Some highlights:

- Previously the types of PUDs available were categorized by Master Plan land use designations. This has been changed to match PUD types to existing zoning district designations.
- PUDs can only achieve additional density by purchasing/transferring development rights from non-contiguous parcels of land.
- There was a question as to whether all three development options should require permanent conservation easements on at least 50% of the land. The state zoning act requires the township to offer developers an option for development patterns conserving 50% open space, and there was concern that not making this a requirement for all options would unintentionally subvert the intent of the state zoning act. Right now the Conservation Subdivision option has been left without the 50% conservation requirement because John Iacoangeli, the township's consultant, believes that developers should not be required under all circumstances to provide the conservation area. Township counsel would prefer if this designation required the 50% conservation area; the choice is up to the Commission.

Proposed Business Districts Ordinance Amendments:

Vermetten noted that several changes were made to the draft pursuant to prior Commission discussion. Township counsel has reviewed the proposed amendments

from a conservative standpoint.

Yamaguchi asked about the B-1S section and wireless telecommunications (number 21), which does not appear to require an SUP in this district while it does everywhere else. She appreciated the suggestion that the township do a study to see where there is coverage for wireless communications and where there are gaps, and recognizes a need to update the township's Personal Wireless Services Ordinance. Grant felt it wireless telecommunications should be removed from all of the business district sections; it has been removed from all but the B-2 district section and he is uncertain why Iacoangeli removed from everywhere but there. His firm recommends that wireless communications be removed from all districts pending a study of where additional wireless coverage is needed; then an overlay district can be created to specifically permit such development in necessary areas. If it is determined that there are no gaps in service, the township is not required to permit additional locations. Hull stated in any event it would be imprudent to actually include the wireless coverage survey in the ordinance, as it would become obsolete quickly as conditions change. The ordinance would reference any gaps that are determined. Wikle worked for the telephone company for 23 years. At first they had telephone poles, then small green boxes, and now the same service infrastructure can fit into a cabinet the size of a table. Eventually the tall towers that exist for cell service will be obsolete too. She agrees that creating an overlay district would work well.

Vermetten is concerned about the "messiness" of the presentation this evening. A new 17-page document was received this evening and he hasn't had the chance to review it. He wants to proceed with due speed but wants to make sure everyone is operating from the same understanding. He would like to defer the matter to permit time to review the new materials that have come in, and to have them packaged more clearly for that review. Carstens concurred, also feeling that mixed uses should be permitted in the B-4 district but not finding that change in the current draft.

Hardin felt it should be determined whether Iacoangeli left the wireless services in the B-2 district intentionally or by accident. Hull asked the Commission what information they need to better assess how to treat wireless service facilities. He reminded the Commission that Iacoangeli has not independently proposed adding or deleting uses in the ordinance, although there have been some minor rearrangements. It appears to him that there may be some disagreement between Iacoangeli and township counsel on how to proceed in some specific cases. Vermetten can understand a reasonable disagreement, but he agrees that it is not clear if the current situation was accidental or intentional.

Vermetten feels that generally the business district amendments are in order, but the wireless services issue must be resolved. Takayama believes that the question may be addressed because under B-1S item 14 is "public utilities," which includes communications and therefore probably cell towers.

Wikle harkened back to the prior discussion about whether the three development options should all require 50% conservation space or not, and asked why one option would not have the requirement. Hull replied that if a person wants to create a residential development with 30% open space but the township refuses the permit, the developer would submit a plan according to regulations that require no open space preservation at all. This provides a way for some open space to be preserved rather than none. Wikle also agrees that further review is needed prior to discussion, as does Pulcifer. Carstens asked if he could call Grant directly with questions, which he can do.

Public Hearing opened at 8:40 p.m.

Nels Veliquette spoke to the PUD ordinance and the residential/limited commercial option. He feels that 5% commercial space in the agricultural district on an 80 acre parcel wouldn't even yield one commercial unit. He feels the ratio is too restrictive to encourage mixed complimentary uses. It will encourage the development of more houses rather than more businesses. If underlying densities will remain unchanged and can't be increased under PUD without density transfer, it is encouraging residential development in agricultural areas. Hull has discussed this issue with Mr. Veliquette, who he understands would like to promote agriculture as a destination business rather than just a resource business. As written the ordinance will not encourage agribusiness/agritourism. The limit may have been written as it to prevent a large commercial development where the township does not desire one to be. The amount and type of commercial development in agricultural areas is a planning question for the Commission to deliberate. Grant stated that mixed use development is allowed in denser business districts with 60% commercial space, but in the agricultural district the same type of development only allows 5% commercial space. The Commission would want to think hard before allowing mixed use PUDs in the agricultural district at 60% commercial space, which would essentially constitute a rezoning of the entire A-1 district to B-2/B-3.

Ken Engle, Sayler Road, had a question about PUDs based on the old Master Plan land use designation-based table. He was given a copy of the new draft to review. Hull, in the meantime, imagined a proposed project in the A-1 district to include a winery, equestrian center, and cheese factory, but not necessarily housing. The Commission should consider how best to address this sort of situation. At present this can't all be accomplished in one cohesive unit; it would have to be done on separate parcels under separate special use permit applications. Mr. Veliquette stated that if we had a mechanism, we'd have an application for such a project already. If changes to the ordinance to be more business-friendly are geared only towards the business district, he feels we are missing out on a key component of the local business economy. Creative use of agricultural land that doesn't require or promote housing development there is key.

Mr. Engle asked about proposed density transfer rules that relate to township-established density sending and receiving zones. He asked if when the ordinance is passed those zones would also be established on the zoning map. Hull replied that they have yet to be developed, but this should not serve as a barrier to the currently-proposed amendments. He continues to feel that the zoning ordinance needs to be completely rewritten, since it is currently a patchwork of amendments to a document that is nearly 30 years old. Grant disagreed with Hull, because the ordinance says that density transfer does not occur unless it conforms to the map, so until the map provides sending and receiving zones density transfer provisions could not be used. Takayama recalls that Grant's firm recommended designating sending and receiving zones by entire zoning designations. He feels adding the zones should be easy. Mr. Engle suggested a chart of zoning districts linking each to sending and receiving zones. Doing it by district reduces questions about why properties are designated sending or receiving. Hull stated that the zoning enabling legislation – permits non-contiguous parcels of land to be included in the same PUD. In practice all the development could be on one piece and the other could be entirely open space. The state enabling legislation does not specifically allow for transfers of development densities. He does not personally understand the appeal of having discreet sending and receiving zones. Perhaps there are times when an agribusiness could support its own and township goals by having density transferred to it, rather than just away

from it.

David asked why the provisions were included; Hull replied they were inserted because past Commission discussion held them to be important sentiments. Carstens believes they are there to facilitate transfer of development rights and farmland preservation. Private density transactions can occur without sending and receiving zones. Mr. Engle asked how legal counsel thinks about this, and if clarification is needed from the state on the matter as to whether, if he sells a development right, he must conserve land or simply reduce density.

Public hearing closed at 9:06 p.m.

Motion by Krause, support by Carstens to continue the public hearing regarding the proposed ordinance amendments to the March 26 meeting pending additional study.

Takayama expressed a desire for Iacoangeli to be present for the next meeting. Vermetten indicated that all of the parties to the discussion should be present for the next scheduled discussion. David stated a need for clarification of which materials are the most current; Hull will distribute a most current packet on Wednesday.

Motion carried by unanimous roll call vote.

7. **New Business:** None

8. **Old Business:** None

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

Andy Andres, Jr. thanked Dan Kelly for hosting the meeting this evening.

Carstens thanked Messrs. Veliquette and Engle for their thoughtful comments on how to re-examine rules for the agricultural districts so that appropriate conditions result.

Meeting adjourned at 9:12 p.m.