



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, June 30, 2008

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

Members present: M. Vermetten (Chair), B. Carstens (Vice Chair), C. David, R. Hardin, D. Krause, D. White, L. Wikle, P. Yamaguchi, J. Zollinger

Members excused: None

Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Hull, Zoning Administrator
M. Grant, Legal Counsel
J. Iacoangeli, Consulting Planner
C. Grobbel, Environmental Sub-Consultant

INQUIRY AS TO CONFLICT OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Carstens, support by Wikle to approve the agenda as presented. Motion carried unanimously.

1. Consent Calendar:

Motion by Yamaguchi, support by Carstens to approve the Consent Calendar as amended to remove approval of the 06/23/08 minutes because they were not provided, including:

Receive and File:

- a) **Draft Unapproved Minutes of:**
 - 1. 06/03/08 Board meeting
 - 2. 5/15/08 Personnel meeting
 - 3. 5/22/08 Farmland Open Space meeting :
 - 4. 5/22/08 Parks and Rec meeting
 - 5. 05/28/08 Shoreline Advisory meeting
 - 6. 6/11/08 Shoreline Advisory meeting
 - 7. Planning & Zoning News May 2008

Action:

- b) ——— Approve minutes of the 6/23/08 regular Commission meeting

Motion carried unanimously.

2. Correspondence: None.

3. Limited Public Comment:

Andy Andres, Barlow Street, Traverse City mentioned page 73 of the Master Plan and the policies and actions expressed regarding creation of a neighborhood center plan for the Bates Area. He also cited page 80 of the Master Plan, where it discusses consideration of form. He is aware that the Grand Vision project is still underway, and that there has been significant discussion in the past about the M-72 Corridor. There is still an opportunity to “do it right.”

Gene Veliquette, Elk Lake Road, expressed concern that the rewriting of the zoning ordinance is “probably not ‘neutral’” because it is largely being drafted by one law firm. He believes that it should be reviewed by outside legal counsel, and that the ordinance will be “no-growth.” There is a long list of conditions for approvals to be met, and he understands that the zoning administrator has to certify that they all have been done. Many of the

conditions on the list seem to Mr. Veliquette to be overly subjective. He suggested that the ordinance re-write might be subjected to a referendum because it may be perceived as anti-growth.

4. **Preliminary Hearings:** None.

5. **Public Hearings:** None.

6. **Old Business:**

a) **Continued review and deliberation regarding Application #2007-05P Bates Crossing for shopping center on M-72, west of Bates Rd:** Vermetten reported that he, Hull, Carstens and Vreeland attended a meeting last Friday hosted by Mansfield Associates and attended by a variety of people representing Immanuel LLC, MDOT, the Road Commission, and Consumers Energy. It was a very positive and cooperative meeting that he hopes will generate some positive impact on M-72 related issues.

Hull listed the items before the Commission for their consideration, which were partially listed in his 06/23/08 memo. Received by the Commission this evening were an 06/30/08 Third Supplemental Environmental Review from Grobbel and an 06/2008 Traffic Impact Study from URS.

Iacoangeli reported that one key outstanding issue from the Master Plan perspective is the impact that The Master Plan also projects approximately 900 new rooftops to be added near the project area, which he believes are not enough to solely support a shopping center of this size. Therefore, he would expect some discussion regarding the impact of inflow traffic to the center. He would also suggest there should be additional discussion regarding how the proposed removal of 70 feet of soil fits with the call for development on properties designated recreation/conservation in the Future Land Use Map.

Iacoangeli received the updated URS traffic study on Friday and has forwarded it to OHM for their review. The market study has not been started yet, but he can suggest some firms the applicant can contact. The question of how sanitary services will be addressed is unresolved; there could be regional connection or on-site services. If the services may be on-site, the site plan should indicate the area where they would be located. Iacoangeli received Grobbel's report around 5:00 this evening, which indicates that environmental study needs have essentially been addressed and lists some conditions that should be incorporated into an SUP.

The applicant is requesting relief from the parking space requirements. Normally they would be required by the ordinance to provide 10 spaces per 1,000 sq. ft. of retail use; the applicant would like to provide 7/1,000 sq. ft. Iacoangeli noted that Lautner Commons was going to provide 5 spaces/1,000 sq. ft. and he believes that 4 spaces/1,000 would be appropriate and would eliminate a significant amount of impervious surfaces. The applicant is also seeking relief from a prohibition against parking between the road and the land use.

Grobbel stated that most of the issues he raised in his first review memo in January have been addressed favorably. Several of the water retention basins have been redesigned. Some additional data is still expected to be received. His letter dated today summarizes activity to date, and provides 11 potential conditions for the Commission's consideration, which he read through.

Grant stated that the applicant also asked for relief from the standards for number of loading spaces. In examining the ordinance, it has been determined that the Planning Commission does not have the authority to grant relief from this particular standard. This aspect of the applicant's request will require a ruling from the ZBA.

Doug Mansfield, Mansfield & Associates spoke about Friday's meeting. The idea is that perhaps access to the site could be placed in such a way that it would align with a potential easement through Consumers Power-owned property on the north side of M-72. This would necessitate a redesign of the front portion of the proposed project, and could create a squared-off four-way intersection. The County has volunteered to draw up a preliminary concept design and forward it to Consumers Energy. Consumers has indicated it may take 90 days to get an answer from their people internally, and then the response could be communicated to Immanuel. Hull and Mr. Mansfield drew a picture for those assembled of the challenges with the existing Bates Road/M-72 intersection, which is not aligned squarely. A railroad track crosses through it diagonally which would prevent possible signalization of the intersection, and the company using the railroad track says the track cannot be removed. The plan under discussion would realign North Bates Road to the west of its current location in such a way that there could be a squared intersection between the Consumers and Immanuel properties, which could at some point become signalized. The two properties overlap by about 335'. The Tribe was invited to send a representative to the meeting but could not due to a conflict.

Vermetten asked how the applicant feels about further reducing the number of parking spaces to be provided for the project. Mr. Mansfield would have to study this further; initially he feels that perhaps they could reduce to 5 spaces/1,000 sq. ft. but he believes 4 spaces/1,000 sq. ft. would be too low. The proposed front building would have to be relocated from where it is currently planned if the new intersection proposal moves forward. The applicant remains interested in the question of whether the requirement for parking to be in side or rear yards will be strictly enforced, and why. MDOT would prefer to have the building farther from the right-of-way rather than closer to facilitate future widening of M-72. Iacoangeli stated that the parking around the front building, as it relates to the front building, would provide just short of 10 spaces/1,000 sq. ft. Krause believes that the professional standards for parking spaces for a mall is 5 spaces/1,000 sq. ft., so he would support working towards that figure. Iacoangeli suggested that a goal would be to move the front building closer to the boulevard entrance rather than closer to M-72, with the parking arranged around it.

The number of loading areas the ordinance would require would be 74, which seems excessive to everyone.

Mr. Mansfield has reviewed Grobbel's memo and sees no problems working with the suggestions it contains. He stated the applicant would also like the township to table the Master Plan amendment regarding expansion of the sewer district to their property. Vreeland noted that due to a need to mesh a 1997 police power sewer ordinance and the Master Plan, that addition of the sewer district map to the Master Plan must still be pursued; however, it is not strictly required that an expansion beyond the existing district be considered as part of that process. David observed that the township has the discretion to determine the sewer district boundaries, and thought that there were some provisions where the township could permit an on-site system for a property within the district instead of a regional connection. Vreeland believes that currently it is possible under the Zoning Ordinance; those provisions are being removed from the Ordinance and may or may not be retained in the other

sewer-related documents being amended.

Mr. Mansfield stated that the 70' of grade change on one area of the site that is proposed is in an area which is not visible from off-site now; he does not believe that the general public will ever notice that those soils are gone.

Vermetten asked about the photometric study; Hull is working to coordinate review of the photometric plan by Jerry Dobek. Julie Harrison noted that the applicant is still waiting for Mr. Dobek's CV as well.

Hull asked for feedback from the Commission as to several key issues about parking and site design. Vermetten personally feels that there should be 4 spaces/1,000 sq. ft. and that the front building should be re-oriented to relate more closely to the entrance drive. Mr. Mansfield suggested that he, Iacoangeli and Grobbel should be able to work together productively with the township's general guidelines and the property's unique characteristics. Vermetten agreed, including Hull and Vreeland in the discussion circle. The entire Commission agreed with this concept. Wikle believes that an additional basin could be located where some parking spaces are removed. She was also concerned by the mentioned possibility that it could take up to 9 months to work on an on-site septic system planning and permitting process; Mr. Mansfield stated that this is simply how long it takes to work through the state-mandated public process.

A brief recess was declared by the Chair.

b) Continued discussion of Content – Neutral Zoning Ordinance Rewrite:

FOR PEOPLE VIEWING THE AGENDA ON THE INTERNET: THERE ARE THREE DOCUMENTS THAT GO WITH THIS AGENDA ITEM.

- A. **Proposed new ordinance - "clean copy:"** This is the ordinance as it would appear if adopted today.
- B. **Proposed new ordinance - "mark-up:"** Same as the "clean copy," except that this document uses color to show you the current text of the ordinance and the changes to it proposed by the attorneys
- C. **Explanatory memo:** It's a long one, about 62 pages. But, it's important - it explains what the lawyers have suggested and why they have suggested it. Some of what they have to say might normally be subject to attorney-client privilege, but we are waiving that privilege in this instance because we believe it's critical to the public's ability to understand what we are trying to do, to reinforce that this re-write is intended to solve functional and legal problems with our current regulations and to demonstrate fully that there is no hidden agenda to change current landowner entitlements.

Review of Article VII:

Section 7.1.2 is proposed for removal because the township has a separate Stormwater Control Ordinance.

Section 7.1.3 contains the wording "planned developments" in several places. The term is undefined in the ordinance. Hull and Grant suggest changing the wording to clarify the meaning. They suspect it means any development that requires review by the Planning Commission and/or a special use permit. If this interpretation is upheld, substituting wording that any development requiring site plan review might serve well. The Commission expressed concern that any solution would not uphold the content-neutrality. Carstens noted that the last sentence of the first paragraph discusses a possible sidewalk-substitute if approved by the

township as part of a site plan. The language will remain as is for now and be flagged for future discussion.

Section 7.2.1 was slated to be stricken because it refers to maps and concepts that have never been implemented in the Master Plan, nor are they likely to be.

Section 7.2.8(4) is currently worded incomprehensibly. Suggested replacement language would require all new lots in the M-72 Corridor Overlay District to be at least 400' wide. This is what is required now; the wording is just to be clarified.

Section 7.2.10: the intent of this section was not well-understood by legal staff and "service drives" are not clearly-defined anywhere. Vreeland believes it says that an existing lot along US 31 or M-72 may have 1 driveway, but if such a lot is later divided the new lots would have to access through the existing one driveway and would not be granted new separate driveways of their own. While there may be questions about the meaning, changes would not be neutral and will not be made at this time but the section will be flagged for future discussion.

Section 7.2.11: because it is difficult to determine which recreational uses are temporary and non-temporary, legal staff is recommending that recreational uses become allowed by special use. Hull stated that the discretionary power to grant a special use permit under this section appears to be given to the Zoning Administrator, when he believes the Zoning Enabling Act reserves this type of discretion to the Planning Commission and Board. Grant feels that the Zoning Administrator may be given such forms of discretion. The proposed change might not be content neutral, however. The section could be flagged for future discussion.

There was some discussion about the need to sticking as closely as possible to content neutrality in the rewriting. Vreeland observed that there is something mildly discouraging about recreating the ordinance and knowing that one is going to immediately go back and begin amending it. The choice was made to undertake the ordinance amendment with as few changes to discretionary entitlements as possible to minimize the possibility of a referendum that might eliminate the changes needed to comply with changes in law due to concerns about changes in discretionary land use entitlements. It was also therefore very discouraging to her when Mr. Veliquette stated earlier that there might be a referendum challenge to a document that is trying very hard not to change current entitlements unless specifically required by law. For instance, the use of clustered housing by right is a significant new entitlement that will be added because it must, but it's far from neutral. The township fully intends to begin reviewing the level of discretionary entitlements as soon as the neutral rewrite is adopted.

Section 7.3: legal suggests that much of this section is redundant to other regulations. In several portions of this section the ZBA is being given discretion over issues when they have not been given standards for use of the discretion as required by law. The proposed solution is to make these items uses by special use permit in the zoning districts where applicable. The change is procedural only.

Section 7.4 was not reviewed in great detail, under the understanding that it would be reviewed thoroughly soon. There are also complex free speech issues involved. A portion of 7.4.1(1)b was suggested for removal because it is covered elsewhere in the ordinance under home occupations regulations. 7.4.1(3) proposes to remove "a treatment to an apartment development" because it's not understood what it's intended to mean.

Section 7.5: legal suggests moving some items from this area to other sections of the ordinance. Two paragraphs redundant to other areas (7.5.1(1) and 7.5.1(3)) were to be

removed.

Section 7.5.4(2) was proposed for removal but will be left in based on discussion at the last meeting. The table will be relabled to clarify that it does not refer to the number of parking spaces but the angle at which the spaces are placed, which makes a difference in terms of the width of the maneuvering lane required.

There is much in Section 7.6 suggested for removal, and this is explained in the legal memo. Partially this is because much of the situation is covered in the township's Stormwater Control Ordinance. The DEQ regulates floodplains and wetlands extensively, so anything that might conflict in the local ordinance should be removed. Proposed changes attempt to respect the desire to maintain some vigilance over such areas while also respecting the fact that they are largely regulated in other ways. Section 7.6.5 is flagged for future additional follow-up.

Section 7.7 is proposed to be removed entirely because no airport overlay zone is in the Master Plan, the local airport sees no need for it, and townships with land close to the existing airport don't have such regulations.

Article VIIB

This is a proposed new section number that would be used to segregate out all of the existing site plan review regulations from Article VIII now that there are some uses subject only to site plan review rather than site plan review and special use permit. The only change is the addition of a sentence recognizing what is already set forth in the B-district regulations – that for uses by right subject to site plan review the Planning Commission has the final say on approval and does not pass them on to the Board for final action.

The Commission scheduled a special meeting for July 14 to complete review of the draft, and will discuss the final draft on July 28.

7. **New Business: Review East Bay Township Master Plan Amendment:** Carstens stated that this has been addressed by County Planning. Marv Radtke feels there is an unresolved conflict with the idea of expanding the sewer district to the Forest Lakes area when there is also a stated goal of keeping housing density in that area somewhat low. County Planning recommended that this issue be addressed. Vreeland opined that when she thinks about how East Bay's Master Plan can impact Acme, she thinks about the Holiday Hills area. In East Bay there is zoning in place that allows for dense multi-family housing immediately adjacent to less dense single-family uses in Acme Township. Holiday Hills is densely developed but the road system was not designed to handle the associated transportation load. The Commission generally agreed that this is somewhat of a concern. Vermetten observed that East Bay's signage regulations must be different than Acme's because there is a clear difference in character along US 31 at the common township boundary. The commission also suggested it might be nice if East Bay's Master Plan addressed dark-sky lighting concerns.
8. **Public Comment/ Any other Business that may come before the Commission:**
Hull noted that Immanuel LLC asked that their request to consider expansion of the sewer district was tabled. Staff has been preparing for the needed Master Plan amendment to move the sewer district map from the zoning ordinance to the Master Plan, and was moving this process along slowly to allow for time the Commission seemed to need to gather more information about the sewer district. If there is not to be consideration of a change in the shape of the sewer district at this time, it may make sense to move the process along faster. Vermetten suggested that there could be preliminary discussion about the Master Plan change on July 14, and public input/public hearing process could be established.

Krause stated agreement with Mr. Andres that work on the M-72 Corridor Overlay district should continue. Vermetten believes that this issue is always prominent in the Commission's mind.

Meeting adjourned at 9:52 p.m.