



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, March 16, 2009

Meeting called to Order with the Pledge of Allegiance at 7:05 p.m.

Members present: M. Vermetten (Chair), B. Carstens (Vice Chair), C. David, S. Feringa, R. Hardin, P. Yamaguchi, J. Zollinger
Members excused: D. Krause, D. White
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Hull, Zoning Administrator
M. Grant, Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

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

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

Receive and File:

- a) Draft Unapproved Minutes of:
- b) 03-03-09 Board Meeting
- c) 02-10-09 Marina Advisory
- d) 02-20-09 Heritage Advisory
- e) List of Planning Resources - Planning & Zoning News
- f) Planning & Zoning News February 2009

Action:

- g) Approve minutes of the 02-16-09 Planning Commission Meeting

Motion carried unanimously.

2. Correspondence: None
3. Limited Public Comment: None
4. Preliminary Hearings: None
5. Public Hearings: None
6. New Business:
 - a) Affordable Housing: Receive working paper "Visualizing Density," discussion of its purpose and use: Affordable housing is one issue on the Commission's priority list, and some people find it difficult to define or understand. From the economist's point of view, Hull defines it as sustainable housing, such that prices to inhabit remain low and prices to construct are both low enough to make low habitation cost possible and profitable. He also finds that such development is well-suited to the use of density bonuses. One way to achieve this is through increased housing density. The handout he found and provided has some birds-eye pictures of various housing

densities as they might be laid out. The handout states that even to 24 units per acre there can be yards and green areas, and discusses efficient use of roads in terms of units per acre.

The paper also goes on to discuss the housing densities required to make public transportation economically viable. Hull observed that Acme Township's Master Plan calls for a town center into which land use densities can be concentrated, and that on 180 acres there is a plan that proposes somewhat over 600 housing units. This works out to be not much different than our current maximum housing density per acre of 3 units, and this is not sufficient, according to the handout, to make regular bus service economically viable. At 4-6 units per acre a subsidized bus service may become possible. Under the township's Conservation Development ordinance at 70% open space the housing density would still be under 4 units per acre. Looking at the mobile-home park zoned portion of the Bates Crossings property, which at times has been stated to have a possible 700 housing units on its 90 acres, a density of about 7.8 units/acre would be achieved which could support some sort of bus service. Hull stated that unless the township addresses higher-density housing, he does not believe that affordable housing can be a reality in the township.

Zollinger asked if several smaller projects with density bonuses could substitute for one massive housing area successfully. Hull stated that as the ordinance is currently constructed, it is impossible to reach the required level of density. Land cost per unit is still too high for such housing to be priced affordably. Looking for government subsidies is another potential component of the affordable housing picture, but are subsidies sustainable on a perpetual basis?

Prior to considering various model ordinances that are available regarding affordable housing, Hull would like to continue an educational process with the Commission. He provided a handout from the California Department of Housing & Community Development Round Table called *Myths and Facts about Affordable and High Density Housing*. Hardin asked how Acme's maximum density compares to other area townships; Hull has not yet investigated. Hardin called Garfield Township once to ask what they do to attract affordable housing and was told that they do not. Vreeland observed that the Northwest Michigan Council of Governments has studied affordable housing and each local township's ordinances, and prepared a report stating where each ordinance supported truly affordable housing and where each may make affordable housing difficult. It has been provided to the Commission before, and the staff will provide it again. She also noted that the generally accepted definition of affordable housing is that which costs no more than 30% of the median household income for an area, and the median income for this area is lower than many people might expect – she thinks less than \$40,000.

Carstens was impressed by how the appearance of a high-density project could be softened by trees, and how much more crowded the pictures without trees or during winter leaf-off periods seemed. Design of houses and overall project layout are also key factors to the feel and function of a higher-density development. Vermetten represents three fairly sizeable developers, and their typical projects occur in Blair, Garfield and East Bay Townships. Over the past three years he has worked on 9 developments, about half of which were in Garfield and the rest divided between Blair and East Bay. Brookside Development (Scott Norris) is one, which has about 7.8 units per acres, adjacent to the Lone Tree Development. Garfield does not seek out density, but works with developers to provide high-density affordable housing. Vermetten has been working with Scott Howard regarding a project off Garfield Road between S. Airport and Hammond Roads, adjacent to a property owned by the

Conservancy. They were able to negotiate access through the development to the Conservancy property, largely wetlands, in a new and favorable way. Vermetten believes other townships have been more accommodating from the cost and density standpoints than Acme, so developers can't put projects in Acme into HUD or MSHDA affordable housing programs. Garfield also allows for height variances, which help with densities.

There was discussion about the need to think about a combination of factors in our ordinance, such as the allowable densities per acre in a variety of zoning districts, allowable building heights, and the permitted levels of impervious surface per parcel of land. Carstens highlighted the desirability from his point of view of adding a housing component to or near our industrial district for those starting out in life. Vermetten observed that affordable housing is not just a stepping stone for everyone to a more wealthy stage of life; for some people it is a long-term necessity. Yamaguchi observed that the City of Traverse City was carved from Garfield Township, and this is historically where the jobs have been so it is natural that more affordable housing has been built in these areas. Vermetten also noted that the hospital, the two larger malls and a significant amount of strip development is in or close to Garfield, Blair and East Bay Townships. There are amenities there that are easier to access than they are from outlying areas such as Acme. Grant observed that closer-in communities may score higher on MSHDA grant application forms, and it would be interesting to see how Acme would score. If that grant funding can make or break an affordable, largely rental, development, it may be a while before Acme is in a position to be significantly eligible in terms of nearby jobs and shopping.

Hardin observed that one challenge we have is that most of the township's higher density zoning is located amid the headwaters of the two creeks.

7. Old Business:

a) PC Review and Comment on update of '97 Water/Sewer District Ordinance:

Grant reported that staff found some provisions of the police power 1997 water and sewer district ordinance that may or may not ever have been enforced. He is seeking advice as to whether retention of those provisions is desirable as set forth in an e-mail conversation. Carstens expressed concern that pumping a septic tank every 2 or 3 years not be seen as evidence of system failure; the ordinance calls for a determination of possible failure if a tank is pumped more than once every 12 months.

Vreeland stated that Long Lake Township has enacted an ordinance that requires inspection of septic tanks when a property changes hands, and there is some talk of the County potentially adopting a county-wide ordinance. Fred Keesler from the Health Department will be addressing the Board on this topic at 6:30 on April 7, and the Commission may be interested in attending. David used to perform home inspections and stated that there are few non-destructive ways to effectively inspect a septic system, so he wonders if this is truly a wise provision. Zollinger has heard that the required inspections might be viewed by the County as a way to fund the septage treatment plant, but Vreeland is uncertain that this is the case.

Feringa stated that while it may be helpful to include construction standards in the ordinance, they may change over time. There have been conflicts between the Tribal water system and the DPW requirements in the past. The DPW requires ductile iron for water pipes currently, while the Tribal system standards permit the use of PVC pipes. Installed properly and to the right quality standards, Vreeland's discussions with Brian Thurston from the DEQ indicate that PVC water pipe can be a safe and

cost-effective solution. The County DPW is not currently fully equipped to service such pipe, and would likely want to have equipment purchased to do this by any development that had PVC pipe systems that were to be turned over to a township and county to manage. Feringa observed that if the Tribe were to add to development at the Resort with a connection to their water system, they would likely wish to use PVC pipe rather than iron.

Zollinger asked about the provisions that each day of an ordinance violation can be deemed a separate occurrence/infraction. This is fairly standard language that strengthens the desirability of resolving a problem situation quickly. The township might choose to enforce such a provision to the fullest, or to settle for some smaller fine amount. Zollinger also asked about an inspection fee provision in section 9, and what the fee would be. Vreeland reported that the township hires a licensed engineer to perform plan review and construction oversight on any systems constructed by developers for turnover to the township and the actual costs are passed through to the developer.

- b) **Update: Status of mobile home/manuf. Home development ordinance:** Hull reported that since the state dictates the majority of the requirements for manufactured home park developments, there should be little debate during the County Planning Commission review. Their review occurs tomorrow and the Board should be considering final adoption at their April 7 meeting.
- c) **Update: General special-use permit provisions amendment:** The public hearing for the proposed new SUP provisions will be published for the April meeting.
- d) **Discussion of cell tower ordinance, “viewsheds,” and organization of public input:** Grant reported that the township received a letter from Mark Hullman, attorney for the Johnson Family Limited partnership about the status of the lawsuit between them and the company that erected the cell tower behind the Holiday Inn Express. The Johnson Family had a deed restriction preventing fences and wires and conduits from being placed on the property that was upheld by the local Circuit court and also upheld on appeal. We believe they intend to require the removal of the fence around the cell tower facility. Fencing is required by the Personal Wireless Services Ordinance, so this would force the facility into non-compliance with the SUP. The township might be asked to vary the fence requirement, which might or might not be possible in terms of federal requirements or cell service provider policy or preference, and ultimately if the court required the fence to be removed, this might require the tower to be removed. Grant has stated in the past that the township currently does not define any zoning districts where cell towers are permitted and that this needs to be corrected to avoid difficulties. The events in the lawsuit make the timely address of this question even more critical.

An e-mail between staff and Grant discusses some ideas for moving forward with the process of determining where cell towers are to be permitted. Hull provided 11” x 17” topographic maps of the township that have the protected view sheds as currently described in the Master Plan drawn in. Hardin noted that the Yuba cell tower might be within defined viewshed #11. Vreeland reported that when that cell tower was approved there was significant discussion on this point, and to protect the viewshed as much as possible while still meeting signal requirements the tower was moved as far north as possible and the height was increased.

David noted that federal law protecting the ability to effectively provide cell service can to some extent preempt township regulation. Grant agreed that this is true, but

even so the township needs to have some regulations in place as a starting point, even if they might be preempted in certain circumstances. The definition of protected viewsheds is also important to the Conservation Development Ordinance, as their protection can be one factor in the decision making process. Grant was hoping that rather than having just points on a map from which a protected view occurs, as the current Master Plan map does now, that by drawing on the viewshed area cones as Hull has done to match with the descriptive language about the view being protected, in the future there would be less debate about what areas are in or out of a viewshed. Vermetten observed that this is difficult because a view can extend beyond a limited cone. Vreeland thought that because there are infinite personalized interpretations of desirable views from individual properties, perhaps it might be wise to start by establishing a maximum number of key viewsheds that will be defined for protection, and then select them from all the input received on the subject. From the existing map it does appear that the previous focus on viewsheds was along US 31 and M-72, what one might term the common areas of the township as opposed to views from particular neighborhoods or tracts of land. Grant observed that if the township has a tool such as the viewshed map, a potential cell tower locator can use it to help choose between two potential sites that may be equally suitable from a signal standpoint and choose the one that is preferable to the township.

There was also discussion about tradeoffs between tower heights and the numbers of towers. Shorter towers that don't exceed the tree line height can be used if they are more closely spaced. There was discussion about how taller structures far away can be less intrusive visually than smaller structures close by. Hardin noted that the definition of viewsheds will also impact likely upcoming wind generation regulation. Feringa and Yamaguchi agreed, with Feringa asking the question of the definition of "good" and "bad" views. He noted that the Tribe has been studying wind conditions on a portion of the Resort property and applying for grants for a potential wind generation facility in the study location. Vermetten observed this can be an issue with water towers as well, although many water storage systems are being placed underground where the land is high rather than above ground.

The Personal Wireless Services Ordinance is due to be revised textually and merged into the Zoning Ordinance rather than being a stand-alone ordinance. While to some extent technology requirements dictate where the towers should go, it may be possible to fine-tune their location by providing incentives to locate in selected areas. There was discussion about using GPS to very precisely define viewshed areas, and about potential difficulties that could occur if they are defined too precisely rather than sticking with the text only and leaving some room for interpretation. A concern was raised that some people would become alarmed that their properties are within the defined viewshed cone and fear that the township would try to prevent any development on their property.

Hull offered topographic maps of the township with little detail to the Commissioners, for them to use over the next month to travel the township and mark the areas they feel are important viewsheds. They will be brought back to the April meeting to be discussed. Zollinger asked Hull to do more research into the question of fewer taller towers vs. more shorter towers.

8. Public Comment/ Any other Business that may come before the Commission:

Nels Veliquette, 311 S. Maple Street in Traverse City, stated that moving development density towards the southern portions of the township could be enhanced through transfer of development rights tied to farmland preservation. Other than that he believes the ordinance is currently constructed in a way that firmly discourages affordable housing development. He

also does not believe it is silly for people to fear that viewsheds might be used to inhibit development, since the discussion was centering around using viewsheds to inhibit cell tower development.

Jim Goss, 4105 Bay Valley Drive, recalls when the Village at Grand Traverse was originally proposed and the subject of viewsheds came up. He had a discussion with Krause about required landscaping strips and required trees within those strips. Such trees will grow tall some day and may change or block a viewshed currently defined.

Vreeland stated that the township has become aware that there are two proposed deep injection wells for reintroduction of brine created during natural gas exploration into a deep aquifer about 2,000' down. When the township was learning about natural gas production when it considered leasing the Yuba Creek Natural Area, it learned that this brine production and reinjection is a standard part of the process. One of the proposed wells, the "Cherry Berry" well is planned for Veliquette-owned land north of Brackett and in the general area of the Country Hermitage Bed & Breakfast. The other is planned for Whitewater Township on the Hubbell/Cherry Blossom property. As to the latter only, the application is to upgrade that deep injection well from a Class 2 to a Class 1 that could accept other non-hazardous waste fluids. In this case, some of the wastewater from cherry processing at Cherry Blossom would be injected. The township has received numerous calls of concerns from township landowners, many of whom have written to the EPA and/or DEQ to request a public hearing prior to any permit issuance. The township wrote to request a public hearing as well, stating some of the concerns that residents have raised about environmental safety and that we feel that they deserve the chance to ask questions and receive answers at a public meeting. We are aware that Senator Levin has also requested a public hearing, and believe Senator Stabenow will do so as well.

Meeting adjourned at 10:20 p.m.