



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, April 25, 2011

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

Members present: J. Zollinger (Chair), B. Carstens (Vice Chair), C. David, S. Feringa, R. Hardin, V. Tegel, D. White, P. Yamaguchi
Members excused: B. White
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Jocks, Legal Counsel

APPROVAL OF AGENDA: Motion by Carstens, support by Yamaguchi to approve the agenda as amended to add a recap of the recent Placemaking Summit by attendees. Motion carried unanimously.

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

1. Continuing Education: None
2. Consent Calendar: Motion by David, support by Carstens to approve the Consent Calendar as amended to remove the VGT Phase I SUP application status update an approval of the March 28, 2011 minutes for further discussion under New Business, including:

Receive and File:

- a) Draft Unapproved Minutes of:
 1. [04/05/11](#) Board
 2. [04-08-11](#) Farmland Advisory
- b) ~~Status Update – VGT Phase I SUP Application #2009-01P~~
- c) [Planning, Zoning & Administrative Update](#) – S. Vreeland

Action:

- e) ~~Approve [03/28/11](#) Planning Commission meeting minutes~~

Motion carried unanimously.

3. Correspondence: None
4. Limited Public Comment: None
5. Public Hearings: None
6. New Business:
 - a) Preliminary Hearing: [SUP Application 2011-01P](#) – Traverse Bay RV Park: Staff has found the SUP application for the expansion of the Traverse Bay RV Park by 81 units to be complete and recommends setting a public hearing. This application is substantially identical to one submitted in late 2008 and approved in early 2009, the approval for which has lapsed due to inactivity.

Motion by Carstens, support by D. White to set a public hearing on SUP Application 2011-01P for the May 23, 2011 regular Planning Commission meeting. Motion carried unanimously.

- b) **Preliminary Hearing: [Zoning Ordinance Amendment Request 014](#) – Rezoning:** Staff indicates that the application for Zoning Ordinance Amendment Request 014, rezoning of approximately 47 acres of a total 59 acre area of land from B-1P Professional office and R-3 Urban Residential to B-3 Planned Shopping Center is somewhat incomplete. Unit 35 in the Cottages at Windward Ridge is part of the rezoning request; however, current owner Fannie Mae has not provided a letter allowing the applicant to make application as their agent. A purchase agreement is in place and sale of the property by Fannie Mae to OTTC LLC is currently planned for May 6. OTTC LLC has provided a letter authorizing Traverse City Real Estate to act as their agent for purposes of the application although they are not yet the fee title owner. Also, the maps for the application show inclusion of the open space areas of the Cottages at Windward Ridge property in the request, but the parcel ID and description of these lands is not included in the application narrative and no letter of authorization from the owner to the applicant has been provided. The Commission could approve setting a public hearing contingent upon completing these elements of the application.

There was some discussion of the fact that the township holds a conservation easement over a significant portion of the open space in the Cottages at Windward Ridge as a condition of approving increased density for the project and clustering of the residential sites. There is some curiosity on the township's part as to the applicant's desire to rezone this portion of the land when it cannot be developed. Harry Wieringa of Fleis & Vandenbrink was present to represent the application and stated an intention to swap the existing conservation easement for a new one in a woodlot on the east side of the properties that is not proposed to be rezoned. Zollinger asked if information about this should be included in the application. Vreeland stated that whether or not the existing conservation easement remains intact or is moved is not relevant to whether or not the property changes zoning. Jocks also noted that while it's not precisely a portion of the rezoning request, understanding the applicant's general future intent for the property can be an important factor in a decision.

Feringa noted that the Grand Traverse Band of Ottawa & Chippewa Indians has easements in the Cottages at Windward Ridge for the water system. Vreeland added that the township has easements in place for the sewer system as well. Neither would be affected by a potential rezoning.

Carstens asked about the available capacity of the sanitary sewer system section on US 31 north of M-72 E. He is particularly thinking about the future needs for the proposed LochenHeath development, plus any potential needs for the land subject to the application whether rezoned or not. Vreeland reported that the township originally bonded to increase capacity of this section of the system in 2002-2003 but "defeased" the portion of the bond that would have paid for those improvements because it did not appear they would be needed for several years. She believes this section of the sewer system can accommodate 300 more benefits (residential equivalent units of service) before capacity must be increased. When LochenHeath is connected to the system, the current design calls for connection via a Deepwater Point Rd. segment rather than the US 31 N segment. Development of the land proposed to be rezoned, whether as currently zoned or if rezoned, could easily exceed the remaining capacity. The township's general policy, which is stated in the Master Plan and in some DPW agreements, is that developers generally pay for any infrastructure improvements needed to service their new development and turn them over to the township for operation and maintenance. The township would have the

option to pay for upsizing improvements beyond what is strictly needed for a particular project to prepare for future growth in an area.

There was discussion about whether to set a public hearing on the application contingent on receiving the missing application elements prior to a certain date. It was realized that the expected closing date for one of the parcels of land is currently May 6. Notice of the public hearing must be published at least 15 days in advance, and there is a 3-day lead time required to place a publication in the newspaper. It would not be possible to meet the publication date requirements for a May 23 public hearing if the closing did not occur until May 6, and it would seem wasteful to publish notice of a public hearing before knowing if the conditions for holding the hearing could be timely met.

Staff requested feedback from the Commission regarding the proposed items of information to be researched and provided as preparation for an eventual public hearing, as well as suggestions for anything desired that is not on the list. David stated that granting the rezoning would seem to him to be directly counter to various expressed township planning goals, and indicated he would be interested in knowing how long the land has been under its current zoning designation..

Tegel appreciated item 3 on Vreeland's list, would be very interested in a survey of the amount of space in the township already zoned for B-2 and B-3 uses or under special use approval as a mixed use development, as well as how much is built and unbuilt, and for the built areas how much is occupied and how much is vacant. Carstens expressed that there is a lot of "unsuccessful" business space in the township already, and a lot of land available for such uses. He did not believe the application should be expedited in light of these facts and the contents of the Master Plan.

Yamaguchi has looked at the Master Plan and the amount it discusses for the citizen-desired mix of land uses, and there are specifics in the Master Plan that will be useful in evaluating this request. She recommended particularly reviewing Chapter 3, "The Plan," and the stated desired percentages of total land area in various uses versus the amount of land area zoned for those uses already.

Motion by David, support by Carstens to continue the Preliminary Hearing to the first regular Planning Commission meeting date following submission of documentation satisfactory to township legal counsel demonstrating permission of the owners of all parcels proposed for rezoning for Traverse Real Estate LLC to apply.

Mr. Wieringa expressed understanding of the Commission's concerns about the documentation, and how the application relates to the Master Plan. He believes that this application is based on the careful planning that the township has demonstrated over the years. While there is not a sense of urgency on the Commission's behalf, there is such a sense on the part of the applicant. He believes that there is a 99% plus likelihood of the closing on Unit 35 occurring as planned. He believes that upon careful reading of the application that the Commission will find many of their questions and concerns are answered, and done so with citations from the Master Plan. He urged the Planning Commission to reconsider setting a public hearing and keeping the process moving forward.

Tegel asked if staff would be able to perform all of the work required to support the Commission appropriately in their decision-making process within the possible

timeframes. Vreeland replied that while the application should not be unduly rushed, neither should it be unduly delayed, and that she would do what is necessary to keep the process moving along at an appropriate pace.

Motion carried by a vote of 6 in favor (Carstens, David, Feringa, Tegel, Yamaguchi, Zollinger) and 2 opposed (D. White, R. Hardin).

- c) **Reports from attendees of 04/14/11 [Complete Streets Workshop](#):** Carstens, Hardin, Tegel, Yamaguchi and Vreeland all attended a recent Complete Streets workshop. Carstens stated that there is a video available from another recent session with Fred Kent that might be valuable to show everyone.

Yamaguchi stated that while the concept of providing for multiple modes of movement is not new, the session did provide some definitions and new thoughts about how to plan for and develop complete streets. Applying for funding for infrastructure improvements will be tied to addressing Complete Streets Concepts in Master Plan updates. 10 Principles of Complete Streets were discussed, along with how to conduct a planning process.

Carstens added that to receive state or federal funding within an urban area for a road project, the project must provide for a complete streets approach. The concept does not require that all elements of a “complete street” be provided in every scenario. For instance, fewer pedestrian or non-motorized pathways may be needed in rural areas.

Tegel’s noted a *Smart Growth Tactics* edition that she asked to be provided again. The date on the publication vs. the date now is an indication of how slowly the process can go. At the seminar there was discussion that it is important to at least have the township pass a resolution in support of Complete Streets. There are some slides from the presentation she attended that help townships evaluate where they are on the path towards promoting complete streets and safe and effective multi-modal infrastructure. She stated that the township may have liability if we don’t provide for these things. In the seminar we were told that 35% of the population includes the elderly, children or other individuals who can’t drive. That many people need something other than a road for cars to get where they need to go.

Zollinger asked: if complete streets are required to be addressed in the Master Plan, why would a resolution be needed on top of this? Tegel asserted that without a statement that we support the concept until the Master Plan is amended, we can lose out on state and federal funding. Yamaguchi added that a resolution, then Master Plan amendments are steps along the way towards ultimately developing ordinances that require and shape complete streets.

Tegel cited statistics indicating that businesses with multiple modes of access experience 35% lower levels of absenteeism. Public health and the “obesity epidemic” were also cited as reasons to promote multi-modal transportation. The concept doesn’t mean that every street contains facilities for every mode of transportation. The township will need to examine each situation and assess the priorities for each in developing a solid complete streets plan.

Zollinger suggested that those who attended the session prepare a draft resolution supporting complete streets concepts for the Planning Commission to consider at its next meeting. Carstens and Tegel will prepare the draft.

- d. **[Status Update](#) – VGT-Phase I SUP Application #2009-01P:** Tegel sees that the

DPW has calculated that the Meijer store will need 123.90 benefits. She asked how costs for sewer infrastructure expansions are normally covered. Vreeland stated that there is an expectation that improvements needed for a particular project will be paid for by that project. Sometimes if other projects that come later are served by the infrastructure paid for by another, agreements are put in place for the later project(s) to repay a portion of the costs for the mutually beneficial improvements to the earlier project(s). Sometimes municipalities pay to install larger pipes or other components than a development needs in anticipation of future service needs. Upsizing pipe at original construction is fairly inexpensive; digging twice to replace small pipe with larger pipe is more costly.

- e. **Approve 03/28/11 Planning Commission meeting minutes:** Yamaguchi stated that on page 2, in the top paragraph, in the 5th line from the bottom, the phrase “she currently would like...” needs a “to” added.

Motion by Feringa, support Carstens to approve the minutes of the March 28, 2011 Planning Commission meeting as amended. Motion carried unanimously.

7. Old Business:

- a) **Discuss Zoning Ordinance Amendment 013 - Medical Marihuana regulations:** Jocks provided a revised draft based on the information Kate Redmond provided from the last meeting. Changes from last month’s draft included a removal of the restrictions for medical marihuana as a home occupations use and separation distances between medical marihuana uses and churches and schools.

Zollinger asked about 7.7.11 a and d, feeling they might be redundant. Jocks stated that d is different because it states that only the operator of the facility can perform a transfer; not their friends or employees. This is different than prohibiting casual walk-in trade.

David expressed an impression that the law does not allow dispensaries to sell anything but the medicine or paraphernalia to grow or use it. Vreeland observed that the law does not define a dispensary at all.

Jocks stated that the goal of the ordinance is to limit the impact of all home occupations on the character of the residential district but limiting the amount of traffic to the business.

David asked how the township can evaluate whether or not the traffic limits are being observed. (7.7.11.e) This would be difficult, but not impossible to enforce.

Tegel asked who would have enforcement responsibility for these requirements. As part of the Zoning Ordinance the Zoning Administrator would be required to enforce the requirements.

The home occupation situation is difficult. But ignoring it and not having it in the ordinance would be problematic as well. Caregivers and patients might assert that absence any local limitations they have the right under state law to carry out an unlimited amount of activity. By creating reasonable boundaries we don’t prohibit caregivers and patients from pursuing their rights under state law, but we provide a way to exercise our duty to protect public health, safety and welfare impacts.

Yamaguchi asked about the proposed definition of “medical marihuana dispensary.” The last sentence prohibiting the sale of other goods or services was her question.

She also expressed concern about what is intended by the term” transfer.” This is at debate in several different courts throughout the state right now. Jocks believes that permitting retail sales as part of a transfer is the safer course of action until these issues are resolved.

Tegel asked if the medical marihuana dispensaries currently operating would be grandfathered non-conforming uses if the state enabling act is deemed illegal; they would not.

David does not understand the potential separation and different treatment of dispensing medical marihuana vs. cultivation and cultivation facilities. As written the ordinance would prohibit dispensing the product at a cultivation facility. Jocks stated that his initial charge from the Commission was to draft an ordinance substantially similar to that in place in Traverse City, and their ordinance contains this separation. On a broader level, by separating cultivation and product transfer again traffic to the site is being limited. There are some growers who have very large grow facilities, or provide space within a large facility to a variety of individual smaller-scale growers. The township could choose to limit size or scope of cultivation facilities. David would prefer to prohibit large-scale, multi-caregiver cultivation facilities altogether. He feels that the intent of the state law was to allow those who could benefit medically to grow and use small amounts of medical marihuana, but that it was not to encourage the growth of a large-scale retail marihuana industry. Tegel feels that the township should allow such facilities as another allowed and regulated potential business use for the community. This could also increase the community tax base. Jocks stated that the township could limit the number of plants permitted per facility to 72, the number one caregiver could have.

The Commission made no substantial changes to the draft this evening, so Jocks stated it could be set for public hearing at the May 23 meeting.

Motion by Yamaguchi, support by Tegel to set a public hearing on proposed Amendment 013 for the May 23 meeting. Motion carried unanimously.

- b) **Discussion – [Potential Amendments to B-2 District](#) –Hotel/Motel Uses:** Jocks asked for feedback about certain terms. Zollinger stated that to him, a “tourist home” is what we would call a “bed and breakfast” today. To him a “summer resort” would be a larger destination with a place to stay and activities such as Ranch Rudolph.

Hardin noted that in Jocks’ memo he discusses a height limitation of 25’, but the height limitation in the Schedule of Regulations is generally 35’. He also asked why limit height for some uses but not others? Vreeland noted that the township is trying to concentrate densities in core areas and encourage multi-use buildings, so perhaps allowing 35’ height limits for hotels and motels as well as other types of building uses. Tegel noted that regardless of allowable height, parking space requirements still have to be met for the square footage. Jocks suggested removing the height restriction on hotels and motels from Section 9.10.e.

Hardin discussed downtown Traverse City and the fact that having taller buildings allows them to concentrate development in a smaller space and avoid sprawl.

David supported removing the 25’ height limitation from hotels and motels.

Vreeland and Jocks will continue to ponder how to accomplish allowing taller/higher without inappropriately negatively impacting residences on bluffs and report back.

There was consensus to eliminate “tourist home” from the ordinance, feeling that it is what is called a “bed & breakfast” today. Jocks will attempt to define “vacation resort” and bring the information back to the Commission for consideration.

- c) **Elect Secretary to complete term of office until 07-15-11:
Nomination by Carstens, support by Hardin for Tegel to complete the current term of office of Planning Commission Secretary. Nomination ratified unanimously.**

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

Jim Goss, 4105 Bay Valley Drive, stated that the proposed height for a hotel at the Village at Grand Traverse is five stories, but that ability had to be obtained as a variance from the Zoning Board of Appeals. He also stated that attorneys and planners for the VGT also spent extensive time determining what setbacks would be required as a result of increased height.

Ken Engle stated that in the past there has been discussion about limiting heights of buildings relative to tree lines.

The third public input session regarding the Marina Feasibility Study will be held tomorrow night at Mt. Holiday starting at 6:30 p.m.

Longtime township resident and office holder Dick Smith will be honored at the start of the May 10 Board meeting, currently planned to be scheduled for 6:00 p.m.

David asked for status update on finding a new Planner/Zoning Administrator. The candidate field has been narrowed, reference checks are under way, and interviews may occur next week. There is some concern that the salary the township currently has budgeted for the wage is too low to attract the talent and level of experience we are seeking.

Meeting adjourned at 9:18 p.m.