



ACME TOWNSHIP PLANNING COMMISSION MEETING

Acme Township Hall

6042 Acme Road, Williamsburg, Michigan

7:00 p.m. Monday, June 25, 2012

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

Members present: J. Zollinger (Chair), B. Carstens (Vice Chair), S. Feringa, R. Hardin, V. Tegel, K. Wentzloff, D. White

Members excused: P. Yamaguchi

Staff Present: S. Vreeland, Township Manager/Recording Secretary
N. Lennox, Zoning Administrator
J. Iacoangeli, Planner
J. Jocks, Township Legal Counsel

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Carstens, support by Wentzloff to approve the agenda as presented. Motion carried by a vote of 6 in favor (Carstens, Feringa, Hardin, Wentzloff, White, Zollinger) and 1 opposed (Tegel).

1. **Continuing Education/Special Presentations:** None
2. **Consent Calendar:** Motion by White, support by Wentzloff to approve the Consent Calendar as amended to remove the Planning & Zoning News for discussion, including:
 - a) **Receive and File:**
 1. **Draft Unapproved Minutes of:**
 - a. Board [06/05/12](#)
 - b. Zoning Board of Appeals [06/14/12](#)
 - c. Planning & Zoning News May 2012
 - b) **Approval:**
 1. Minutes of the [05/21/12](#) Planning Commission Meeting

Motion carried unanimously.

3. **Limited Public Comment:**
Charlene Abernethy, 4312 Westridge Drive, thanked the Planning Commission and Trustees for participating in the Placemaking project to make the community nicer for everyone.
4. **Correspondence:** None
5. **Public Hearings:**
 - a) **Zoning Ordinance Amendment 020 – Loading & Unloading Zone Spaces:**
Iacoangeli presented the proposed ordinance amendment, which would make ordinance requirements for loading and unloading spaces less restrictive. His report contains two case studies, one being the Meijer store. Under current regulations the ordinance would have required 95 loading/unloading spaces. The Goodwill store would have been required to have 6 loading/unloading spaces for approximately 12,500 sq. ft. Under the proposed new requirements the Meijer would be required to have 10 spaces and the Goodwill would be required to have 2. The new standards are based on the front footage of the front of commercial buildings, so the larger the store

the more loading/unloading spaces required.

Tegel asked for another example, Woodland Creek Furniture. If that store modified the building they would have to comply with the new requirements, and she wondered how many they are required to have now and how many they would be required to have under the proposed ordinance. The statistics regarding the current store loading/unloading spaces were not immediately at hand on short notice. Zollinger observed that the scope of a potential change to the site might also have an impact. Tegel stated that Goodwill had a question of this nature at their recent ZBA hearing to approve a reduction in the required number of loading/unloading spaces for their project.

Iacoangeli expressed a concern that two recent retail developments needed to request variances of the requirements. He also noted that the township is generally concerned about the amounts of impervious surfaces required and the associated need for stormwater management facilities.

Zollinger asked about the proposed screening requirements proposed under 1.6.1(6). He noted that recently Goodwill requested a variance from the parking landscaping screening requirements, and asked how the situation would be handled if it were impractical to provide screening. Iacoangeli observed that the screening could be of various natures, such as landscaping or a portion of the building. There was a general desire to avoid creating a need to obtain variances in situations where there is a practical difficulty that would render screening ineffective.

Public Hearing opened at 7:20 p.m.

Chuck Walter, 6584 Bates Road, suggested consideration of loading and unloading enclosed semis. Needs partially depend on how facilities are configured inside the building. Many unloading facilities are automated to the point that few docks are needed. He noted that a facility like a lumberyard would tend to unload in an inventory area, possibly in the middle of a clearly visible work yard. Perhaps some exceptions or exclusions for such situations should be considered.

Denny Rohn, 9267 Shaw Road asked if the unloading capabilities of a facility should be factor after hearing Mr. Walter's comments. Previously her thoughts had centered more on viewshed protection.

Public Hearing closed at 7:22 p.m.

There was discussion that Meijer gave the township the number of loading/unloading spaces they needed and the township gave them a variance to reduce the number to that figure. The Meijer is already approved, so a change in the regulations would not affect their approval.

Iacoangeli noted that loading/unloading spaces might or might not make use of a loading dock. How materials are offloaded is a matter of site operator choice.

The ordinance would apply to all commercial districts. Hardin noted that at his workplace there is a significant grade change between their site and the neighbor which would render screening unhelpful. Jocks proposed a screening language change as follows: "Loading and unloading spaces shall be effectively screened from view from any public street and from any office or residential zoning district unless a practical difficulty exists to the screening."

Motion by Carstens, support by Wentzloff to recommend approval of Amendment 020 as amended to the Township Board of Trustees. Motion carried unanimously.

- b) **Zoning Ordinance Amendment 021 – Religious Institutions & Public Assembly Places:** Iacoangeli discussed the requirements of The Religious Land Use and Institutionalized Persons Act ,(RLUIPA), and how it impacts where communities allow both religious and institutional land uses. He stressed the importance of allowing religious assemblies where non-religious assemblies are permitted. Iacoangeli's report contains tables demonstrating where both types of uses are currently allowed and by what process, and a table of proposed changes to where they are allowed and whether they are a use by right or a special land use. He characterized it as primarily a "housekeeping" amendment. One of the issues discussed at the last Commission meeting was that the issuance of liquor licenses to sites within a certain radius of a religious institution is restricted. Iacoangeli stated that it is possible for the township to ask the Liquor Control Commission to allow a liquor license within the radius.

Public Hearing opened and closed at 7:36 p.m., there being no public comment.

Motion by Wentzloff, support by Tegel to recommend approval of Amendment 021 to the Township Board of Trustees as presented.

6. Old Business:

- a) **SUP Minor Amendment 2012-03P - Change in use from car dealership to brewery at 6060 US 31 North:** Applicant Jeff Brooks was present to represent his application. This discussion is continued from last month's meeting when the applicant was not able to be present. He would like to occupy a former Fox Motors card dealership building for microbrewery use and retail sales of alcohol. There will be no on-site food preparation, but catering food would be permitted. Iacoangeli has reviewed the project and finds that there is not expected to be a substantial impact on neighboring properties. He did recommend changes to the proposed hours of operation. Site lighting would remain the same as currently, parking is available on-site and potentially for lease behind the building.

Brewing and shipping is proposed to occur between 8:00 a.m. and 8:00 p.m. The applicant has asked to have the taproom open until 2:00 a.m. daily, but Iacoangeli suggested limiting the hours to midnight on weeknights and 2:00 a.m. on weekends because there are residential neighbors in the immediate vicinity. Wentzloff expressed concern about limiting the hours for the taproom if other facilities serving alcohol in the township are able to stay open until 2:00 a.m. Adjacent neighbors could be deemed to have purchased their property knowing that their neighbor would be a commercial operation. The Bayview Inn lists its hours as open until 1:30 a.m.

Tegel asked if there has been any further work done regarding concerns raised by staff at the last meeting about the impact of light from the business late at night on nearby residential neighborhoods. The staff had raised a concern based on past experience; however, had understood the Commission not to feel this was an issue with no additional research required. Tegel asked if there might be any site drainage concerns based on comments from the Watershed Center staff during a recent local walk. She asked if Mr. Brooks is experienced in this business, and he stated that he has 8 years' prior experience downstate.

The concern raised by staff at the last meeting was that in the past there have been complaints from residents of Acme Road west of US 31 North due to the former

internally-lit business signs at the site. If the business is to be open late, perhaps there might be similar concerns. Mr. Brooks stated that he would have some televisions in the taproom but is not planning to have neon signs or very bright lighting. He would like to light the freestanding sign and will light the American Flag as required. Iacoangeli expressed no concerns with lighting for the site.

Motion by Wentzloff, support by White to approve SUP minor amendment 2012-03P with the taproom hours to be until 2:00 a.m. Monday – Saturday. Motion carried unanimously.

7. **New Business:**

- a) **Deep Injection Well Regulations:** Questions have come up as a result of a recent *Record Eagle* editorial about the discontinuance of an application regulating deep injection disposal wells in Mayfield Township, and also due to concerns about the deep oil and gas exploration process known as “fracking.” Jocks stated that the Mayfield Township ordinance, which he drafted, goes about as far as he could recommend a township go in regulating deep injection wells. He stated that generally townships have no authority to regulate oil and gas exploration wells. It is possible to regulate associated items such as pipelines or roads or production facilities, however it is easy to get into trouble legally if a court finds that the entire purpose of such regulation is to attempt to regulate the oil and gas exploration wells themselves.

Deep injection wells are not for the purpose of producing oil and gas, but for disposing of the byproducts of the production process. Class I wells are for the disposal of non-hazardous wastes, and Class II wells are for the disposal of hazardous wastes. Michigan townships are specifically precluded from any zoning regulation of Class II wells. This leaves townships with the ability to introduce zoning regulation of Class I industrial waste disposal wells only. If a township attempts to completely prohibit such activity, there could be court challenges based on a number of legal theories, including the idea that townships are pre-empted because other authorities have been effectively given all of the regulatory power and “occupy the field.”

Jocks stated that Acme could zone for a Class I deep injection well, but this is all he would recommend the township even attempt to deal with. If desired he could work with Iacoangeli on an ordinance similar to Mayfield’s. There are no known active deep injection wells in the township at this time. One was proposed for Veliquette property between Brackett and Kesner Roads, but Vreeland reviewed the records recently and while the permit was issued it appears that to the extent the well ever existed it is now closed.

Carstens asked about the relevance of the lawsuit over the Class II well in Alba. Jocks reported that the case in Alba a well was proposed for waste from the mess in Bay Harbor. They were going to drill a new well for that. Judge Power ruled that there was additional alternate reviews to be done and things were dropped.

Tegel asked if any facility in Acme Township produces the type of waste that could go into such a deep injection well? Does it matter? Jocks reported that waste appropriate to the type of well could be trucked in from anywhere without prohibition. Tegel asked if any other townships in the region have addressed this concern aside from Mayfield; and Carstens stated from his perspective on the County Planning Commission that Mayfield is unique. Tegel noted that there is a septic treatment plant constructed to take such wastes, and that if it is possible for us to regulate the wells for public safety and also to help direct those wastes to the treatment plant, she feels it would be beneficial for Acme and other townships to do so. Vreeland commented that not all types of wastes can be handled by the biological

process at the septage treatment plant. Tegel's idea is basically sound, but the plant has had to turn away wastes that would have sickened or killed the biological agents used to perform the treatment.

Jocks said the Mayfield ordinances allow for the wells to exist in the townships. You would risk a lawsuit if you did not. They are allowed with certain requirements.

Carstens noted that the Mayfield ordinance requires certain types of environmental testing to ensure that safety and non-contamination mechanisms to be employed by Class I wells are actually functioning as they should. He is aware of areas across the country where contaminants have entered the environment and the drinking water being contaminated, leading to mutations and deaths. He feels that requiring testing would therefore be of extreme value. Monitoring also adds to the body of data to help people truly understand the impacts of the activities. It also sends a message about our concern about safety, and keeps things from being "out of sight, out of mind."

Feringa concurred that doing something to be aware and vigilant would be good. He noted that when Traverse City was founded, the engineers of the time recommended that it would be fine to pump raw sewage into the bay as long as it was a certain distance offshore. That also was a case of "out of sight, out of mind."

White asked if there are any regulations requiring deep injection wells to be a certain distance from surface waters.

Iacoangeli stated that it is easy to use publicly-available data to map local active and inactive wells. It should also be possible to check with local well drillers to see how far down they are drilling for drinking water. One thing this might demonstrate is whether the difference in depths between drinking wells and injection wells already implies sufficient separation to protect drinking water safety. Jocks cautioned against attempting to regulate anything about the construction of the well, including regulating the depth as being within the DEQs purview. Vreeland noted that the Master Plan contains a drinking water well depth map that is from the late 1990's but reasonably accurate. Jocks also offered that the real place to try to have an impact on how wells are handled is where the regulatory power currently lies – in Lansing with state legislation.

Carstens expressed concern over situations where old capped wells have been found to be leaking in some way. He also wondered how accurate the DEQ mapping might be. Vreeland has used it and while she can't guarantee its accuracy it is fairly easy to use.

Jocks suggested mapping wells and understanding the existing state regulatory process better, and bringing this information back to the Planning Commission for discussion. The Commission was generally in consensus.

Tegel learned a term at a recent Citizen Planner conference: "precautionary principle" that she feels is important to bear in mind. Tegel defined as: we may not know all the risks, but we do have a duty to take action so as not to cause harm to the public or the environment.

- b) **Discussion of desired types of agenda topics:** Zollinger noted that there have been some e-mails recently regarding the types of materials Commissioners would like to have on meeting agendas. He is concerned about ensuring that materials for discussions are provided in a timely way for packets, and that prioritization occurs to make the best possible use of staff time. It is also necessary to balance Commission

agendas so that they are meaningful but not so full that nothing can be adequately addressed. There has also been an urging that those attending township-paid training make a presentation on their sessions at Commission meetings. In this regard, Zollinger suggested that attendees could write summaries to be included in meeting packets to facilitate the sharing process. One member sent an e-mail to all the other members, and Zollinger wanted to encourage all Commissioners' input.

Tegel stated that she sent the message, which Hardin did not recall seeing, and offered to read it for the Commission if desired. She said that as an educator, one of her first questions when she became a Commissioner was whether training would be provided. She has actively taken part in many available opportunities. One of the first was Citizen Planner, which contained the suggestion that Planning Commissions needed to not just respond to development requests but also actively plan for the community. She sees a need to actively share what each Commissioner learns at various trainings and meetings they go to. So much is going on in the region, she is interested in hearing about all of it, and she hopes people are interested in hearing about what she is learning and participating in as well.

Tegel reported that there are issues that come to her from local citizens or from regional sources, and she wants to actively bring them to the group to decide if we need to act and how.

Zollinger stated that if Commissioners have issues they would like addressed, if they are raised early they can be included in meeting packets in a timely manner so that people can read and understand them well before the meetings. Sometimes last minute issues come up to be addressed on short notice, but in general Commissioners have reacted negatively to being handed information the night of the meeting to digest and decide upon.

Carstens stated that there are things he would suggest for the agenda but he sometimes forgets to send them until it is too late.

Zollinger noted that one item Tegel wanted to discuss is a status update on the Master Plan. He observed that staff has reported on this at past meetings, and that Tegel missed three meetings in a row earlier this year. In the past staff has presented proposed timelines, and there has been training in the past. Iacoangeli is working on a proposed scope of service, timeline and estimated cost at the current time.

Tegel expressed concerns about when 5-year update is due. Iacoangeli commented that the plan was amended in 2009, so technically according to PA 33 we don't have to review or amend it until 2014. The current goal is to complete placemaking by the early fall and begin Master Plan shortly after that.

Iacoangeli said that he and Zollinger sat down recently to discuss potential revisions to the standard agenda format. He suggested that any action items on a planning commission agenda be done at the first part of the agenda to be considerate of applicants time and so that the Commission can be fresh for the decision-making. He recommends a "reports" section after the new business where administrative reports on planning, zoning and legal issues can be delivered. This will include placemaking and master planning so that everyone can feel aware of what is going on. After these items, he suggests a place on the agenda for Commission discussion items. At this time any Commissioner suggested items could be discussed according to an established operating procedure for brief discussion – perhaps 5 minutes. His recommendation regarding continuing education is that administrative staff would prepare a 1-page form that any Commissioner attending township paid seminars

would complete. They would also indicate any items they feel should be of particular interest and a copy of materials received. These could be provided to Commissioners to review on their own outside of the meeting agenda. One key would be continuing to require submission of materials well in advance of meetings to facilitate timely packet preparation. If people turn in their training summary packets on an ongoing basis immediately after they return, it can simply be inserted into the next agenda cycle that fits from a timing perspective.

Zollinger asked for reactions to Iacoangeli's proposal. All Commissioners felt it was excellent and should be adopted. Tegel asked if she could offer a list of items for the next agenda immediately at the meeting.

Iacoangeli proposed working with staff to come up with a new agenda template and a brief explanatory document for the Commission to consider amending into its bylaws at the next meeting.

8. Items Removed from Consent Calendar: None

9. Reports:

a) **Planning & Zoning Activity Report:**

Vreeland commented that this report is a summary of key planning, zoning and administrative activities underway. This list may not be exhaustive. Vreeland say two things have happened since this report was made. First there was a meeting with Dr. Lanny Johnson and Lee Bussa, a Acme Township resident who is stepping down as Johnson's real estate agent . David Frost, owner of Three West, LLC, was introduced as Johnson's new real estate agent. The real short version is that we all are thinking twenty years ago and need to rethink and come back to the table. Vreeland said that there is a person interested in finding a place for a "Compassion" store.

b) **Placemaking Update – John Iacoangeli:** Iacoangeli displayed a Placemaking video created by the Northwestern Michigan Council of Governments. Different entities have different definitions for the term "placemaking." Iacoangeli suggested using the "local" definition embodied in the video. This video will also be displayed at the big public placemaking meeting to be held on Wednesday, June 27 at 6:30 p.m. in the Williamsburg Dinner Theater tent. The video can be viewed through a page on the NW Michigan Council of Governments website that can be accessed at: <http://www.nwm.org/planning/planning-policy/placemaking/>

Acme's placemaking process was kicked-off a month ago. The first large community visioning session is occurring as mentioned above on Wednesday night, and we are hoping for several hundred attendees. The video makes the point that placemaking isn't necessarily about money, it's about vision, leadership and collaboration. Money follows those three things. Attendees Wednesday will be asked to provide Vision for the US 31 corridor from Dock/Brackett Roads to the southern township boundary. Adjacent properties will also be considered, including Acme Village and the Village at Grand Traverse because as we move into the future all these properties will function together. There have been a variety of outreach avenues including posters, mailers, press releases, newsletters, websites and an outreach session at the Bayside Park Beach. Iacoangeli will be meeting with the Acme Business Association for a first time on July 11 and will select a date for an additional future township-wide business/commercial property owner-only focus group meeting to solicit their particular feedback.

Honor was one of the communities highlighted in the video, and Iacoangeli and Beckett & Raeder worked with them. They are a fairly small community, and their

public meeting generated an impressive 144 people. Since creating their strategy they have attracted a \$30,000 grant from Rotary Charities to do leadership training, another grant for a 5-year Parks Plan Update and identifying Platte River properties for public acquisition, and they are now working on establishing a DDA.

This is why the placemaking project is important to complete before the master plan update – it is the beginning of engaging the community. The placemaking project must be completed prior to September 30 to meet grant funder requirements. There will be additional public meetings for the public to review the final plans.

Additionally, Acme, East Bay and Elmwood Townships and the City and County Planning are meeting monthly to work together, as we are all undertaking some form of US 31 corridor/shoreline planning and placemaking project at the same time.

Carstens asked if the placemaking website currently contains an Internet survey. It does not, but the possibility exists for the future.

To the public interested in the Placemaking process, please be sure to visit www.acmeshores.org or follow us on Twitter: @AcmeShores

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

Zollinger asked Vreeland to comment on the new Fireworks Store. She said the store owner contacted the township prior to leasing the building to understand any requirements associated with their use of the building. It was determined that no new permit process was necessary since this is a retail land use, and the property in question already holds a valid special use permit. The store owner was encouraged to contact Metro Emergency Services regarding any special fire prevention requirements due to the type of merchandise to be sold, which they have done. The sign maker for the store owner contacted the township for signage requirements. There were violations of the signage requirements the week of June 11th that have been discussed. The manager and new Zoning Administrator addressed new concerns and violations with store management on June 18th.

Rachelle Babcock, 4261 Bartlett Road stated appreciation that the township is considering the deep injection well issue. She hopes we will help spread enthusiasm for the issue to other township as we consider following Mayfield's example.

Jocks indicated how to Google information about oil and gas wells.

Tegel got a notice from the Council of Governments about a training session in Kingsley regarding intergovernmental cooperation. Anyone interested in participating should let the staff know and they will be registered.

Meeting adjourned at 9:47 p.m.