

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION
MINUTES OF A MEETING HELD APRIL 28, 2011**

Agenda

TACO BELL - SPECIAL EXCEPTION USE AND SITE PLAN APPROVAL - 5013 WEST MAIN STREET (PARCEL NO. 3905-13-430-041)

NORTH 9TH STREET - REZONING – 1283 NORTH 9TH STREET – (PARCEL NOS. 3905-14-105-041, 3905-14-155-028 AND 3905-14-155-014)

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, April 28, 2011 commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Bob Anderson, Chairperson
 Kitty Gelling
 Carl Benson
 Fred Gould
 Richard Skalski
 Dave Bushouse

MEMBER ABSENT: Millard Loy

Also present were Jodi Stefforia, Planning Director; Linda Ignasiak, Planning Department Secretary, and five other interested persons.

Call to Order and Pledge of Allegiance

The meeting was called to order at approximately 7:00 p.m. The "Pledge of Allegiance" was recited.

Agenda

The Chairperson asked if there were any changes to the Agenda. Ms. Gelling made a motion to approve the Agenda as submitted. Mr. Skalski seconded the motion. The Chairperson called for a vote on the motion, and the motion carried.

Public Comment on Non-Agenda Items

None.

Minutes

The Chairperson said the next item on the Agenda was approval of the minutes of April 14, 2011. Ms. Gelling said that on page 4, line 7, the word "was" should have been included and on page 6, line 4, the word "and" was noted twice. Jodi Stefforia noted the correct spelling of Greg Markvluer's name. Mr. Gould said on page 5, there were comments made that were not noted in the minutes. He felt the applicant made a lot of

promises worth noting in the minutes. After some discussion Ms. Stefforia agreed to ask Attorney Porter to review the tape from the April 14, 2011 meeting and make any appropriate changes to reflect said discussion. Ms. Gelling made a motion to approve the minutes, as amended. Mr. Skalski seconded the motion. The Chairperson called for a vote on the motion, and the motion passed.

**TACO BELL RESTAURANT - SPECIAL EXCEPTION USE AND SITE PLAN APPROVAL
- 5013 WEST MAIN STREET (PARCEL NO. 3905-13-430-041)**

The Chairperson said the next item was consideration of a special exception use and site plan review for Taco Bell Restaurant located at 5013 West Main Street, being Parcel No. 3905-13-430-041. The Chairperson announced he would refrain from voting on this item due to his serving on the Zoning Board of Appeals in which the applicant came before on April 26, 2011. The Chairperson called for a report from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated April 28, 2011, and the same is incorporated herein by reference.

Ms. Stefforia took the Commission through the proposed demolition and rebuilding of the Taco Bell Restaurant site plan, in detail, as more fully set forth in her report, which is incorporated herein.

Ms. Stefforia explained the applicant had submitted requests to the Zoning Board of Appeals, in which he was granted a front setback variance and wall sign deviation, which she briefly reviewed.

Ms. Stefforia drew the Planning Commission's attention to the lack of sidewalk along Drake Road on the site plan. She stated that the Non-Motorized Plan calls for sidewalk along Drake Road and sidewalk was built last year along West Main Street in front of this property. She pointed out the limited space in the right-of-way to construct the sidewalk noting that ideally an easement to install the sidewalks on the development's property should be sought to keep it away from the curb and traffic. She suggested options for the Planning Commission to consider include not requiring sidewalk at this time, requiring sidewalk to the northern driveway into West Century Center, require sidewalk be built along the shopping center's entire Drake Road frontage, or require the property owner to grant an easement for future sidewalk construction as well as sign an acknowledgement consenting to future inclusion in a sidewalk special assessment district.

The Chairperson opened the meeting to questions from the Commission. Mr. Gould asked about the pedestrian crossing of the drive aisle and if signs could be required. Ms. Stefforia answered that requiring signs to warn motorists and/or pedestrians at the crossing was within the purview of the Planning Commission.

There being no additional questions for Staff, the Chairperson asked to hear from the applicant. Mr. Bill Beckett of WT Development and Taco Bell representative introduced himself to the Planning Commission. He said the Taco Bell in Oshtemo was built in 1991 and since then the use of drive thru service has increased to become 70% of the business.

At the conclusion of his presentation, Ms. Gelling asked about signage in regards to the pedestrian entrance at the corner of West Main and Drake. Mr. Beckett said there were

yellow hash marks on the pavement, but in addition to that, a sign could be added as well. Ms. Gelling noted the plan showed only 2 handicapped parking spaces. Mr. Beckett said if extra handicapped spaces were needed, that would not be a problem. Ms. Stefforia explained the Building Official determines handicap compliance.

Mr. Beckett said reduced seating was brought about from barrier free requirements and additional restaurant equipment. This new design meets Taco Bell's national design standards. He said the new layout would allow them to better service their drive thru customers and at the same time, reduce some of the congestion in the West Century Center parking lot.

Mr. Skalski asked about room in the right-of-way for a sidewalk. Mr. Beckett answered there was only 16' between the edge of parking and the curb. Putting sidewalk in the right-of-way would require tree removal and he cannot commit to an easement because they are not the property owner.

Mr. Benson asked where the ordering station was located. Mr. Beckett showed on the plan where it in fact had been moved further in, closer to the pickup window.

Mr. Beckett thought the new building façade would improve the entrance to the Township.

The Chairperson asked if there were any public comments. Stacey Hudspeth, asked how long the project would take for construction. Mr. Beckett explained they would like to begin in June and 80 to 90 days has been the normal time frame.

The Chairperson asked the Planning Commission for deliberation. Mr. Gould asked if sidewalks could be extended south as far as the bank. Ms. Gelling pointed out that Plaza Corp is the actual owner and asked then who would be responsible. Mr. Beckett offered to approach the Plaza owners and encourage participation in sidewalk installation, indicating Taco Bell's willingness to pay their share.

Ms. Gelling asked if the demolition would occur around the clock and the applicant said daylight hours were sufficient. Mr. Gould said he supports the request, but cannot see requiring sidewalk to the north driveway if not continuing all the way down to the light. Mr. Bushouse commented on how sidewalks get started and extended and that we should try to get them going more towards the south. He added that when Lowe's was approved, Josh Weiner had expressed willingness to address his section of Drake Road when other segments were built.

Ms. Gelling asked if a pedestrian sign could be added and it was agreed that a warning sign was needed for both motorists and pedestrians.

The Chairman called for further discussion, and hearing none, asked if there was a motion. Ms. Gelling made a motion to grant the Special Exception Use pursuant to the discussion and staff report findings. Mr. Skalski supported the motion. The Chairman called for a vote on the motion, and the motion passed with the Chairman abstaining.

Mr. Skalski made a motion to grant the Site Plan Review with the conditions of adding signage at the crosswalk, as discussed encouragement to construct sidewalks on Drake Road, all signage must comply with the Ordinance unless deviation is granted by the ZBA, all lighting must comply with Section 76, all requirements of the Fire Department and Township engineer must be satisfied and the Environmental Permits Checklist and Hazardous Substance Reporting Form submitted. Ms. Gelling supported the motion. The Chairman called for a vote on the motion, and the motion passed with the Chairman abstaining.

NORTH 9TH STREET - REZONING – 1283 NORTH 9TH STREET – (PARCEL NOS. 3905-14-105-041, 3905-14-155-028 AND 3905-14-155-014)

The Chairperson said the next item was a request to rezone a parcel from R-2, Residence District to C, Local Business District. The Chairperson stated the subject property is located at 1283 North 9th Street, Parcel No. 3905-14-105-041. The area under consideration for rezoning has been expanded to include parts of 3905-14-155-014 and 3905-14-155-028 which are abutting parcels to the south and east of the applicant's property. The Chairperson asked to hear from the Planning Department.

Ms. Stefforia took the Commission through the applicant's proposed request and the expansion area. She stated that when receiving the applicant's rezoning application, she had included the two parcels to the south for inclusion in the public notice so that the Planning Commission could consider rezoning those properties when evaluating the applicant's property so that creation of a spot-zone could be avoided if the Planning Commission determined that the applicant's request should be recommended to the Township Board for approval. In addition to expanding the area under consideration, she noted that she had also added to the public notice so that the Planning Commission could consider any of the zoning districts, but she specifically will speak to R-3, Residential for the applicant's property and the abutting two properties.

Ms. Stefforia then explained that the applicant has been operating an office use at the property. While she believes it was a misunderstanding on the applicant's part, the office use has been operating without prior Township approval and is in fact not allowed on the property as zoned which is R-2, Residential. While the rezoning is pending, the Township has allowed him to continue the office use and no enforcement action is being taken.

Ms. Stefforia then reviewed several rezoning options for the Planning Commission's consideration as more fully depicted in her staff report, which is included herein, including the option of denying the request.

Ms. Gelling asked how the issue was brought to the Township's attention. Ms. Stefforia said the applicant had made inquiries regarding signs.

The Chairperson asked to hear from the applicant. Scott Hudspeth spoke. He said he purchased the home as a foreclosure in 2007. He has been in the mortgage business for over 11 years. He said he rented the house out until the end of 2010. He said he doesn't feel he needs commercial zoning and now requests R-3 Residential and only the

first 200 feet of his parcel, not the entire property. He indicated that his mortgage company generates almost no traffic to the site.

Ms. Gelling asked the applicant about an initial representation of a home occupation. Mr. Hudspeth said he called the Township to inquire about operating a home business and was told it was okay. His children have four years of school left and then this property would be a great place to have a home. He also said he spoke with the Pattisons about the rezoning.

Janelle Boothby lives in the next house north of the Hudspeth property. There is a cornfield in-between. The Pattisons had talked to her about this hearing as her property fell just beyond the 300' notification distance. She said she was opposed to a commercial use of the property, but not Mr. Hudspeth's office use. She said she liked the rural nature of 9th Street.

The Chairperson then asked Ms. Stefforia to please read a letter she received from the Pattisons. They wrote that they wished to object to the rezoning from R-2 to C-Commercial. As owners of land abutting Mr. Hudspeth's, they thought the rezoning would devalue their property. They also have dealt with drainage and run off issues, causing loss of two acres of farmland land already and did not want that to happen again. Once rezoned, other businesses could occur other than a mortgage company and several businesses have entrances on 9th Street and they do not want any further traffic or congestion. They noted Mr. Hudspeth said he had been running a business out the home, but they know he does not live there, but resides in Texas Township. They also object to the property being rezoned to R-3 Residential and request that the Planning Commission give due consideration to their objections.

The Chairperson asked if Ms. Stefforia could explain, again, the differences between R-3 Residential and C- Commercial zoning. She responded that the R-3 would allow the house to be converted to an office use subject to site plan approval, and by special exception use approval, new office buildings could be built as well as a number of uses such as three and four family residential buildings. The commercial district, however, would allow a lot more uses including retail on the property. She cautioned the Planning Commission that extending nonresidential use north of the four corners of West Main Street and 9th Street may necessitate amending the draft Future Land Use Map and that if commercial is found appropriate this far north of West Main Street then it will have to considered continuing south along 9th Street in the future if requested by others.

Mr. Skalski commented on existing, adjacent properties zoned R- 2 and thought R-3 would be the appropriate buffer between the backside of the large retailers at the corner and the residential properties to the north. He also commented that the entire study area as expanded by staff should be rezoned, not just the first 200 feet so as to avoid the applicant having to return in the future to request that the balance of his property be rezoned.

Ms. Gelling said she was uncomfortable with the way the applicant went about obtaining his business. She said she is against the entire request and feels this area of 9th Street should stay residentially zoned. She added that 9th Street is only two lanes in this area and it is a rural area for families and is beginning to become too commercial.

Mr. Bushouse felt that R- 3 Residential was reasonable for the property and could adequately accommodate the applicant's use. He noted that the Sky King Meadows project south of West Main Street utilized the PUD tool to allow limited commercial use along 9th Street and it is working out well. He added that the applicant's office use acts like a residence and would typically be quiet at night.

Mr. Gould said he understands the resident's concerns regarding commercial and staff's point that there is more allowed in the R-3 district than just a house conversion to an office. He is concerned about commercial zoning creeping north on 9th Street.

Ms. Janelle Boothby asked if the rezoning could be tied specifically to the applicant and his office use. Ms. Stefforia said she was considering redirecting the request to a Conditional Rezoning of just the first 200 feet of the applicant's property that would accomplish the applicant's objectives while limiting unintended consequences of a full rezoning of the properties in the study area. Mr. Hudspeth said he would be willing to offer conditions for a Conditional Rezoning to R-3.

Mr. Benson commented that he cannot support rezoning to commercial. The question is what is appropriate in this space. Do we want to create a transitional zone in this area? He added that rezoning only 200 feet sets the stage for the balance of the property being requested for rezoning in the future.

Ms. Stefforia stated that the retention ponds for Meijer and Menards could be considered the transitional area between commercial and residential and that it is not unusual to have R-2 abutting commercial zoning.

Ms. Gelling then made a motion to recommend denial of the rezoning requests to keep the area as zoned. Mr. Benson seconded the motion. The Chairman called for a vote on the motion. The vote was a tie with three in favor of the motion and three opposed. The motion failed.

After a brief discussion on protocol, Ms. Gelling made a motion to table the matter until May 26, 2011. Mr. Benson seconded the motion. The Chairman called for a vote on the motion, and the motion passed with a vote of four to two.

COOPER TOWNSHIP MASTER PLAN AMENDMENT

Ms. Stefforia reported that the Township had been provided a draft copy of proposed amendments to the Cooper Township Master Plan and that no changes were proposed that are of concern to Oshtemo Township. Ms. Gelling made a motion to direct staff to send a letter indicating that they had no comments on the proposed amendments to Cooper Township. Mr. Gould seconded the motion. The motion passed.

ANY OTHER BUSINESS

None.

PLANNING COMMISSIONER COMMENTS

Chairperson Bob Anderson thanked Kitty Gelling for filling in as Chairperson on his behalf while he was on vacation. Chairperson noted difficulty in the Commissioner's actions tonight, but credited them for being thoughtful and for doing their homework.

Mr. Benson asked if Ms. Stefforia could check with the Township Attorney regarding the appropriateness of the Planning Commission advising staff on enforcement matters.

Mr. Bushouse commented that at the last meeting they had considered a conditional rezoning to allow a residential use in an industrial building. In his mind, this request was not very different. He suggested that the Conditional Rezoning may be the best way for the applicant and Township to proceed.

Ms. Gelling commented that she did not like how this request came about and feels that commercial land uses should not extend up 9th Street.

Mr. Skalski stated he does not think that the applicant purposefully misled anyone at the Township and that it is not realistic to expect residential land uses next to a commercial use such as Menards.

Mr. Gould stated that he respected and appreciated Mr. Bushouse's comments and the history he had of the Township. He concurred that this request was very similar to the White Velvet Yogurt request and that he also did not think the applicant purposefully misled anyone. He also mentioned there were many typos in the Master Land Use Plan draft publication. Ms. Stefforia assured them again that it is being reviewed and that they are being noted, but urged all members to get their comments to her as soon as possible instead of going over them at the public hearing on May 12, 2011 which should be well-attended by members of the public. Ms. Gelling raised the idea of only Oshtemo Township pictures being used in the Master Plan.

ADJOURNMENT

There being no further comments, the meeting was adjourned at approximately 9:28 p.m.

Minutes Prepared:

May 5, 2011

Minutes Approved:

May 12, 2011