

OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION

MINUTES OF A MEETING HELD AUGUST 27, 2009

Agenda

**KL AVENUE ATTRACTIONS, LLC AND DAVE CORNING – SPECIAL EXCEPTION
USE REVIEW – 7518 WEST KL AVENUE- (PARCEL NO. 3905-22-185-040)**

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, August 27, 2009, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Terry Schley, Chairman
Bob Anderson
Deborah Everett
Carl Benson
Richard Skalski

MEMBER ABSENT: Kitty Gelling
Fred Gould

Also present were Jodi Stefforia, Planning Director; Mary Lynn Bugge, Senior Planner; Chris West, Associate Planner; James Porter, Township Attorney, and three 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 by the Commissioners.

Agenda

The Chairman asked if there were any changes to the Agenda. Hearing none, Mr. Benson made a motion to accept the Agenda as submitted. Mr. Skalski seconded the motion. Upon vote, the motion carried unanimously.

Public Comment on Non-Agenda Items

The Chairman asked if there were any public comment on non-agenda items. Hearing none he moved to the next agenda item.

Minutes

The Chairman said the next item was the review and approval of the July 23, 2009 minutes. Mr. Anderson made a motion to approve the minutes, as submitted. Mr. Skalski seconded the motion. The Chairman called for a vote on the motion, and the motion passed unanimously.

KL AVENUE ATTRACTIONS, LLC AND DAVE CORNING – SPECIAL EXCEPTION USE REVIEW – 7518 WEST KL AVENUE- (PARCEL NO. 3905-22-185-040)

The Chairman said the next item on the Agenda was the request for a special exception use approval of a proposed temporary outdoor recreational event. A Halloween-themed event, including hayrides, haunted forest and children's activities. The Chairman said the subject property is located at 7518 West KL Avenue, Parcel No. 3905-22-185-040. The Chairperson asked to hear from the Planning Department. Ms. Stefforia submitted her report to the Planning Commission dated August 27, 2009, and the same is incorporated herein by reference.

The Chairman asked if there were any questions for Ms. Stefforia. Mr. Skalski asked if this was similar to the activities that took place at Verhage's. Ms. Stefforia indicated it was but, that Verhage's was grandfathered, in that their activities predated the Township ordinance.

The Chairperson asked if there were any further questions and hearing none asked to hear from the applicant. Mr. William McNeil introduced himself on behalf of the applicant, KL Avenue Attractions, LLC. He said he was there with the owner of the property Mr. Corning. He said KL Avenue Attractions LLC consisted of himself, a local builder and a landscaper, who all had an interest in moving the proposed project ahead.

Mr. McNeil assured the Board it would be a professional production consisting of a roped off area of mowed paths to direct people through the Haunted Forest. He indicated that the operation would also be insured. He added that there would be security, overseen by Robert Leonard, who is part of the LLC and headed-up by a former Kalamazoo Public Safety Officer. He said security would consist of six (6) or seven (7) individuals under the retired officer's supervision.

Mr. McNeil said for the Haunted Forest they would try to draw their attendees primarily from KVCC and Western. For the children's activities, they would be targeting families with young children.

Mr. McNeil suggested that the rear of the property is quite isolated and that the activities would not have a negative impact on surrounding property owners. He said all

patrons would be going through in small groups. He assured the Planning Commission there would be no flash-bangs or anything flammable used on site.

Mr. McNeil said they would have an emergency lighting plan as well as lighting within the parking lot area. He said that they would have parking attendants as well as security personnel to direct people both in and out of the property.

He said the children's activities would be confined to an area between the two barns. The area would be fenced for the children's safety.

Mr. McNeil said they hoped to start operating in mid September and continue through October 31st and have hours lasting until 11 p.m. to allow for getting people on and off site, as well as rain days.

Mr. McNeil added that there would be proper buffers maintained from all the neighbors including appropriate setbacks for the hayrides on the property.

Mr. McNeil said that with regard to health and sanitation he would have appropriate trash barrels on site, cleaned every day. In addition they would have a minimum of ten (10) portapottys and monitor them on a daily basis.

Mr. McNeil concluded by saying there would be no smoking and no alcohol allowed and it would be strictly enforced.

The Chairperson asked if there were any questions for Mr. McNeil or the property owner. Mr. Anderson asked what they would do for inclement weather. Mr. McNeil said they have no plans for dealing with inclement weather and simply would not operate.

Mr. Skalski asked if they would be providing water to those in attendance. Mr. McNeil said that they would. Mr. Skalski asked if they could provide a specific boundary line which they would not cross. Dave Corning said that they would not cross into the wooded area along the western boundary line of the property which he said was between 100 and 150 yards from the residential development to the west. Mr. Skalski asked if they would be giving guided tours. Mr. McNeil said that they would not, but they would be checking people in and out and would have people traveling in groups of five (5) to ten (10).

Ms. Everett asked about the number of parking spaces available. Mr. McNeil said they have about eight acres of parking which would handle hundreds of cars. Ms. Everett asked what the minimum security would be at any one time. Mr. McNeil said that there would be at least six to seven security officials on-site under the direction of a former Kalamazoo Public Safety Officer's leadership.

The Chairman asked about access; ingress and egress and whether or not it would be paved. Mr. McNeil said it would not be paved. The Chairman asked what if

the street needed to be cleaned. Mr. McNeil said that they did have a sweeper that was available to them. The Chairman asked what type of parking lights would be furnished. Adam Garland said that they would have as little light as possible so as to not interfere with the event, but they did anticipate putting up two (2) large mercury lights to service the parking area.

The Chairman asked how long the lights would operate. Adam Garland said they would be off as soon as the event was closed for the night and clean-up was complete. The Chairman asked if the activities would be accessible to the disabled. Mr. McNeil said that the hayride would be, but it might be difficult to make the forest activities fully available to the handicapped.

The Chairman asked if the applicant was making a commitment that no activity would be closer than 100 yards to any of the nearby residents. Mr. McNeil indicated that was correct with the exception of the home located near the entrance off KL Avenue.

The Chairman asked if a vehicle were either stuck or disabled and obstructing the flow of traffic if it would be taken care of. Adam Garland said he would have McDonald's towing on standby, if necessary. The Chairman asked if there would be a commitment that there would be no overnight vehicles. Adam Garland agreed that there would be no overnight vehicles. The Chairman asked if there was a commitment to there being no concessions on site. Mr. McNeil confirmed that was correct.

The Chairman asked about security ratios, which he said seemed somewhat vague. Mr. McNeil said that until they saw the number of people that were coming to the event he could not commit to more than six or seven onsite at any one time. Ms. Everett asked if security was overwhelmed for some reason if they would bring on additional security. Mr. McNeil indicated that they would, whether it be volunteer or paid staff. The Chairman asked if during the peak hours they would commit to a minimum of six onsite security officials. Mr. McNeil indicated yes.

The Chairman asked if they would commit there would be no flash-bangs on site. Mr. McNeil indicated that was correct. The Chairperson asked if there would be any sharp impact noises of any kind. Mr. McNeil said that they had and thought they would use a chainsaw without a chain attached, located as far east on the property as possible. Also he said there would be some screams from the actors and participants but recognized the Township had a noise ordinance which needed to be complied with.

The Chairman asked if the walkways would be mowed or roped. Mr. McNeil said that was yet to be determined, but there would be clear indications of where people were to proceed from one point to another throughout the property.

The Chairman asked about liability issues such as first-aid. Adam Garland said that they would have first-aid available including people trained in CPR.

The Chairperson asked if there was a commitment to emergency lighting. Mr. McNeil said yes. Adam Garland said they would have a backup generator, if necessary. The Chairperson asked if the generator would be running during the event, to which Adam Garland indicated that it would not, it would only be used in an emergency situation.

The Chairperson asked if the parking attendants would be onsite staff in addition to onsite security. Mr. McNeil indicated that was correct.

The Chairperson asked what type of sign they were thinking of requesting. Adam Garland said they were thinking of a three (3) foot by four (4) foot sign to designate the entrance of the property.

The chairman asked what time they proposed closing the event. Mr. McNeil said they would propose being closed by ten and out by eleven.

Ms. Everett asked what the hours would be for children's activities. Mr. McNeil said hopefully 3-6 during the week and 10-4 on the weekend, but the exact times had not yet been established.

The Chairperson asked what the minimum age for the Haunted Forest would be. Mr. McNeil said sixteen (16) or seventeen (17) unless accompanied by a parent.

Ms. Stefforia asked if there was to be parking behind the children's barn. Adam Garland said they would likely put it just over the hill with the rest of the parking with steps leading to the children's event.

The Chairperson asked if there were any additional questions for the applicant. Hearing none he asked if there was any public comment. There being no public comment, he called for Planning Commission deliberations.

The Chairman began the discussion by indicating that he would have been happier had a more specific plan been presented. However, he said he understood, since this was the first year of the event, that there were many items which were yet to be worked out. He said his initial concern was the chainsaw running at night. He said another concern involved the stacking of traffic on KL Avenue. He said if for any reason the stacking of traffic occurred the event should be terminated. He also noted that if there was any advertising of the event that was not in compliance with any special use the Planning Commission might grant, based on the applicants' representations it should be terminated. He said he appreciated the applicant's proposal for zero tolerance on alcohol and he expected that it be fully enforced.

The Chairman asked if there were any other comments from the Planning Commission members. Mr. Skalski said that he was relying heavily on the staff's report as well as representations made by the applicant during their presentation. He said he

thought it was very important that the portapottys be monitored and the trash be monitored so as to not create a blight issue for the community. In addition he said that KL Avenue was a concern and that those handling parking should move quickly to get those turning left into the site off the roadway. He said those turning right would not have as much of a problem as those coming from the west. He concluded by suggesting the applicant tell the Sheriff's Department about the activity before it commenced.

Jodi Stefforia suggested that the applicant also contact the Kalamazoo County Road Commission to see if there were any concerns about the proposed access point. The Chairman asked about the Township's noise ordinance. Ms. Stefforia quickly reviewed the noise ordinance criteria indicating that it did have specific DB levels, but also had criteria based upon citizens complaint. Attorney Porter suggested the Applicant at least check the decibel levels of the proposed chainsaw or other planned events to see what the decibel levels would be at the property lines.

Ms. Everett said she was concerned about the size of the area involved and wondered whether or not six or seven security officials would be sufficient. Adam Garland said that they would not only be patrolling on foot, but that they would be patrolling in golf carts and on 4-wheeler vehicles to cover the area.

Ms. Stefforia raised a question as to whether or not the applicant needed six weeks for the event. The Chairman said that he thought it was likely related to the applicant's determination of whether they could make a profit. Ms. Stefforia said that perhaps it would be better attended if it were only planned on the weekends. The Chairman said that might be true, but it might be hard to justify holding the event if they could only have use of the property on the weekends. Ms. Stefforia said that she thought given the vagueness of the proposal that perhaps limiting the days would limit the Township's exposure if the event went badly. Mr. Benson said limiting the number of days might increase the number of people at the event and perhaps exacerbate the noise problems.

Mr. Skalski thought they need to rely on the applicant's representations that they would maintain control of the event. Mr. Anderson asked if people would just be allowed to wander around the event. Mr. McNeil said they would be sent on a trail with a specific direction to walk and that they would be moved along during the event from start to finish. The Chairman asked what would prevent people from sneaking into the event. Adam Garland said the security would be watching for anyone attempting to access the property without the appropriate authorization and that they would either be required to have a ticket or wristband.

Ms. Stefforia suggested that the distance to the Autumnview subdivision street was so great that only people that were extremely familiar with the area would know that they could even access this event from the Autumnview subdivision.

The Chairman said he was not sure how the Commissioners felt about this project and asked if the Commission wanted to move ahead with discussion or whether they were reluctant to even approve such a proposal. Ms. Everett said she was not opposed to the special use provided they had adequate control on the activity. Mr. Anderson said he thought there were still some unanswered questions but thought that they could address the issues as part of the conditions on the special use. The Chairman asked if there was a consensus to move ahead with the discussion provided they address the concerns with appropriate conditions. It was the consensus of the Planning Commission to move ahead and try to address concerns by imposing appropriate conditions on the applicant.

The Chairman asked how the commissioners felt regarding the number of hours of operation and the number of days for the event. Ms. Everett said she thought it should be shut down by 10 o'clock at night so everyone could be out by 11 o'clock. Mr. Skalski agreed. Ms. Bugge said perhaps there should be different hours on school nights. The Chairman commented that they had to meet the noise ordinance anyway so he did not think there was a difference between days of the week and weekend. Ms. Everett said this area was fairly rural and said she thought if they were open everyday it would reduce traffic by spreading the event out over a greater period of time. The Chairman also said they had to have enough days to take into account for poor weather. The Chairman suggested Tuesday through Sunday and the Planning Commission members concurred.

The Chairman asked if they had a consensus as to the hours and days and the Planning Commission members indicated they thought that they did.

The Chairman said that he was going to make a motion to approve the special exception use as requested subject to the following conditions:

- — 1. The special use would be for 2009 only.
- — 2. The activities would run Tuesday through Sunday. The children's events beginning at 10 am.
- — 3. All events would end at 10 pm and everyone would be off site by 11 pm and the lights would be out by midnight.
- — 4. If the Sheriff's Department or the Township's Ordinance Enforcement Officer sited the owner for noise or trespass violations or disorderly conduct of patrons more than twice during the event, occurring on separate days, the special exception use permit would be revoked.
- — 5. If more than 2 serious noise or trespass complaints were received by Township Officials, resulting from different days of the event,

which complaints were confirmed by the Township's Ordinance Enforcement Officer, not including complaints addressed by the Sheriff's Department the special exception use would be revoked.

- 6. If there were traffic problems on KL Avenue that continued to occur after the first evening and after Township officials notified KL Attractions LLC regarding the traffic problems, the special Exception use permit would be revoked.
- 7. The compliance be based upon all of the commitments made by the representatives tonight requesting the special exception use permit.
- 8. There be no stacking on KL Avenue.
- 9. There be no parking on KL Avenue.
- 10. There be no advertising contrary to the special exception use permit issued and the representations made by the applicant and that doing so would trigger revocation of the special use permit.
- 11. The applicants receive a driveway review from the Kalamazoo County Road Commission and satisfy any requirements imposed.
- 12. The Fire Department Approve the Site Plan
- 13. Parking spaces and aisles be in compliance with the dimensional requirements of the Township's ordinance in so far as possible as they are not striped.
- 14. The lighting be in compliance with the ordinance and the representations made and that they receive the appropriate permits to install the lighting.
- 15. The site be cleaned up each night after the event; failure to do so will result in revocation of the special use permit
- 16. Any sign installed meet the Township ordinances and receive approval of the Township administrative staff
- 17. The event could begin on September 14th and conclude no later than October 31st

After a brief discussion, the Chairman agreed to add the following to his motion:

- 18. The Township be notified in advance by the applicant when the event was getting under way.
- 19. The applicant obtain the appropriate sign permit and electrical permits and,
- 20. The neighbors next to the entrance drive be asked what they wanted in the way of screening and that it is provided by the applicants.

With that the Chairman asked if there was a second to the motion, Mr. Benson seconded the motion. The Chairman called for a vote on the motion. The motion passed 5-0.

Any Other Business

The Chairman asked if there was any other business. Ms. Stefforia notified the Planning Commission of the walk on 10th Street regarding the proposed Non-motorized pathway being held September 14th at 10am. She also reminded the Board of the Joint meeting on September 15th. The Chairman reminded the Board of the Trail Enthusiast Meeting on September 2nd as well as the DKJ anniversary celebration in Kalamazoo.

Planning Commissioner Comments

The Chairman asked if there were any Planning Commissioner comments. Mr. Skalski complimented the Planning Commission members for working with the applicant for the special use and being flexible enough to try to craft a use permit with the appropriate conditions. Mr. Anderson concurred.

Adjournment

There being nothing further coming before the Planning Commission. The Planning Commission adjourned at 8:58 pm.

Minutes Prepared:
September 1, 2009

Minutes Approved:
September 10, 2009