

THE CHARTER TOWNSHIP OF OSHTEMO

Township Board Minutes

March 25, 1997

The Oshtemo Township Board held its regular meeting at the Township Hall. The meeting was called to order by Supervisor Fleckenstein at 7:00 p m

PRESENT	Supervisor Ron Fleckenstein	Trustee Anderson
	Clerk Elaine Branch	Trustee Marvin Block
	Treasurer Lois Brown	Trustee David Bushouse
		Trustee Fred Johnson

Also present was Richard Reed, Township Attorney, along with 15 interested people.

The Pledge of Allegiance was recited.

Motion made by Block, seconded by Johnson, to approve the minutes of our last meeting, March 11th, as prepared. Carried.

Income to the General Fund of \$1,105.69 and disbursements of \$91,307.17 were reported. Fire Fund income was \$ 00 with disbursements of \$20,541.57. Motion made by Johnson, seconded by Anderson to approve the report and pay the bills. Carried.

CITIZENS COMMENTS

Jack Hamilton, N 2nd Street, suggested that a map be included with the public notices for rezoning hearings. This would be easier for the public to know where the property is located.

REZONING WEST MAIN - HAMILTON

The request to rezone property located at 6297 West Main had been tabled at the February 11 and again at the March 11 meeting, in order to wait for a full board.

Supervisor Fleckenstein reviewed the history of the rezoning request made by Jack Hamilton back in October 1996. The original request was to rezone Mr. Hamilton's 9.5 acres parcel in the following way, the front 600' to "C" Local Business, the next 620' to "R-3". After their public hearing and deliberation, the Planning Commission voted to recommend denial. He then reviewed their reasons for the recommendation to deny.

Jack Hamilton explained that a Planned Unit Development (PUD) would take 20 acres and his property is only 9.5 acres. He requested commercial in the front and office use in the back as a buffer in the rear. It would be like a PUD but on a smaller scale. He would give an easement on the east of his property that would open up the rear.

He felt that a precedence had already been set for spot zoning with the Lindstrom car lot, Dekorne's, office parks, chiropractor and Bertolissi's office. He was asking for the same thing. He did not feel anyone would want to build a house and live along W. Main.

He just asked for his property to be rezoned but the Planning Commission looked at all the property on the south side of the road. He made the suggestion that "R-3" would be good for along there, if the township wanted to stay away from commercial. He would be agreeable to asking the Planning Commission to look at "R-3" for all of his property.

Bill Hamilton - 1122 Cadet Lane, stated he felt Jack had been trying to do everything he could to accommodate doing work on that area. In his opinion, no one would want to build a home on that street because of the heavy traffic. The change to "R-3" would be viable and would help get the entire development moving in the right direction. He urged the Board to take action to accommodate Jack's situation.

Helen Brodasky - 6251 Westlins, felt the Planning Commission had done extensive work on the Land Use Plan and 9th Street Focus Area, with a lot of input from citizens. She thought the Board should support their decision.

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She also commented that the car dealership was “grandfathered” and nothing could be done about it. The other office uses were there due to existing zoning. She was concerned that if the Board granted the commercial zoning there could be additional requests. She did say maybe the “R-3” should be considered.

Jeff Bertolissi, whose real estate office is located on W. Main, stated that he felt the 9th Street Focus Committee’s idea had been blurred. He went on to say the message is “co-operation” and some where along the line it has been misinterpreted and presented as a non-commercial PUD plan. He thought the Board should consider just Mr. Hamilton’s property, not all the property.

Mr. Bertolissi told that Board that they have a reputation of being “anti-development”. There is a time to develop property and the time is passing us up. He urged the Board to seriously consider commercial zoning or “R-3” along W. Main or the developers will go else where. He also said the rezoning might help the Malls.

Wilfred Dennie, Chairman of the Planning Commission, reminded the Board that the developers plans can not be considered when making a rezoning decision. They must look at all permitted uses in the zone.

Orderly development is the proper stance for the township to take, according to Mr. Dennie. He was concerned about some of the planning or development that happened in the past and felt we should not continue that practice, especially if it was improper planning.

He further commented, that they knew the area in the 9th Street Focus Area was a sensitive area and for that reason more time was given to study it, in order to see what the citizens wanted for the area. The Plan is a goal for the township, a vision. In order to reach that goal, the Plan needs to be used in the decision making process. He felt the Planning Commission did just that.

Mr. Dennie stated that he did not think we were “anti-development”, in fact, he felt we were very progressive and probably tied for the leader in development in the county. His final comment was, that he would hate to see the township bend under pressure and make decisions for the wrong reasons.

Cathy Gasper and Bob Asher, of Heritage Select Realtors, were present because they had an option on the property west of the car lot. They did not think the land would be saleable for residential and were looking for the highest and best use of the land.

Ms. Gasper felt that in order to have a PUD, like Woodbridge Hills, you need one owner with “deep pockets”. The property along W. Main is owned by several people who are community orientated and want to see Oshtemo grow. Small business owners would work together to put shared drives in to save money. She felt the township needs to consider that.

Mr. Asher did not think a PUD would work but felt a beautiful shopping center might, and it would give us all the traffic we would want. He reminded the Board that a PUD, like Woodbridge, does not happen quickly. He thought if we want a PUD, we’ll get something different than we are expecting. Forcing the small business people to work together will be better in the long run, in his opinion. WestMain Mall is an example of people from out of town with “deep pockets” and what you can get. Small local business will work hard to make it work.

Helen Brodasky commented that the land along that area is not commercial land but we have a lot of commercial property in other parts of Oshtemo. She did not understand why this green space should be torn up. She did not think the buildings that have been built along W. Main were good looking or have enhanced the atmosphere of Oshtemo. She felt small business should be encouraged but in the proper place.

Jack Schaeffer, 6404 W. Main, stated he had a small business on S. Westnedge for 40 years and had an opportunity to watch it grow. He felt this request was not unlike the way that area started. He further felt, we should stand behind the Planning Commission and the Land Use Plan, in order to have a more orderly development.

Jack Hamilton again addressed the Board, stating he agreed with Mr. Asher regarding the PUD. The 9th Street Focus Area Committee wanted the area to grow with small businesses but small businesses will not have the money to do a PUD, in his opinion.

He provided a copy of a map of the Focus Area, drawn by Richard Schramm, representing the ideas of the Focus Area Committee. He said their consensus was that it would develop with a commercial corridor on W. Main with residential in the interior.

In response to the idea of small businessmen working together, Mr. Dennie came forth and asked Attorney Reed what means the township has to insure that if individuals came with proposals, that collectively they would have a plan or that the plan will take place. Attorney Reed responded that the township has no role to play in private development other than to approve plans when submitted as part of a PUD, for example, or submitted pursuant to some ordinance.

Attorney Reed further affirmed Mr. Dennie's statement that the township has no control that a development or plan will take place that is created only by the understanding that several small business owners will cooperate. Mr. Dennie was concerned because plans can change and property can be sold, with the cooperation and/or plan then gone.

He also stated that the map that was circulated should not be considered because it was just one of many ideas looked at in the Focus Area and it should have no impact on the rezoning decision.

Lara Meeuwse, Planning Commission member, explained the reason they supported a PUD is because in that kind of plan, after it's approved, any kind of change would have to come back for approval. In that way, there is some control. Further, she stated, that for a PUD, no rezoning is needed, 20 acres would be the minimum area, however. She felt it would be possible for some property owners to go together to obtain the needed acreage.

One other point she made was, that W. Main is an arterial road, whose primary function is to move traffic and too many curb cuts would hinder the function of the road. That is the reason they support shared drives and interior streets.

She also stated that we need to set a boundary for the urban sprawl. She was concerned that if this is rezoned to commercial, in ten to fifteen years it could be the blight that the WestMain Mall is now. She urged the Board to support their recommendation.

There was no further comment from the public and the Supervisor asked for Board discussion.

Clerk Branch stated she had listened to the tape of the February 11th Township Board Meeting and read the minutes of the Planning Commission meeting. After considering these things and the current public comment, she moved to concur with the Planning Commission's recommendation to deny the rezoning request and the amendment to the Land Use Plan.

She went on to give her reasons.

- The rezoning is not supported by the Land Use Plan or the 9th Street Focus Area Plan. (reference was made to page 61. *The size and configuration of these centers will be maintained so that they do not result in strip commercial development.* And page 62, regarding spot zoning, *future rezoning decisions will discourage the continuation of the establishment of scattered, unplanned business locations.*)
- The rezoning would open up that stretch of W. Main to multiple curb cuts which would have a negative effect on the function and safety of the road.
- The nice thing about our PUD, is that it will allow the mixture of uses that developers want and at the same time will protect the area against "strip development". And NO REZONING is needed.
- The Planning Commission followed their procedures and thoroughly reviewed the request before coming to their decision.

The motion was supported by Trustee Block.

Trustee Bushouse questioned if terminology can be written in the Focus Area/Master Plan, that in affect, said secondary roads must be located on quarter or eighth lines or run north or south out of a development, requiring the owner of a small parcel, near a quarter line or eighth line, to dedicate a 66 foot easement for a road to connect to interconnecting roads.

Attorney Reed responded that we can, as part of an Ordinance, require a plan which addresses safe access. However, we can probably not require a person to dedicate 66 feet to the township without paying compensation. He said he would need more facts to answer that question. Generally, in approving a PUD, the township can require a plan with adequate ingress and egress and it can be a parallel road with limited curb cuts. A plan would be needed.

Trustee Bushouse responded that then the property owners would know where the lines are

He commented that there are 15 driveway cuts between the carpet business and DeKorne's. Some are not used, however. He viewed that usually the township requires one drive or a shared drive per development, so he did not think there would be more curb cuts.

He went on to state that the type of development under a "R-3" zone would be like similar to the office complex at the corner of 10th Street and W. Main. It would not be like a Clark gas station with heavy commercial use.

It seemed logical to him to have the "R-3" as transitional between the residential to the east and commercial near 9th Street. Therefore, he would have a hard time denying a "R-3".

Trustee Anderson asked for a review of the uses permitted in "R-3". He was advised, R-2 uses, offices and under a Special Exception Use, three or four unit multiple family, parks, golf courses, and recreation areas. The zone is generally our office zone or transitional zone.

Treasurer Brown stated she understood that there was more than one point of view to come out of the Focus Area Committee, as well as for the people present. After studying the minutes of the Planning Commission and listening to the comments, she felt an "R-3" zone makes more compatible sense to her, for the properties on the south side, the developments down the street on the north side, and for residential areas. It was her opinion that, an office, with day time use, is one of best neighbors you can have.

Considering all things, she stated she agreed with the concept that the Focus Area really did have something like that in mind. Therefore, she could not support the recommendation that was before the Board. If given the chance, she would like to see it referred back to the Planning Commission to have them seriously look at "R-3". She did not think "R-3" would result in any more curb cuts than are already there.

Clerk Branch responded that she felt the amount of traffic that would be using those curb cuts would be so much greater with either "R-3" or commercial zoning, than with the current use.

Supervisor Fleckenstein stated he is a strong supporter of growth and development in our community but he felt it needs to be managed growth. He further stated that what we do with this area will set the tone for the future development of W. Main. He was concerned that development should meet with our road standards and Land Use Plan. He felt that it can happen.

Regarding the curb cuts, he agreed with Clerk Branch, and stated that if the eleven parcels that are there all developed with businesses or offices, the traffic created would be a lot more.

He stated he does not have a problem with commercial or "R-3" in that area, but felt it has to be done properly, and a parcel at a time is not the right way to do it. He was concerned that the township would then lose control and we can not afford to do that on a such a major roadway.

Even though he supported the Planning Commission recommendation to deny the rezoning, he raised the issue that the applicant asked for reconsideration by the Planning Commission of "R-3" instead of his original request. He thought the Board should consider the fact that if the request was denied, the applicant would have to reapply, at additional expense, to request the "R-3".

It was clarified that Mr. Hamilton originally asked for commercial on front and "R-3" on the back but they expanded it to include the whole south side and noticed for commercial or "R-3".

Trustee Block stated he did not feel the Board had any grounds to send it back. He felt the applicant asked for half and half and can not now chance his request. He felt Mr. Hamilton could make a new application for all "R-3", on his own.

In response to a question by Treasurer Brown, Attorney Reed clarified, that it could be sent back because the notice was broad enough. He felt it was preferable to refer it back, rather than have the applicant go through a whole new process.

It was explained that a motion was on the floor to deny the rezoning and a vote on the motion was needed, unless the motion maker would withdraw the motion. Clerk Branch did not care to withdraw her motion, and a vote was taken on it. The motion failed 3 to 4, with Branch, Block and Anderson voting "yes" and Johnson, Bushouse, Brown and Fleckenstein voting no".

At that point, a new motion was made by Brown, supported by Johnson, to send the item back to the Planning Commission, with the suggestion that they look at **all** the properties, including the requesting property, for the "R-3". She stated the following reasons.

- "R-3" is reasonably compatible with many of the perceptions of the 9th Street Focus Area and Master Land Use Plan.
- It is a reasonable approach to protect those areas of residential development that are located nearby
- It will still provide the township with a mechanism to have well defined development (planned/coordinated development not "controlled".)

There was no additional comment and the motion carried, 5 to 2, with Branch and Block voting "no".

REZONING - 2575 S. 11TH

Supervisor Fleckenstein reported that a request was received to rezone approximately three acres located at 2575 S 11th Street. The request was to rezone from "R-2" Residence to "C" Local Business. The Planning Commission recommended approval of the rezoning.

Wilfred Dennie offered no additional comment, other than to restate that the Planning Commission did recommend approval. Ron Zuiderveen was also present to answer questions.

Clerk Branch felt the township is not anti-commercial, because when a zoning makes sense, we do approve commercial, as in this case.

Treasurer Brown agreed that this property is located between commercial and it makes logical sense in this case to rezone to commercial.

Motion made by Johnson, supported by Brown to accept the Planning Commission's recommendation and set the rezoning for First Reading on April 8th. Carried.

TEXT AMENDMENT - SECTION 40.209

The Planning Commission had received a request from Richard Schramm to amend Section 40 209 of the Zoning Ordinance. The section would add "Offices, sales and services related to the building trades ----", as a permitted use in the "I-R" district.

The history of this request was reviewed by the Supervisor, who informed the Board that the applicant had requested that his original request be denied. The Planning Commission was working on a new application from the applicant and it was necessary to take action on the original request to clear the books.

Motion made by Brown, supported by Anderson to accept the Planning Commission's recommendation to deny the text amendment 40 209. Carried.

BOARD MEMBERS COMMENTS

Trustee Johnson asked the Supervisor about the status of the flags. He was advised that volunteers were still being sought to install the flags.

Bill Hamilton, representing the Oshtemo Business Assoc., reported that they had ordered 50 flags and would be presenting them to the Township in the near future.

Trustee Bushouse suggested that the Township purchase an additional 50 flags. He offered to write up a proposal for the Board.

He also suggested that the Township prepare a map to be shown on an overhead projector for rezoning issues. That way the public could see the area better.

Clerk Branch suggested that Trustee Bushouse include, in his proposal for the flags, how the flags will be installed and who will do it

Trustee Block stated he was disappointed that the W. Main rezoning was referred back to the Planning Commission because they spent a lot of time on that issue. They looked at everything and he did not hear anything new offered. It will be a waste of time, in his opinion.

Trustee Anderson was glad we now have set the stage for a particular zone for that area of W. Main, by asking the Planning Commission to consider the "R-3"

Clerk Branch reminded the Board that it is still contrary to the Land Use Plan and 9th Street Focus Area Plan. She further stated that the Planning Commission already looked at the "R-3"

Trustee Bushouse asked Fire Commissioner Anderson for a follow up on the response to the 80 years old lady with the broken water main. He was informed that we are not dispatched on that type of call.

Supervisor Fleckenstein reported that the Fire Department will have a joint training session with Comstock Township on Saturday. It will be a special instruction with Amtrak. They will provide a train car for rescue training.

There was no further business. Meeting adjourned at 8:40 p.m.

Elaine J. Branch

ELAINE J. BRANCH, CMC
Township Clerk

Attested: **RON FLECKENSTEIN**
Supervisor