

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD NOVEMBER 10, 2016**

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**Agenda**

**PUBLIC HEARING: REZONING REQUEST**

**CONSIDERATION OF AN APPLICATION FROM ELAINE WHETHAM, ON BEHALF OF GALLUP, SR. TRUST, FOR THE REZONING OF APPROXIMATELY 43 ACRES LOCATED AT 3989 NORTH 3RD STREET FROM AG: AGRICULTURAL DISTRICT TO THE RR: RURAL RESIDENTIAL DISTRICT. PARCEL NO. 3905-05-330-072.**

**Old Business:**

- a. April 28, 2016 Minutes
- b. Landscape Ordinance Amendments

**Other Business:**

- a. Food Trucks as a Temporary Use
  - b. Residential District Changes - Zoning Re-organization
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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, November 10, 2016 commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

**MEMBERS PRESENT:** Millard Loy, Chair  
Fred Antosz  
Wiley Boulding, Sr.  
Dusty Farmer  
Pam Jackson  
Mary Smith

**MEMBER ABSENT:** Ollie Chambers

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist and approximately 13 other persons.

**Call to Order and Pledge of Allegiance**

The meeting was called to order by Chairperson Loy at approximately 7:00 p.m., and the "Pledge of Allegiance" was recited.

## **Agenda**

The Chairperson asked if there were any additions, deletions or corrections to the Agenda.

Hearing none, Chairperson Loy asked for a motion to accept the Agenda as presented.

Mr. Antosz made a motion to accept the agenda. Mr. Boulding, Sr. seconded the motion. The motion passed unanimously.

## **Public Comment on Non-Agenda Items**

Chairperson Loy noted there were no audience members who wished to comment on non-agenda items and proceeded to the next item.

## **Approval of the Minutes of October 13, 2016**

Chairperson Loy asked if there were any additions, deletions or corrections to the minutes of October 13, 2016. Hearing none, he asked for a motion to approve the minutes.

Mr. Antosz made a motion to approve the minutes of October 13, 2016 as presented. Mr. Boulding, Sr. seconded the motion. The motion was approved unanimously.

## **PUBLIC HEARING: REZONING REQUEST CONSIDERATION OF AN APPLICATION FROM ELAINE WHETHAM, ON BEHALF OF GALLUP, SR. TRUST, FOR THE REZONING OF APPROXIMATELY 43 ACRES LOCATED AT 3989 NORTH 3RD STREET FROM AG: AGRICULTURAL DISTRICT TO THE RR: RURAL RESIDENTIAL DISTRICT. PARCEL NO. 3905-05-330-072.**

Chairperson Loy moved to the next item on the agenda and asked Ms. Johnston to review the request regarding rezoning 43 acres located at 3989 North 3rd Street from AG: Agricultural District to RR: Rural Residential District.

Ms. Johnston said the applicant requested to have an approximately 43 acre parcel, located north of H Avenue and west of North 3<sup>rd</sup> Street, rezoned from AG: Agriculture District to RR: Rural Residential District.

She noted the subject property is just north of H Avenue and is partially wooded and partly farmed. It does not appear that any single-family home is located on the site. Per the application, the owner wishes to allow the property to be divided into three separate parcels, each averaging around 15 acres. At this time Township Staff are not

aware of any intentions to develop a subdivision or site condominium on the subject property. Surrounding land uses consist solely of large parcel single-family residences, with some farming occurring to the north of the subject property.

Ms. Johnston said the generally recognized factors that should be deliberated before a rezoning decision is made are:

- **Master Plan Designation.**

She said the subject property is within an area that is intended to change from agricultural use to Rural Residential in the Land Use Plan. The rezoning of the subject property from AG to RR would help to fulfill the future land use plans of the Township to encourage low density residential development in this area.

- **Consistency of the Zoning Classification in the General Area.**

Ms. Johnston indicated Rural Residential zoning surrounds this property on all sides. Some Agricultural zoning does still exist in this general area. A few large parcels are located to the north of subject site and south of G Avenue, which appear to still be farmed, based on 2016 aerial photography. Rezoning this parcel to Rural Residential is consistent and compatible with surrounding zoning.

Ms. Johnston said, based upon the following considerations, Staff recommended the Planning Commission forward the proposed rezoning to the Township Board with a favorable endorsement:

- The proposed rezoning is consistent with Oshtemo Township's future land use map and is supported by the Master Plan.
- The proposed rezoning is compatible with the surrounding land uses and zoning classifications.
- The proposed rezoning will not introduce any potential development patterns not already present in this part of the Township.

She also noted that even if the land is subdivided it would still fall in the parameters for what that should be.

Chairperson Loy asked whether Commissioners had questions for Ms. Johnston. Hearing none, he asked if the applicant had any comments. There were no comments from the applicant, so he moved to the Public Hearing.

Ms. Dana Listing said she lived behind the parcel in question and hopes it will not become a plat. The term "large lot" scares her. She wished it to be zoned RR with large parcels, which is what the neighbors have and are in agreement about what would be best for them. When she bought her land, she divided it with a certain amount of road frontage.

Mr. James Noell, 3531 N. 3rd St., just north of the parcel in question, spoke for him and his wife Sue. He agreed with Ms. Listing, saying he hoped there would not be a large number of houses built. They have five acres, are happy that way and are nervous about a subdivision.

Attorney Porter said he understood the concerns expressed, but that the Commission needs to look at the Master Land Use Plan. What the owner does or does not do with the property in the future is not their concern.

Hearing from no other members of the public, Chairperson Loy closed the public hearing and moved to Board Deliberations.

After commissioners concurred that the request fits the Master Plan Future Land Use provisions and that they were comfortable with the proposal, Chairperson Loy asked for a motion.

Ms. Jackson made a motion to accept the proposal and recommend it to the Township Board with a favorable endorsement. Mr. Boulding, Sr. seconded the motion. The motion passed unanimously.

## **OLD BUSINESS**

### **a. April 28, 2016 Minutes**

Ms. Johnston told Commissioners that on April 28, 2016, the Planning Commission held a public hearing for the Mystic Heights Subdivision. During public comment, a number of citizens spoke against the requested development. After the minutes were approved on May 12, 2016, it was brought to her attention that the comments from Dr. Stephen Malcolm, a member of the public, were not included. The resident who noticed the missed remarks asked the Planning Department to make the necessary corrections and indicated the preferred method was acknowledgement by the Planning Commission of the missed remarks and to approve an amendment to the April 28 minutes to include the comments as an addendum.

Attorney Porter agreed this was the best way to correct the oversight.

Commissioners concurred and Chairperson Loy asked for a motion.

Mr. Boulding, Sr. made a motion to acknowledge the missed comments by Dr. Malcolm, to read them into the record, and include them as an addendum to the April 28, 2016 minutes. Mr. Antosz seconded the motion. The motion passed unanimously.

Ms. Johnston read the following summarization of the remarks made that evening based on her notes of the meeting and indicated they would be included as an addendum to the April 28, 2016 minutes:

*Dr. Stephen Malcolm, Ecologist and Professor with the Department of Biological Sciences, Western Michigan University – It is important for local communities to consider the larger ecosystems in which we live. The difficulty with this subdivision proposal is not just the damage to this particular property, but also its impact on the larger bionetwork of plants and animals, and how they are interrelated. It is important that we consider these relationships and how development of this kind can fragment natural wildlife corridors, disrupting ecosystems.*

## **b. Landscape Ordinance Amendments**

Chairperson Loy asked Ms. Johnston to review progress on proposed Landscape Ordinance Amendments.

Ms. Johnston said she, Karen High and Ben Clark worked on the Landscape Ordinance Amendments and feel they have developed regulations that are ready for Planning Commission review. She provided to Commissioners additional landscaping plans developed by Karen High to illustrate the updated language and the existing Ordinance requirements. Generally they reflect the following:

- As the size of a site reduces, the recommended approach requires much fewer landscape materials over that required by the current ordinance.
- Right of way landscaping is more robust under the recommended language because of the requirement to screen parking lots that face the road.
- The recommended approach requires more square footage of landscaping on larger sites than the current code, but plant materials are relatively similar.
- Opaque screening is required between incompatible uses.

Ms. Johnston walked through the document, pointing out and explaining significant changes such as reducing the number of parking spaces from 100 to 70 for landscape plans required to be sealed by a landscape architect, restrictions on grading or removal of trees, requirements for landscape buffers and lighting concerns, interior site landscaping, native plant materials and provisions for existing sites.

There was discussion of the change from Total Site Landscaping to Interior Landscaping. Ms. Johnston assured Commissioners if it turns out not to be workable, they can go back and change the Ordinance, but Staff is comfortable with the Landscaping section of the Ordinance as refined.

Ms. Smith suggested adding "not on a roadway" to the Interior Site Landscaping (G), #2.

Mr. Loy was concerned about whether the landscaping plans provided as examples allow enough room for snow removed from parking spaces. Ms. Johnston said language could be included requiring a plan for where snow will be put, maybe on the general site plan, noting if it doesn't affect the number of required parking spaces it won't matter.

In a similar vein, Ms. Farmer asked that she also consider the need for ingress and egress of emergency vehicles.

Ms. Johnston said that since we are going into winter and the revised Ordinance will not be in effect soon, maybe this could be incorporated into the Zoning Ordinance re-organization. When that is complete there will be a public hearing on the Ordinance as a whole. Each section will be reviewed individually and incorporated into the project; at this point she just needed a nod of approval to incorporate this piece.

Commissioners concurred with this approach and approved incorporation of the Landscaping Section 75 into the Ordinance re-organization with a public hearing planned after the Ordinance re-organization is complete.

## **ANY OTHER BUSINESS**

### **a. Food Trucks as a Temporary Use**

Chairperson Loy moved to the next item on the agenda.

Ms. Johnston told the Board that following the last Planning Commission meeting, she followed up on their question about a food truck seen in the Township. It appears the owner was operating under the Peddlers' General Ordinance that gives licensed approval to operate specifically in parks. The approval was given a number of years ago and has not been renewed. She did not think it was operating in parks now.

She said if a food truck vendor were allowed a permanent location it would be appropriate to operate under a Peddlers' license, but she is not comfortable with the appropriateness of the location the vendor who inquired was requesting.

Ms. Johnston contacted him and relayed the general feeling of the Board. She told him if he submits a request for a temporary permit maybe a 30 day trial could be approved to see how it goes, but he has not responded. She felt the issue should be dropped until she hears from him.

Commissioners agreed and Chairperson Loy moved to the next item.

### **b. Residential District Changes - Zoning Re-Organization**

Ms. Johnston provided two documents outlining how Planning staff would like to re-organize the seven zoning districts where residential development may occur. The first document showed the deleted script and new language. The second framed how the District would look after the re-organization is complete.

She reviewed discussion from the September 22<sup>nd</sup> meeting; it is the intent of staff to re-organize the Districts in the following way:

- Statement of Purpose
- Permitted Uses
- Conditional Uses
- Special Uses
- Development Standards (if applicable)

Conditional uses will be those that are permitted by right as long as the development can meet the conditions established in the Ordinance. For example, in the current Ordinance, three and four family dwellings have the following conditions:

- Building height shall be restricted to two stories.
- Dwelling unit density is limited to a maximum of four dwelling units per acre.
- Public sanitary sewer facilities are required as part of the development.

She indicated as long as the developer can meet these conditions, they would be permitted to proceed. Special Uses are those that because of their intensity or possible impacts to neighboring uses, require Planning Commission approval. Both Conditional and Special Uses, along with any associated regulations, will be listed in a separate section of the Ordinance. So, if a developer is interested in building a new office building in the R-3 District, they would first look in the District to see if an office use is allowed and how it is permitted. They would determine that a new office building is a Special Use. They would then look to the Special Use section of the Ordinance for any particular conditions that might be associated with that use.

In addition to the allowable uses, some Districts might have a section called Development Standards. This is to address any specific development requirements related only to that District. For example, in the current Ordinance most of the non-residential uses in the R-3 District have the same development requirements. These requirements are initially listed with the first use and then every subsequent use refers back to these regulations. The new Ordinance would place these regulations under the Development Standards. Re-organizing in this way clearly shows that all non-residential uses in the R-3 District must meet these standards.

Ms. Johnston reported besides the re-organization of uses into the three possible categories, some additional changes include:

- Delineating the number of days between Conditional and Special temporary uses. A Conditional temporary use, which can be approved administratively, is five days or less. Anything more than five days requires Planning Commission approval.
- Differentiating between veterinary clinics that provide medical attention to all animals (general clinics) and those that just see small animals. Staff thought it might be appropriate to allow general vet clinics in the Agricultural and Rural Residential Districts where there might be a need for this type of service. Specific regulations will be developed to manage the development of these clinics.
- In the Rural Residential District, staff is suggesting removing “motorized vehicular roadways” from the outdoor recreational uses. The impact of this type of use seems too intense for this district.
- Staff is suggesting adding riding stables to the Rural Residential District as a Special Use so it can be regulated and approved by the Planning Commission.
- Staff is recommending removing beauty and barber shops from the R-3 District and including them in the new Transitional Mixed Use District that is under development. The intensity of the use seems better suited for a district that will allow some commercial uses over the R-3 District, which is more suited to office uses.
- Child care centers were added to the R-4 District as a Special Use.

After reviewing the districts and determining which uses should fall into each category, she said Staff then began working on the specific conditions/regulations associated with each Conditional and Special Use.

### R-1 and R-2 Districts

As staff was reviewing the Residential Districts, an idea developed around combining the R-1 and R-2 Districts. This would reduce the number of residential classifications from six to five distinct zoning districts. The only difference between the R-1 and R-2 Districts are the allowable uses. The minimum requirements for lot/parcel area, frontage/width and setbacks is the same for both districts. The following uses are found in the R-2 District, but not R-1:

#### Conditional Uses:

- Two-family dwelling
- Cemeteries

#### Special Uses:



- Golf courses, parks and other passive recreational areas
- Private Schools

She explained there are three clusters of R-1 zoning in the Township, which encompass four developments: Country Club Village, Oshtemo Ridge, Oshtemo Woods and Fairlane subdivisions. Based on the difference in land uses between the R-1 and R-2 Districts, the greatest possible impact would be the inclusion of two-family developments. The current ordinance states that two-family dwellings must have more square footage per lot/building site than single-family.

As a Conditional Use, any two-family dwellings would be required to meet the conditions established by the Planning Commission through the development of the new Ordinance

In addition to the four developments noted above, there are a few parcels zoned R-1 that are large enough that they could be redeveloped to one of the other possible uses that could be included in the R-1 District if the merge occurs. There are two five acre parcels on 11<sup>th</sup> Street, just south of KL Avenue that are single-family residential but have the potential to redevelop. There is approximately 26 acres of property that borders the Oshtemo Ridge and Oshtemo Woods development to the north and west. This property is owned by Consumers Energy for a transmission corridor and is not likely to be redeveloped. Finally, there are four large parcels immediately south of the Country Club Village development that are also being used as single-family residential, which could redevelop.

The biggest impact to the R-1 District is the possible inclusion of the two-family dwelling. Since uses are already established on the larger parcels, the possibility of them being redeveloped is relatively low, with the exception of 11<sup>th</sup> Street. These two five acre parcels are included as part of the Transitional Mixed Use District of the Master Plan. It is very conceivable that they would request rezoning at some future date to allow for more intense uses.

She concluded, saying based on the information provided, the merging of these two districts could be successful if two-family dwellings could be appropriately managed to protect subdivisions from two-family dwellings. She felt this could be done by saying two-family dwellings would only be permitted on unplatted property.

There was extended discussion, beginning with whether combining R1 and R2 with the provisions as described is feasible.

Attorney Porter noted there are some developments in the Township that have a lot line down the middle of the house; the land is subdivided. Some condos are duplexes, for example in Quail Run.

Ms. Johnston said if that's the case the proposal won't work unless there is a way to single out existing single family subdivisions. She felt there must be a way to manage

that, but wondered if it is worth it. Trying to make the Ordinance more effective and streamlined is the goal and combining R-1 and R-2 does make sense, but it is a matter of whether it is worth going through the machinations. She was not sure the cost benefit is high enough.

Attorney Porter agreed it would be nice to be rid of one district and is an admirable goal.

Chairperson Loy said this issue did not need to be decided at this meeting.

Ms. Johnston moved on to Residential Conservation and noted it is not zoned anywhere on the map and she would like to eliminate it. The requirement is 70% of the site as open space. She said if the Township needs access, streets are there for a reason.

She indicated there is a lot of information on the residential district; some temporary use language was added. Administrative approval is limited to less than five days; more would need to be reviewed by the Planning Commission.

She said Special Land Uses makes the distinction between small and large animal veterinary clinics.

Mr. Antosz commented the changes to the process for people to request approval of temporary outdoor events makes the progression logical for people to use and to determine what is and is not allowed.

Attorney Porter was concerned about the language regarding riding stables as residential special uses and that it could lead to commercial farming as a permissible use in RR districts; he felt it should be removed from RR. Agricultural use in RR should be non-commercial.

Ms. Johnston concluded by saying the discussion regarding combining R1 & R2 will continue and felt they should wait to send it to the consultant for inclusion in the re-organization as Staff continues to consider it.

Mr. Boulding, Sr. asked for an update on marijuana dispensaries.

Attorney Porter said legislation to authorize dispensaries/medical marijuana centers cannot go into effect until the end of 2017. The Township Board has already banned them. Currently there is nothing anyone can request. The board would have to affirmatively "hop in." Under the current medical marijuana act, if one wants to grow marijuana in the Township in a confined facility they can file as a primary caregiver. There have been some in the Township in the past but none currently. All requests go through Attorney Porter's office and are kept confidential. It is permissible to dispense in the RR district.

Ms. Johnston indicated there are no meetings scheduled for the rest of November; the December 8 meeting agenda is very full.

Attorney Porter reported the Michigan Supreme Court case continues with supplemental briefs and responses.

### **PLANNING COMMISSIONER COMMENTS**

Ms. Smith thanked the Township for sending her to the Citizen Planner training. She noted she had talked to a lot of people there and found that a lot of other Townships are requiring 50% open space for subdivisions.

Ms. Johnston noted the Oshtemo Township requirement is 40% and that we are working on the Ordinance. The Township Board gave permission to have WMU map Township natural features; that may result in developing an overlay with a little more conservation for areas they consider of importance. The intention is to use the report to support our efforts to preserve important features in a way that is defensible in court.

Ms. Jackson congratulated Ms. Farmer on her re-election to the Township Board.

Ms. Johnston noted the December 8 meeting will be the last for two Commissioners and hoped everyone would be in attendance.

### **ADJOURNMENT**

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Loy adjourned the Planning Commission meeting at approximately 8:36 p.m.

Minutes prepared:  
November 14, 2016

Minutes approved:  
December 8, 2016