

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A PUBLIC HEARING AND MEETING HELD OCTOBER 8, 2015**

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**Agenda**

**PUBLIC HEARING: SPECIAL EXCEPTION USE (WAHMHOFF FARMS, LLC)  
PLANNING COMMISSION TO CONDUCT SPECIAL EXCEPTION USE AND SITE  
PLAN REVIEW OF THE APPLICATION OF WAHMHOFF FARMS, LLC FOR  
TEMPORARY OUTDOOR SALES FROM NOVEMBER 27, 2015 UNTIL DECEMBER  
23, 2015 AT MAPLE HILL PAVILION, 5030 WEST MAIN STREET WITHIN THE C:  
LOCAL BUSINESS DISTRICT (PARCEL #3905-13-280-051).**

**PUBLIC HEARING: REZONING (7110 WEST MAIN STREET)  
PLANNING COMMISSION TO CONDUCT PUBLIC HEARING TO REVIEW THE  
APPLICATION FROM MARK ASHBROOK FOR REZONING OF TWO ACRE  
PARCEL LOCATED AT 7110 WEST MAIN STREET. REQUEST IS TO REZONE  
PROPERTY FROM R-2: RESIDENCE TO C: LOCAL BUSINESS (PARCEL #3905-13-  
285-010).**

**PUBLIC HEARING: PLANNING COMMISSION TO REVIEW PROPOSED  
AMENDMENTS TO CHAPTER 76 OF THE TOWNSHIP ZONING ORDINANCE  
REGARDING SIGNS, PARTICULARLY FOR FINANCIAL INSTITUTIONS AND THE  
PERCENTAGE OF A SIGN ALLOWED FOR CHANGEABLE COPY OR  
ELECTRONIC DISPLAY.**

**DISCUSSION WITH TOWNSHIP COUNCIL: VAN KAL PARTNERSHIP, LLC VS.  
CHARTER TOWNSHIP OF OSHTEMO. CASE NO: 2015-0281-AW**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, October 8, 2015, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

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

**ABSENT:** None

Also present were Karen High, Parks Director, James Porter, Attorney, and Martha Coash, Meeting Transcriptionist. Approximately 13 other persons were in attendance.

### **CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

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

### **AGENDA**

The Chairperson asked for a motion to approve the agenda.

Mr. Loy made a motion to accept the agenda as presented. Mr. Antosz seconded the motion. The motion passed unanimously.

### **PUBLIC COMMENT ON NON-AGENDA ITEMS**

Chairperson Schley asked if anyone in attendance wished to comment on non-agenda items.

There were no public comments on non-agenda items. Chairperson Schley moved to the next item on the agenda.

### **APPROVAL OF THE MINUTES OF SEPTEMBER 24, 2015**

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the Meeting of September 24, 2015. Hearing none, he asked for a motion to approve the minutes as presented.

Mr. Antosz made a motion to approve the minutes of the September 24, 2015 meeting. Mr. Loy seconded the motion. The motion was approved unanimously.

### **PUBLIC HEARING: SPECIAL EXCEPTION USE (WAHMHOFF FARMS, LLC) PLANNING COMMISSION TO CONDUCT SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF WAHMHOFF FARMS, LLC FOR TEMPORARY OUTDOOR SALES FROM NOVEMBER 27, 2015 UNTIL DECEMBER 23, 2015 AT MAPLE HILL PAVILION, 5030 WEST MAIN STREET WITHIN THE C: LOCAL BUSINESS DISTRICT (PARCEL #3905-13-280-051).**

Chairperson Schley moved to the next item on the agenda, a public hearing for a special exception use amendment and site plan review of the application from

Wahmhoff Farms, LLC for temporary outdoor sales, and asked Ms. High to review the request.

Ms. High explained the applicant was seeking permission to locate a temporary Christmas tree sales lot in a portion of the parking area on the subject property, located immediately north of Consumer's Credit Union on the northwest corner of Drake Road and West Main Street. Per the applicant's proposal, sales would commence on Friday, November 27<sup>th</sup>, 2015 and continue daily through December 23, 2015. The applicant stated they would likely begin to deliver inventory to the site two days before the sale period is to begin, with site cleanup planned for the last day of the event.

She said the applicant is proposing to locate the tree display and storage areas as well as the office trailer within the eastern portion of the lot, extending approximately 100 feet from the east edge of the parking lot. The remaining 40 foot section of the western portion of the lot will be reserved for customer parking, a dumpster, and portable public toilet facilities. Although only around nine to 10 parking spaces within the section of the parking lot occupied by this event will be maintained, there are ample spaces available at adjacent lots, separated from the main event area by internal driveways. She indicated all required setbacks are being met. The sales lot will operate seven days a week, with anticipated hours of 11:00 a.m. to 8:00 p.m. Mondays through Fridays, and 10:00 a.m. to 8:00 p.m. on Saturdays and Sundays.

Ms. High noted the Fire Marshal reviewed the proposed layout for this event and recommended the applicant keep two fire extinguishers on site, one of which should be located outdoors, near the trees. No other concerns were raised.

Ms. High also said the proposed plan meets the Zoning Ordinance standards of approval. In addition to the standards for a special exception use, Staff has also ensured the proposed event satisfies the general requirements for a Temporary Outdoor Event, as detailed in section 30.221 of the Zoning Ordinance.

She recommended the following conditions if the Commission is inclined to approve the request:

1. The office trailer, dumpster, portable toilet, and Christmas trees are to be allowed on-site from November 25<sup>th</sup> to December 23<sup>rd</sup>.
2. The hours of operation are to be limited to 11:00 a.m. to 8:00 p.m. Mondays through Fridays, and 10:00 a.m. to 8:00 p.m. on Saturdays and Sundays.
3. All signs shall satisfy the requirements of the Township Zoning Ordinance.
4. All comments or issues raised by the Fire Department during the course of the review and/or any subsequent inspection shall be complied with.

She concluded saying although Wahmhoff Farms has held temporary Christmas tree sales in Oshtemo in the past, this is the first time they will be in this location. The applicant has indicated they intend to return to this spot in coming years, therefore the Planning Commission should consider whether administrative review is acceptable for future proposals provided such requests are consistent with the current submission.

After confirming with Ms. High that the dumpster location is acceptable, Chairperson Schley asked if the applicant would like to speak to the Board.

Mr. Dan Wahmhoff, 11121 M-40, Gobles, noted he has been selling trees in the Kalamazoo area for over 50 years in a number of locations, noting 25 years at the corner of Stadium and Drake Road. He was willing to screen the dumpster with trees if desired and noted lighting would be the same as it has been for years, using 10 foot poles with light strings that are UL approved in caged units without glare problems. In response to a question from the Chair, he said he would be happy to work with staff on lighting if needed.

In response to a question from Mr. Boulding, Sr. he said there would be no security provided after hours; it is not cost effective for the loss of a few trees. He commented he would like to see the Planning Commission to approve the request on a continuing basis with oversight from Township Staff.

He noted the only signage would be what is on the side of the trailer that will be parked at the site.

Chairperson Schley determined Commissioners were comfortable with the proposal and with the recommendation for Staff to approve the continuing request in the future.

Ms. Farmer made a motion to approve the request for special exception use and site plan as presented contingent on the four staff recommendations, lighting consultation with Staff, discreet placement of the dumpster, and delegation of approval of continuing requests by Township Staff in the future if there are no issues. Mr. Loy seconded the motion. The motion was approved unanimously.

**PUBLIC HEARING: REZONING (7110 WEST MAIN STREET)**

**PLANNING COMMISSION TO CONDUCT PUBLIC HEARING TO REVIEW THE APPLICATION FROM MARK ASHBROOK FOR REZONING OF A TWO ACRE PARCEL LOCATED AT 7110 WEST MAIN STREET. REQUEST IS TO REZONE PROPERTY FROM R-2: RESIDENCE TO C: LOCAL BUSINESS (PARCEL #3905-13-285-010).**

Chairperson Schley moved to the next item on the agenda, a public hearing to review the application from Mark Ashbrook for rezoning of a two acre parcel located at 7110 West Main Street, and asked Ms. High to review the request.

Ms. High said the applicant wishes to rezone an approximately two acre portion of the subject property from R-2: Residence to D: Local Business in order to open a retail store for locally grown farm products. The area of the parcel that is the subject of the rezoning request is situated on West Main Street, towards the lateral center of the subject property, and has approximately 250 feet of road frontage.

She explained the applicant's intent is to rezone a portion of the southern end of the subject parcel to C: Local Business and create a new parcel for the rezoned section, keeping the remainder of the original property as R-2 for the time being. The applicant has also expressed a desire to rehabilitate the derelict house currently on the property, but outside of the area to be rezoned, and use it as a shopkeeper's quarters for the adjacent store.

She said the current zoning classification, R-2: Residence does not accommodate the desired use for the land – a retail outlet for their locally grown organic meat and other farm products. In order for this use to comply with the Zoning Ordinance, a rezoning to C: Local Business is required. As well as allowing a retail operation such as what the applicant has in mind, the Planning Commission should consider that a rezoning to C:Local Business would also allow numerous other permitted commercial uses to be located on this property, including banks, Laundromats, hotels, and shopping centers.

Ms. High said the majority of the property subject to the rezoning request is located within an area designated as *Transitional Mixed Use*. Per the Master Plan's definition of Transitional Mixed Use as applied to the West Main Street corridor west of 8<sup>th</sup> Street, the area is to serve as a transitional zone between the more intensive commercial uses to the east and the more rural, residential surroundings to the west. In general, typical uses appropriate for Transitional Mixed Use zones include low intensity establishments such as offices, medium density residential developments, and local businesses. Per the definition provided in the Master Plan, Local Commercial uses include businesses such as specialty shops, a description which could fit the applicants' store.

She concluded saying the request is for a rezoning of the subject property from R-2 to C. While the applicant's proposed land use should the rezoning ultimately be approved may be harmonious with the Future Land Us section of Oshtemo's Master Plan, the Planning Commission should also consider what other types of uses would be allowed should the applicants change their mind as to what kind of establishment they wish to have, or sell the land to another party. The number of Permitted and Special Exception Uses allowed within the C: Local Business zoning classification are many, and Staff recommends the Planning Commission carefully weigh the implications of the rezoning request presented. She also noted the Planning Commission ultimately makes a recommendation to the Township Board who will make the final decision on the request.

Chairperson Schley determined there were no questions from Commissioners for Ms. High and asked the applicant to speak.

Mr. Mark Ashbrook, 22079 41<sup>st</sup> Street, Bloomingdale, told Commissioners he had been farming in Bloomingdale for 42 years; his two sons have recently partnered with him. They are interested in moving from a wholesale only operation to the addition of a retail storefront and felt this property in a transitional area would be the perfect spot. They wish to build a store in the shape of a barn, red in color, in order to sell GMO raised meat products as well as vegetables and feed for animals year round.

Chairperson Schley asked if there were public comments and the following people spoke.

Mr. Dave Bushouse. 992 North 7<sup>th</sup> Street, had concerns with the proposal including taking 1.9 acres out of a 20 acre parcel that would take the option off the table of a future possible commercial, high density development, the proximity to the Meadows Plat consisting of one acre plots which does not allow commercial use in that area. He referred to the Master Plan's outline for the area from Drake to US-131 as commercial, moving to light commercial west of that and residential to Almema Road. Granting the request to rezone this area to Commercial will open it up to the possibility of a fast food operation in this little zone. He would prefer to see the entire 20 acres reviewed as a whole parcel. He also noted it is already difficult to get out of the 7<sup>th</sup> Street plat onto M-43 because of heavy traffic and that more traffic generated by a store is not needed.

Mr. Keith Steenwyk, 7130 West Main Street, next to the 20 acres in question is occupied by his mother who has no desire to live next to a commercial property which would also hurt her ability to sell it in the future. He was also concerned with the cross traffic that would be generated by an additional business and with what business might potentially be on that property in the future. He noted there is lots of commercial property for sale elsewhere that is already zoned appropriately.

Mr. Ken Wickman, 7194 West Main Street, has enjoyed lived on West Main for 21 years and would have a problem living next to a commercial business. The section of the property to be rezoned overlaps to the Residential zone. He too was concerned with the increase in traffic burden which is already difficult with the Library across the street and would increasingly put drivers in harms' way. If the business does not succeed, what will be there next? Rezoning would put his home's resale value in jeopardy.

Ms. Shelly Pattison, Mattawan, the Real Estate agent for the property, said the farm store would be similar to the Husted Farm store and that the traffic that would mostly be from people who are going by who would stop in, not coming from other areas. The plan is to revamp the unsightly home on the property. Although ahead of future zoning, this plan is in line with what future zoning would end up being for that parcel.

Mr. Mark Ashbrook noted part of the goal is to keep commercial property in the center so as not to bother the neighbors. He wants to refurbish the house so it is similar to neighboring houses. He would like to petition the state to allow access to the jogging trail which might alleviate traffic problem and help with control for pedestrian crossing. He stressed he does not want to upset the neighbors.

There were no further public comments. Chairperson Schley reminded Commissioners their prevue is to consider the land use not the particulars of a site plan. He noted the Master Plan is a challenge regarding transitional use and needs a succinct definition, which could be something an applicant could bring forward. He read an extensive list of the types of businesses and organizations that could be allowed in Section 30 of the Ordinance.

Ms. Farmer said three of the listed businesses, particularly drive-thrus, are deal breakers for her.

Mr. Loy said he would consider approving this proposal as “spot zoning” which the Township has shied away from in the past. He would prefer to look at a whole parcel.

Mr. Antosz noted months have been spent on the 9<sup>th</sup> Street and West Main Street Overlay District regarding what could and could not go in. He agreed this would be spot-zoning and would allow no control. He suggested better defining what transitional district means.

Chairperson Schley commented the Commission recently received a list of items needing to be worked on and a definition for transitional district was included.

Mr. Boulding, Sr. referred to an applicant who was denied north of this site for similar concerns that he thinks are legitimate; he thinks this is not the type of fit for this property that is needed for consistency.

Ms. Smith said she did not have a problem with spot zoning of small properties along West Main Street since that is what will happen unless the entire area is taken as a whole.

Chairperson Schley said there are many concerns regarding the R district west of 131. The Township has tried very hard not to prohibit commercial growth but to maintain the rural characteristics of the Overlay district and have given some grace in that area. He acknowledged the store west of 4<sup>th</sup> Street has been a longstanding limited commercial zone. He is interested in the character of the proposed business but the problem is with the precedent for the Township to do a spot zone in an area which the Master Plan has not considered for full commercial use. It would be less troubling if it were immediately adjacent to commercial. He suggested the applicant might work with Township Staff to see if there might be other ways to proceed to make it easier for the Commission to consider.

Ms. Farmer said the idea of the business presented is interesting but the Commission cannot make their decision on that – the decision needs to be based on what the area is NOT. A drive-thru is not appropriate, but could be there if the property is rezoned as requested.

Chairperson Schley confirmed with Attorney Porter that whatever recommendation is made to the Township Board, the decision lies with that Board and that if a request is made in another form by the applicant it could be reconsidered by the Commission.

Mr. Loy made a motion to deny recommendation of the rezoning request to the Planning Commission on the basis of not wanting to employ spot zoning based on previous discussion. Mr. Antosz seconded the motion. The motion was approved 6 – 1 with Ms. Smith dissenting.

**PUBLIC HEARING: PLANNING COMMISSION TO REVIEW PROPOSED AMENDMENTS TO CHAPTER 76 OF THE TOWNSHIP ZONING ORDINANCE REGARDING SIGNS, PARTICULARLY FOR FINANCIAL INSTITUTIONS AND THE PERCENTAGE OF A SIGN ALLOWED FOR CHANGEABLE COPY OR ELECTRONIC DISPLAY.**

Chairperson Schley moved to the next item on the agenda, a public hearing to review proposed amendments to Chapter 76 of the Township Zoning Ordinance regarding signs, and asked Ms. High to review the proposed amendments.

Ms. High reviewed the amendments which included increasing the percentage of LED light permitted on an allowable sign from 25% to 35% and removing language that treats signage for financial institutions differently from other commercial signs.

Mr. Antosz noted that the sign consultant who spoke with the Commission on recent occasions suggested there be a mechanism to require new LED signs purchased for use within the Township to have a dimmable feature.

Attorney Porter said it would push the limits to require a dimmable sign if it is not in the Ordinance.

Chairperson Schley asked if there were public comment on this item. Hearing none, he moved to Board deliberations.

After some discussion it was agreed to delay action on this item to give Staff time to further research requiring dimmable signs in the Ordinance.

Mr. Loy made a motion to delay action pending further research from Staff regarding dimmable LED signs. Mr. Antosz seconded the motion. The motion was approved unanimously.

### **DISCUSSION WITH TOWNSHIP COUNSEL: VAN KAL PARTNERSHIP, LLC VS. CHARTER TOWNSHIP OF OSHTEMO. CASE NO: 2015-0281-AW**

Ms. Farmer made a motion to move to Closed Session for the purpose of discussing with Township Counsel the Van Kal Partnership, LLC vs. Charter Township of Oshtemo. Mr. Antosz seconded the motion.

Roll Call Vote: Jackson – yes; Loy – yes; Boulding –yes; Smith –yes; Schley – yes; Antosz – yes; Farmer – yes. Motion was approved unanimously.

The meeting moved to Closed Session at approximately 8:13 p.m.

The meeting returned to Open Session at approximately 8:50 p.m.

### **OLD BUSINESS**

The Planning Commission returned to the Township meeting room. Mr. Loy then made a motion to come out of closed session. The motion was seconded by Mr. Boulding, Sr. The Chairperson called for a vote on the motion, and the motion passed unanimously.

### **OTHER BUSINESS**

The Chairperson said that there was one item of other business, and that was modifying the meeting date for the October 22, 2015 meeting. The Chairperson explained that the Planning Director was asking that all Commissioners meet at the Township Hall at 5:30 p.m. to visit certain sites in the Township to determine how the landscaping requirements of the Zoning Ordinance were being implemented and whether any changes to those requirements were appropriate. Mr. Boulding, Sr. made a motion to set the meeting date and time for October 22, 2015, at 5:30 p.m. The motion was seconded by Ms. Jackson. The Chairperson called for a vote on the motion. The motion passed unanimously.

### **PLANNING COMMISSIONER COMMENTS**

The Chairperson asked if there were any Planning Commissioner comments, and hearing none, he told the Commission that there were two members in the audience from Alamo Township who had sat in to observe their meeting, and they were very complimentary as to how the Township Planning Commission operated.

## **ADJOURNMENT**

There being no other business to come before the Planning Commission, the meeting was adjourned at 9:00 p.m.

Minutes prepared:  
October 11, 2015

Minutes approved:  
October 22, 2015