

OSHTEMO CHARTER TOWNSHIP

PLANNING COMMISSION

MINUTES OF A MEETING HELD JULY 11, 2013

Agenda

PUBLIC HEARING – SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR A NEW RESTAURANT WITH DRIVE-THRU SERVICE (TIM HORTON’S) LOCATED AT 6779 WEST MAIN STREET IN THE C LOCAL BUSINESS DISTRICT (PARCEL #3905-14-305-025)

DISCUSSION OF PROPOSED ZONING ORDINANCE AMENDMENTS RELATED TO TEMPORARY SIGNS

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, July 11, 2013, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Kitty Gelling, Chairperson
Fred Antosz
Wiley Boulding, Sr.
Dusty Farmer
Millard Loy
Terry Schley
Richard Skalski

MEMBERS ABSENT: None

Also present was Greg Milliken, Planning Director, and one other interested person.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Gelling 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, she called for a motion to accept the Agenda, as submitted.

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

Public Comment on Non-Agenda Items

Chairperson Gelling called for public comment on non-agenda items. Hearing none, the Chairperson proceeded to the next agenda item.

APPROVAL OF THE MINUTES OF THE MEETING OF JUNE 27, 2013

The Chairperson asked if there were any additions, deletions or corrections to the minutes of the meeting held on June 27, 2013. No changes were noted. Mr. Skalski made a motion to approve the minutes as presented. Mr. Boulding, Sr. seconded the motion. The motion was approved unanimously.

PUBLIC HEARING – SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR A NEW RESTAURANT WITH DRIVE-THRU SERVICE (TIM HORTON’S) LOCATED AT 6779 WEST MAIN STREET IN THE C LOCAL BUSINESS DISTRICT (PARCEL #3905-14-305-025)

Chairperson Gelling indicated that the first item on the agenda was a public hearing on a proposed special exception use for a new restaurant with a drive-thru for a Tim Horton’s to be located at 6779 West Main Street. She stated it was a Special Exception Use because of the drive-thru, and proceeded to ask Mr. Milliken to further expound upon details.

Mr. Milliken indicated that the site was 1.5 acres in size with 200 feet of frontage on West Main Street. The vacant site is located between the existing Crystal Car Wash to the east and National General Rental to the west. It is in the C Commercial zoning district, and a drive-thru use is a special exception use in the C Commercial district.

Mr. Milliken stated that a history of development along the corridor had been provided in the staff report and demonstrated a consistent application of access management principles and the implementation of a plan for a frontage road in this area.

Mr. Milliken stated that there are a few minor site plan issues, but the key issue for discussion was access. The Township has an Access Management Plan that was most recently adopted in 2003. The Plan identifies West Main Street as a priority corridor and as a location for the use of frontage and access roads as development occurs. It also calls for the closure of driveways that do not comply with standards.

Mr. Milliken stated that Staff recognized this issue and sought input from other resources. MDOT indicated that due to the fact that no work was being conducted in the right of way, they did not have the ability to mandate any modifications or closure of the access point. They did state they would install a “no left turn” sign at the drive. He stated MDOT recommended the access point become right in / right out only and a rear access point be constructed to the Wal-Mart parking lot.

Mr. Milliken also stated they sought input from the Township Traffic Engineer who provided a detailed explanation why the access point should be closed. He stated his concerns are based on the location of the drive within the right turn lane for West Main Street/9th Street as well as the proximity of the access point to the intersection. Mr. Milliken stated that the Traffic Engineer recommended the access point be abandoned following development of a service drive.

Mr. Milliken said that the proposed plan calls for a service drive to connect to the property to the west. However, it is not a direct east-west connection. The applicant provided an alternate plan illustrating this direct connection that is more consistent with the frontage road concept but would prefer the more indirect routing.

Mr. Milliken stated that there are some additional site plan issues that could be addressed but the focus should remain on the access issue. He stated based on the recommendation of the traffic engineer, the guidelines stated in the Access Management Plan, and the legacy of Township recommendations and decisions consistent with the principles of access management, the access point should be abandoned following construction of the service road.

Mr. Skalski stated he supported that idea. He goes to Meijer quite a bit and used the example of the eastern driveway to Meijer and the problems it creates. He also stated that even if signs are installed, people will still make left turns. He has a real concern with this access point.

Chairperson Gelling asked if the Township had received any comments from Crystal Car Wash regarding the proposal.

Mr. Milliken stated that the owner received Notice of Public Hearing and called to find out what was happening. He gave the owner an explanation and a copy of the initial site plan.

Mr. Skalski added that he supports the idea of providing a driveway connection to Wal-Mart as well and wondered if there had been any contact with Wal-Mart.

Mr. Milliken stated there was no contact.

Mr. Schley suggested that Staff review the photometric plan and proposed lighting plan as it may violate Ordinance standards. He also inquired as to the easement and width of the service drive around Crystal Car Wash.

Mr. Milliken explained that the Planning Commission approved the site plan for the car wash with a deviation for a 24 foot width for the service drive as well as a reduced setback for the service drive due to the narrowness of the site.

Mr. Loy asked if it would be possible to exit at Sunset Plaza and the light on 9th Street. The Planning Commission agreed that likely would not be possible due to the location of the drives and direction of traffic there.

Mr. Schley asked if a service drive is anticipated across the rental center property, he wondered how that would affect parking on their property.

Mr. Milliken stated he did not think there would be an impact as the plans showed the easement, and parking was prohibited in easement areas.

Chairperson Gelling agreed as she had driven the relevant area earlier that day, and there was no parking evidenced in the easement area.

Mark Kellenberger of Tim Horton's spoke on behalf of the applicant. He stated there are some unique issues for discussion. He described the parking present at the adjacent rental facility. He said they have angled parking adjacent to the building. He stated they may have to reorient some in order to achieve the 30 foot easement width.

Mr. Kellenberger stated that they found the easement for Crystal Car Wash's access when doing the title work but found nothing to the west. Regardless, they understand the desire of the Township and want to provide for the service drive. Their preference is for the service drive to have the indirect alignment as proposed. This will allow their sign to be closer to the road but also limit the potential conflicts and traffic concerns that would be created by a straight drive.

Mr. Kellenberger indicated that he interpreted the MDOT recommendation to state that they suggest no left turn in but would allow left turn out. They are familiar with no left turn islands and can work it with this and would be open to the idea.

Mr. Kellenberger stated that closing the curb cut would be a deal killer. He stated being a convenience business, the concern is too great to rely on others to find the store. He also raised concerns with the easement to the east and not being full access. He is open to a curb island restricting left turns but not really further.

Mr. Kellenberger addressed the potential connection to the Wal-Mart parking lot to the south. He indicated that the grade differential exceeds 10 feet and there are storm drains and pipes that run across the southern boundary of their property. He stated he would love to provide that connection, but the cost and area necessary to do so is prohibitive.

Mr. Kellenberger agreed that the other issues could be easily addressed and that there was no issue with the cross-access or the easements.

Mr. Skalski indicated he could be satisfied with a directional drive provided there was a deceleration lane, a larger island, or something to clearly separate the movements.

Mr. Kellenberger stated that the right turn lane on West Main Street is a full lane for the entirety of his frontage so there is unlikely to be additional deceleration space added. He stated that the inbound lane should be wide enough to restrict the outbound movements.

Chairperson Gelling said that she had made a left turn into the driveway off of West Main Street at the existing Tim Horton's location near Piccadilly Drive, and literally had taken her life into her own hands in trying to do so. She also inquired as to the two-way traffic that exists on that site adjacent to the drive-thru lane.

Mr. Kellenberger stated that particular site needed to be designed to provide access to the property to the rear (north), which was challenging. That experience is why he has some concerns about the potential conflicts created at the subject property by the straight service drive design versus the proposed curved design.

Chairperson Gelling asked if the design of the Piccadilly facility would basically be the same as the proposed building at the subject property.

Mr. Kellenberger confirmed that the design and concept would be the same as it is a new concept that has been very successful. The Commission and applicant engaged in discussion of the design and concept and its evolution.

Mr. Schley asked about the width of the service drive. He indicated that it appeared to be 24 feet in width although the Ordinance stipulates 30 feet. Mr. Kellenberger stated that it could be increased if necessary.

Mr. Schley asked if the driveway were required to be right turn out only, if that would be a problem.

Mr. Kellenberger stated that he did not discuss that scenario, but he felt it would be a problem.

Mr. Schley then asked if the driveway were limited to right turn in only, if that would be a problem.

Mr. Kellenberger stated that he would have to take it back to confirm if that was the only way this would be able to proceed. Mr. Kellenberger asked if a right in – right out arrangement would be acceptable or if an unrestricted in and right out would work. If right in – right out is best deal, he stated he could probably make that work.

Mr. Kellenberger indicated that the morning drive-thru drives their business, and he needs to protect that. If MDOT were to segment their traffic by impacting West Main Street, it could reduce their traffic in half. Currently, he stated they do not have to go to MDOT for a permit due to no work in the right of way. However, if he does work in the right of way, then he would have to get approval from MDOT and satisfy their requirements.

Mr. Loy stated that he travels that corridor frequently and feels that left turns in or out are not a good idea for anyone.

Mr. Skalski said that it is almost impossible to make left turns there at most times of the day.

Chairperson Gelling agreed stating that the traffic really backs up. She stated that there is an Access Management Plan and the Commission should support that.

Mr. Loy said that he does not believe an access road has been a problem and used the businesses across the street as an example.

Mr. Kellenberger pointed out the key difference between the businesses on the north side of West Main Street and those on the south side is proximity to the intersection.

Mr. Loy said that people become acclimated to the access road situation, so a little extra travel is not a problem.

Mr. Kellenberger said that he understood, but operationally it just does not work.

Chairperson Gelling stated that the access road works for McDonald's, although it is slightly different because there is a separate turn lane and it is entry only.

Mr. Schley said it is a complicated corner and site. A left turn out is not only a questionable decision, but it is also contrary to the expertise that we depend on. He stated that he travelled through that intersection for 15 years and has watched cars going through there at over 55 miles per hour. He not only has difficulty with left turns in or out but also with right turns out. In an effort to make the site work though, he could accept a right turn in.

Mr. Kellenberger did not think that would work and that a right turn out would be needed.

Mr. Schley stated that was a problem. The exiting vehicles are trying to cross lanes and accelerate while vehicles on West Main Street are traveling in those lanes at very high speeds.

Mr. Kellenberger reminded the Commission that this is a permitted access point and that he desires to continue to have full access of that point. However, he understands right in / right out may be all he will be able to have.

Mr. Boulding, Sr. said the issue is debatable and discussed the drives for the businesses to the north. He asked if it would be feasible for left turns to be made from the driveway that exists to the west of the proposed site.

Mr. Schley asked if a service drive is used to access a shared driveway to the west how it would impact the site plan of the General Rental Property site. As it exists, he stated he thinks that there are parking spaces that would result in cars parking and/or backing into the shared driveway easement, which is not acceptable.

Mr. Milliken was not certain changes to the adjacent property could be a condition of approval for this site.

Mr. Schley felt it was appropriate considering that the shared driveway was a critical component of the potential approval of the proposed development, and because provision of a shared drive was required for development of the adjacent site. There needs to be assurance that the shared drive will be secure if it is a part of this approval.

Chairperson Gelling indicated that if there are continuing issues that need to be addressed and clarified, the item could be tabled. She stated the Planning Commission was desirous of trying to get this rectified for the benefit of all parties.

Mr. Kellenberger requested that action be taken conditional upon the right in / right out access point.

Mr. Schley sought confirmation that if a special exception use is denied, the request cannot be made for another year. Mr. Milliken confirmed that the same request cannot be made for a year if it is denied.

Mr. Schley stated he is very interested in making this work out. As he reviewed the consultants' reports and materials and their recommendations, he is still willing to go against and agree to a right turn in access but not on right turn out. His experience indicates that the cars exiting the site and accelerating across lanes of fast traffic would be problematic. The consultant has advised against right in / right out, but Mr. Schley stated he is willing to support right turn in to support the business.

Mr. Loy stated he agrees with Mr. Schley. Exiting out on West Main Street at that location is just asking for trouble.

Mr. Boulding, Sr. asked if he is missing something. The site is already used by a business, and he wondered if there was a problem with it.

Mr. Schley stated that the problem is the vehicles exiting from that lane to other lanes and beyond to the left turn lane with crossing traffic coming at high speeds.

Mr. Boulding, Sr. stated he does not understand how a decision can be made based on what people might do versus what people are doing. Decisions based on theory are not good ones.

Mr. Skalski stated he could accept the access in to support the morning business. There might be a problem with 9th Street so the driveway to the west should be the exit point.

Chairperson Gelling said that after reviewing the Traffic Engineer's report and looking at the proximity of the access point to the intersection, she just cannot accept the right turn out option.

Mr. Antosz said that he thinks the Commission should follow the Access Management Plan to the extent possible. He stated he could accept a right turn in although he would rather see it closed in compliance with the Plan.

Ms. Farmer stated that she has no interest in keeping the access point open. She believes there should be fewer access points on the road in order to maintain the safety of the road and safety of the citizens. There are already too many accidents on West Main Street. She feels safety is more important.

Chairperson Gelling reminded the Commission they could table the item or they could make a motion on the request. She again stated that tabling would give an opportunity to address the questions and issues that have been raised.

Mr. Kellenberger stated he would prefer a decision but would accept tabling to the next available meeting. Upon Chairperson Gelling presenting the available Planning Commission meeting dates through September, there was discussion of the implications of proceeding. The consensus was made to table the request.

Mr. Schley made a motion to table the request for site plan and special exception use approval to the July 25th regular meeting. Mr. Loy seconded the motion. The motion was approved unanimously.

DISCUSSION OF PROPOSED ZONING ORDINANCE AMENDMENTS REGARDING TEMPORARY SIGNS

Chairperson Gelling indicated the next item on the agenda was continuation of the discussion regarding proposed zoning ordinance amendments on temporary signs and asked Mr. Milliken to introduce the discussion.

Mr. Milliken indicated that at the last meeting, there was discussion of the revised amendments regarding temporary signs. There were no changes proposed, so no new or additional materials were provided to the Commission. The only issue that was raised was in regards to Architectural Signs, which is why it was carried forward to this meeting.

Chairperson Gelling indicated that she had done a significant amount of research on the topic but had not yet completed the work that she had hoped to do on the subject and requested some additional time to finish her effort. One of the alternatives she identified was having the term defined and then not included in the regulations, or if it were included, identified as a permitted sign. She indicated she discussed this with Mr. Milliken.

Mr. Milliken stated it is a matter of preference for the Commission. Some communities will provide definitions for common terms that are not used in the Ordinance simply to provide reference. Other communities do not think it is appropriate to have terms defined that are not used later in the Ordinance. If the Commission falls more into the latter category, then a potential solution would be to include architectural sign as a permitted sign in all districts.

Chairperson Gelling said that this is a challenging and ambiguous subject with communities tackling it in a wide variety of ways. She indicated her work would be completed by the July 25th meeting.

Mr. Antosz stated that he had reviewed Zoning Ordinances of other Townships on Municode and could not find any examples of ordinances that regulated architectural signs. He then researched architectural literature and found little agreement as to definitions. He also stated that some of the Ordinances used pictures, which was extremely helpful.

ANY OTHER BUSINESS

Chairperson Gelling stated that the Code Enforcement Officer is doing well with the donation bins and having them removed. She also stated that the tent for Jake's Fireworks was still up as of July 10th. The Commission discussed the issues they have had with this applicant and challenges with compliance with conditions of approval the past two years. Chairperson Gelling respectfully asked that Mr. Milliken draft a letter to Jake's Fireworks, and he indicated a letter would be written informing the company of this. Mr. Schley suggested that a performance guarantee be collected up front to be used to pay penalties for noncompliance. The Chairperson recommended fining Jake's Fireworks with accompanying documentation for this year's noncompliance, while additionally making note of last year's noncompliance. She felt imposing some sort of monetary penalty would be necessary, because obviously they have chosen to disregard our stated conditions.

Mr. Schley asked about the POD unit at the Red Roof Inn. Mr. Milliken indicated Ordinance Enforcement Officer Mr. Rick Suwarsky is aware of this and is going to be checking into it.

PLANNING COMMISSIONER COMMENTS

Ms. Farmer shared a news story regarding a sewer back up at a splash pad, a potential recreational element that was discussed at one of the public parks meetings. She felt it was a good lesson to be learned regarding the design of the electrical system at the park.

Chairperson Gelling indicated that the S2 Games/Oshtemo Rotary fireworks show was a huge success and a wonderful gift to the community. She wanted to publicly thank Mr. Mark DeForest and family for their generosity.

Mr. Skalski stated that the City of Portage has a 150 foot tall wireless tower that is camouflaged to look like a pine tree, and it really works. He would like to see the Township encourage the use of such techniques here.

Mr. Boulding, Sr. raised some questions for his own education regarding Tim Horton's access point. He indicated that he is happy to see development and the jobs and taxes that it brings. He asked Mr. Milliken if he could have a couple minutes after the meeting to better understand the access issue.

Mr. Loy stated that the Drake House will be having an open house on Saturday July 20 from 10:00 a.m. to 3:00 p.m. with 4-H activities, a hog roast, and more.

ADJOURNMENT

Having exhausted the Planning Commission agenda and with there being no further business to discuss, Chairperson Gelling adjourned the meeting at approximately 9:05 p.m.

Minutes prepared:
July 16, 2013

Minutes approved:
July 25, 2013