

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION MEETING**

**MINUTES OF A WORK SESSION AND PLANNING COMMISSION MEETING
HELD MAY 24, 2018**

PLANNING COMMISSION WORK SESSION

Agenda

DISCUSSION OF ZONING ORDINANCE RE-ORGANIZATION

a. Agritourism

A work session of the Oshtemo Charter Township Planning Commission was held on Thursday, May 24, 2018, commencing at approximately 6:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Fred Antosz
Ollie Chambers
Dusty Farmer, Secretary
Micki Maxwell
Bruce VanderWeele, Vice Chairperson

MEMBERS ABSENT: Mary Smith

Also present were Julie Johnston, Planning Director, James Porter, Attorney, and several interested persons.

Discussion of Zoning Ordinance Re-organization

Chairperson Bell began the work session by asking Ms. Johnston to detail her suggested new approach to the Zoning Ordinance Re-Organization. Ms. Johnston outlined her proposal to the Planning Commission to get their feedback. She suggested the Planning Commission consider adopting the re-organized ordinance without any text amendments. By doing this, the new ordinance format would become the "official" document and any new amendments recommended by the Planning Commission could be immediately adopted.

She went on by saying that she felt the current way they were working on the re-organization had two flaws, which were as follows:

1. It is more difficult to prioritize or recommend any immediate amendments because staff would have to develop the ordinance under both the current organization format and the recommended ordinance format, requiring double the work.

2. Suggested amendments to the ordinance will have to be presented to the Township Board in easily workable sections so as to not overwhelm them with an

entirely changed code. By doing this, the Township Board would provide input but not adopt the changes, requiring the amendments to be brought back at a later date when the entire ordinance re-organization is complete. This is not their general practice and may make the re-organization more difficult.

By re-codifying the current ordinance under the new format, but not making any changes to the text, or very minor changes, we are setting up the ordinance in the format we want and can then prioritize the changes we want to see. These can then be reviewed and adopted by the Township Board immediately instead of at the end of our re-organization process.

For example, it might be a good idea to go ahead and send the Agritourism ordinance to the Township Board for review and adoption. But doing so now will require staff to design the ordinance so it fits within our current ordinance format and then under the new ordinance format. If we wait until the Planning Commission is finished with all of amendments we want to make as part of the re-organization, the Agritourism ordinance might not get adopted until next summer. If we re-codify our current ordinance under the new format, we could send the Agritourism ordinance to the Township Board much sooner and under the format of the new Zoning Ordinance.

The Planning Commissioners discussed this new approach and felt it would work better for their continued work on ordinance amendments. Ms. Johnston stated Wade Trim, the consulting firm hired to re-organize the ordinance, had already done the work and she just needed to review to ensure it was complete. She stated she would try to have the re-organized ordinance ready for review at the June 28th work session.

The Planning Commission then continued their discussions on the Agritourism ordinance, specifically Category 2. There was some discussion about whether a Category 3 was needed. Ms. Johnston stated that both Category 1 and 2 were designed to allow property owners who produce an agricultural product an opportunity to have some additional economic opportunities. They were not designed to give property owners who may have a rural setting the ability to hold events on their property. The Planning Commission decided a Category 3 might be needed and asked staff to develop some additional language for review.

The Planning Commission work session ended at approximately 7:05 p.m.

REGULAR PLANNING COMMISSION MEETING

Agenda

PUBLIC HEARING: JAKE’S FIREWORKS

CONSIDERATION OF THE APPLICATION FROM JAKE’S FIREWORKS, INC. FOR A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR TEMPORARY TENT SALES OF CONSUMERS’ FIREWORKS IN HARDING’S MARKET PARKING LOT FROM JUNE 20 THROUGH JULY 5, 2018, PURSUANT TO SECTION 33.302 OF THE TOWNSHIP’S ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 6430 STADIUM DRIVE, KALAMAZOO, MI, WITHIN THE “VC” VILLAGE COMMERCIAL DISTRICT. PARCEL NO. 3905-26-465-022.

PUBLIC HEARING: WESTGATE PLANNED UNIT DEVELOPMENT PRIVATE ROAD

CONSIDERATION OF AN APPLICATION FROM TWO SQUARED DEVELOPMENT, LLC FOR A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR THE CONSTRUCTION OF AN ACCESS DRIVE FROM WEST MAIN STREET, WITHIN THE WESTGATE PLANNED UNIT DEVELOPMENT, LOCATED IN THE NORTHEAST CORNER OF U.S.131 AND WEST MAIN STREET, IN THE “C” LOCAL BUSINESS DISTRICT, PURSUANT TO SECTION 60.400 OF THE TOWNSHIP ZONING ORDINANCE. PARCEL NOS. 3905-13-130-022.

Any Other Business

a. Continued Discussion of Zoning Ordinance Re-organization

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 24, 2018, commencing at approximately 7:10 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Cheri Bell, Chairperson
Fred Antosz
Ollie Chambers
Micki Maxwell
Dusty Farmer, Secretary
Bruce VanderWeele, Vice Chairperson

MEMBER ABSENT: Mary Smith

Also present were Julie Johnston, Planning Director, James Porter, Attorney, Martha Coash, Meeting Transcriptionist, and four interested persons.

Call to Order

The meeting was called to order by Chairperson Bell at approximately 7:10 p.m.

Pledge of Allegiance

Chairperson Bell invited those in attendance to recite the Pledge of Allegiance.

Approval of the Agenda

Chairperson Bell asked if there were any additions or deletions to the agenda.

Ms. Johnston explained the applicant who requested a public hearing regarding development of a private road in the Westgate Planned Unit Development requested the hearing be tabled to June 14, 2018.

Mr. VanderWeele made a motion to table the Westgate PUD request until June 14, 2018 and to approve the agenda as presented with the deletion of that item. Ms. Farmer seconded the motion. The motion was approved unanimously.

Public Comment on Non-Agenda Items

There were no public comments on non-agenda items.

Approval of the Minutes of May 10, 2018

Chairperson Bell asked if there were additions, deletions or corrections to the Minutes of May 10, 2018.

It was noted that on page 6, Ms. Barb Melson's last name should be corrected to Malsom.

Hearing no further comments, Chairperson Bell asked for a motion.

Mr. VanderWeele made a motion to approve the minutes of May 10, 2018 with the correction as noted. Ms. Maxwell seconded the motion. The motion was approved unanimously.

**PUBLIC HEARING: JAKE'S FIREWORKS
CONSIDERATION OF THE APPLICATION FROM JAKE'S FIREWORKS, INC. FOR A
SPECIAL EXCEPTION USE AND SITE PLAN REVIEW FOR TEMPORARY TENT
SALES OF CONSUMERS' FIREWORKS IN HARDING'S MARKET PARKING LOT
FROM JUNE 20 THROUGH JULY 5, 2018, PURSUANT TO SECTION 33.302 OF THE
TOWNSHIP'S ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT
6430 STADIUM DRIVE, KALAMAZOO, MI, WITHIN THE "VC" VILLAGE
COMMERCIAL DISTRICT. PARCEL NO. 3905-26-465-022.**

Chairperson Bell moved to the next item on the agenda and asked Ms. Johnston for her presentation.

Ms. Johnston said the applicant was seeking permission to locate a temporary fireworks sales tent in the parking lot of the Harding's grocery store at the corner of 9th Street and Stadium Drive, 6430 Stadium Drive. The Harding's location is an existing site for this vendor. They have been at this location for six years, with the 2018 application the seventh request.

The tent will be located in the southern portion of the parking lot between the retail structure that contains Subway and the driveway to Stadium Drive at the Parkview Drive intersection, approximately the same location as last year and is the same size as last year. As in the past, the tent will need to be set back 10 feet from the edge of the parking lot pavement to satisfy separation requirements.

She said Jake's will be selling a full line of consumer fireworks ranging from sparklers to aerials at retail prices from the tent. Per the applicant, the tent will be on-site from June 20th to July 10th, and hours of actual operation will be from 9am to 9pm on June 25th through July 1st, expanding to 8am to 11pm July 2nd through the 4th. During the night when the store is closed, representatives of the company will remain on site to monitor the inventory and ensure nothing happens to the firework devices.

The Fire Department reviewed the plans and did not have any comments regarding the proposed facility at this time. The Fire Marshall will inspect the facility prior to initiating operation.

Ms. Johnston explained the first approval for Jake's Fireworks within the Township was on June 28, 2012. At that meeting, it was noted that the applicant raised their tent prior to receiving Planning Commission approval. There was discussion with the applicant regarding proper application procedures. Ultimately, the Planning Commission granted approval with a 5 to 2 vote. Since that time, compliance and enforcement issues have been a consistent concern with this vendor.

She provided a history of infractions and noted that in 2017, due to ordinance enforcement activity related to past events, Township staff referred Jake's back to the Planning Commission for review. Among the conditions added to the approval was a proclamation by the Commission that any violations of the granted special exception use would result in the rejection of any future applications from Jake's. No such issues arose from last year's event, and the tent was erected and removed within the pre-arranged timeframe. The compliance deposit submitted by Jake's to the Township—doubled to \$800 for this particular instance—was returned to the applicant in full.

Ms. Johnston said given that the 2017 event occurred with no complaints and instigated no enforcement actions, Township staff recommended this special exception use request be approved, with the following recommended conditions:

1. The tent at the Harding's site shall be permitted from June 20th through July 10th and sale of fireworks shall not occur on site until June 25th.

2. The hours of operation are limited to 9am to 9pm from June 25th through July 1st and 8am to 11pm from July 2nd to July 4th.
3. All signs shall satisfy the requirements of the Township Zoning Ordinance.
4. At least one person from Jake's Fireworks staff shall be onsite 24-hours a day while product is present.
5. Compliance with all comments or issues raised by the Fire Department during the course of their review and/or any subsequent inspections.
6. A compliance deposit in the amount of \$400 shall be paid to the Township prior to setting up the tent. The deposit will be refunded to the applicant in full provided that all conditions are met.

In addition, as there were no enforcement issues with last year's outdoor sales event, if the Planning Commission is so inclined, staff requested future Jake's Fireworks events at this location be allowed administrative review and approval, provided no changes are made to the site layout. Staff would retain the right to refer the applicant back to the Planning Commission, should that need arise.

As there were no questions for Ms. Johnston from Commissioners, Chairperson Bell asked whether the applicant wished to speak.

Mr. Greg Claussen, who lives in Kansas, will be in Michigan for the summer and overseeing Jake's sales. He said they are happy to meet all the requirements and apologized for past issues that he believes have been corrected. He noted he was in charge of last year's operation when there were no problems.

Chairperson Bell asked if there were any comments from the public.

Mr. Themis Corakis, Ted and Marie's Restaurant, 6416 Drive, said he was glad to see the fireworks sales again, that there were no issues last year, that everything was cleaned up when they left and that they were good neighbors.

Hearing no further public comment, the Chair moved to Board Deliberations.

There was concern on the part of some Members due to the past problems experienced with Jake's. Discussed was the possibility of doubling the refundable fee to \$800 again this year as insurance, the cost to the Township in the past of having had to send both Fire and Enforcement personnel to the site, the feeling that one more infraction of any kind should bar Jake's from future application and the consensus that, if approved they would like to see how it goes this year before allowing administrative review and approval for future applications.

Hearing no further comments, Chairperson Bell asked for a motion.

Ms. Farmer made a motion to recommend approval of the special exception use request with the six conditions recommended by Staff and that if there is an application in 2019, it should be brought before the Planning Commission for consideration. In addition, if there are any enforcement concerns or ordinance violations in 2018, Jake's will not be permitted to submit any future applications. Mr. Chambers seconded the motion. The motion was approved unanimously.

Ms. Johnston confirmed that if there is any infraction by Jake's, no future application will be allowed.

Old Business

There was no old business.

Any Other Business

a. Continued Discussion of Zoning Ordinance Re-Organization

It was noted this discussion was held at the earlier work session.

PLANNING COMMISSIONER COMMENTS

Mentioned were the Maple Hill Mall Rotary Family Fun event currently underway and the support provided by the Rotary Club for Oshtemo Township parks.

Also mentioned was the opportunity to attend the Planning Commission Toolkit Training on June 7 from 6-8 p.m.

ADJOURNMENT

Having exhausted the agenda, and with there being no further business to discuss, Chairperson Bell asked for a motion to adjourn.

Ms. Farmer made a motion to adjourn. Mr. Chambers seconded the motion. The motion was approved unanimously.

Chairperson Bell adjourned the meeting at approximately 7:35 p.m.

Minutes prepared:
May 26, 2018

Minutes approved:
June 14, 2018