

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF PUBLIC HEARING AND MEETING HELD JANUARY 14, 2016**

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**PUBLIC HEARING: SPECIAL EXCEPTION USE (STARBUCKS TEMPORARY TRAILER) - CONSIDERATION OF THE APPLICATION OF STARBUCK'S COFFEE FOR A SPECIAL EXCEPTION USE TO USE A TEMPORARY TRAILER TO SERVE COFFEE, BEVERAGES AND LIMITED PREPACKAGED PASTRIES WHILE THE STORE IS BEING RENOVATED, WITHOUT USING AN OVEN OR WARMING PRODUCTS, FROM JANUARY 10, 2016 THROUGH FEBRUARY 8, 2016, PURSUANT TO SECTION 30.415 OF THE ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 5370 WEST MAIN STREET, KALAMAZOO, MI, WITHIN THE "C" LOCAL BUSINESS DISTRICT. PARCEL NUMBER 3905-13-255-060**

**AMENDMENT TO CONCEPT PLAN (OPEN SPACE DEVELOPMENT – HAMPTON COVE) - REQUEST TO ELIMINATE SIDEWALKS WITHIN THE HAMPTON COVE SITE CONDOMINIUM DEVELOPED UNDER THE OPEN SPACE COMMUNITY SPECIAL EXCEPTION USE. ORIGINALLY APPROVED IN DECEMBER 2005. PARCEL NUMBER 3905-15-310-027**

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, January 14, 2016, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Pam Jackson, Vice Chair  
Fred Antosz  
Wiley Boulding, Sr.  
Millard Loy  
Dusty Farmer  
Kimberly Avery

MEMBER ABSENT: Mary Smith

Also present were Julie Johnston, Planning Director; and James Porter, Township Attorney and one other person was in attendance.

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

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

## **AGENDA**

Vice Chair Jackson asked for a motion to approve the agenda.

A motion was made by Mr. Antosz to accept the agenda as presented, and seconded by Mr. Loy. Vice Chair Jackson called for a vote on the motion. The motion passed unanimously.

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

Vice Chair Jackson asked if anyone wished to comment on a non-agenda item. There were no public comments on non-agenda items. Vice Chair Jackson moved to the next item on the agenda.

The Planning Director took the opportunity to introduce the newest Planning Commission member, Kimberly Avery. The other members welcomed her to the Commission.

## **APPROVAL OF THE MINUTES OF DECEMBER 10, 2015**

The Vice Chair asked if there were any additions, deletions or corrections to the minutes of the meeting of December 10, 2015. Ms. Johnston noted that there were two corrections which needed to be made. Ms. Johnston said on page 11 of the minutes, the fifth paragraph, Mr. St. Johns' address should be as follows: 6462 Caddam Wood Avenue. She also noted on page 12 that the last paragraph under Attorney Porter's comments that the Water Overflow segment of that paragraph should read as follows:

"Water Overflow: Buckham Highlands has a joint reciprocal drainage agreement with Sky King Meadows II and Sky King Meadows III."

Vice Chair Jackson asked if there were any other corrections. Hearing none, she called for a motion to approve the minutes, as amended.

Mr. Loy made a motion to approve the minutes of the December 10, 2015 meeting, as amended. Mr. Antosz seconded the motion. Vice Chair Jackson called for a vote on the motion, and the motion passed unanimously.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (STARBUCKS TEMPORARY TRAILER) - CONSIDERATION OF THE APPLICATION OF STARBUCK'S COFFEE FOR A SPECIAL EXCEPTION USE TO USE A TEMPORARY TRAILER TO SERVE COFFEE, BEVERAGES AND LIMITED PREPACKAGED PASTRIES WHILE THE STORE IS BEING RENOVATED, WITHOUT USING AN OVEN OR WARMING PRODUCTS, FROM JANUARY 10, 2016 THROUGH FEBRUARY 8, 2016, PURSUANT TO SECTION 30.415 OF THE ZONING ORDINANCE. THE SUBJECT PROPERTY IS LOCATED AT 5370 WEST MAIN STREET, KALAMAZOO, MI, WITHIN THE "C" LOCAL BUSINESS DISTRICT. PARCEL NUMBER 3905-13-255-060**

Vice Chair Jackson said that the next item on the agenda was a public hearing for a special exception use for a Starbucks temporary trailer. She said the application from Starbucks was for the use of a temporary trailer to serve coffee, beverages and limited prepackaged pastries while the store was being remodeled. She noted that no oven or warming products would be used. The request was to install the temporary trailer for use between January 10 and February 8, 2016, pursuant to Section 30.415 of the Zoning Ordinance. The subject property is located at 5370 West Main Street, Kalamazoo, Michigan, within the "C" Local Business District. Parcel Number 3905-13-255-060. The Vice Chair asked to hear from the Planning Department.

Ms. Johnston submitted a report dated January 5, 2016, written by Ben Clark, Zoning Administrator, and the same is incorporated herein by reference. Ms. Johnston then took the Commission through a review of the Standards for Approval, pursuant to Sections 30.221 and 30.415 of the Zoning Ordinance. She concluded with a recommendation for approval with three proposed conditions. She said, in addition to those conditions, she would like to ask that the Commission include review and approval by the Fire Marshal after the temporary trailer was installed. Ms. Johnston concluded the report by suggesting that the Commission expand the time for the temporary trailer through the end of February because of the uncertainties associated with remodeling and reconstruction.

The Vice Chair asked if there would be any outdoor lighting of the trailer. Ms. Johnston said she thought the only lighting would be a single light at the trailer window.

Ms. Farmer asked if there was a bathroom in the trailer. Ms. Johnston indicated no. She said perhaps the staff would be able to continue to use the facilities in the existing building. She said if that was not possible, the staff would arrange to put a portable restroom on site.

Mr. Loy asked if there would be wastewater coming from the trailer. Ms. Johnston said she thought it would be handled like a food truck. Mr. Loy said then they would have

to have a holding tank, and the tank would have to be pumped. Ms. Johnson said she believed that was correct.

Vice Chair Jackson asked if there was any comments from the public, and hearing none, called for Commission deliberations.

Mr. Loy said he thought the application was very straightforward and thought the request should be approved. He then made a motion to approve the special exception use permit subject to the conditions recommended by the Planning Director which were as follows:

1. Temporary directional signage should be located near both entrances to the subject property, indicating that only drive-through traffic should continue around the back of the building to its west side – all other motorists should exit to the east. If larger than two square feet in size, such signs would require a permit.
2. A line of traffic cones or similar guidance devices or barriers should be placed parallel to the trailer, delineating a temporary vehicle circulation aisle approximately 20 feet wide along the west side of the property. This arrangement will likely mean that some of the parking spaces along the west property line will be unavailable for patrons or other motorists to use throughout the duration of the project, and the control devices should be placed so that this restriction is readily apparent.
3. Given that the applicant will be offering drive-through service only, Staff is comfortable in not requiring that the applicant provide portable public restroom facilities. However, if the Planning Commission does require such a condition of approval, permit Township Staff to administratively review and approve the placement of the facilities.
4. The Fire Marshal review and approve the location of the temporary trailer after its installation.
5. Allow the trailer to remain on the site through the end of February.

Mr. Boulding, Sr. seconded the motion. Vice Chair Jackson asked if there was further discussion. Hearing none, she called for a vote on the motion. The motion passed unanimously.

**AMENDMENT TO CONCEPT PLAN (OPEN SPACE DEVELOPMENT – HAMPTON COVE) - REQUEST TO ELIMINATE SIDEWALKS WITHIN THE HAMPTON COVE SITE CONDOMINIUM DEVELOPED UNDER THE OPEN SPACE COMMUNITY SPECIAL EXCEPTION USE. ORIGINALLY APPROVED IN DECEMBER 2005. PARCEL NUMBER 3905-15-310-027**

Vice Chair Jackson indicated that the next item on the agenda was a request to eliminate sidewalks within the Hampton Cove Site Condominium development under the Open Space Community special exception use. She said this was originally approved in December of 2005. Parcel Number 3905-15-310-027.

Vice Chair Jackson called for a report from the Planning Director. The Planning Director submitted her report dated January 5, 2016, to the Planning Commission, and the same is incorporated herein by reference.

Ms. Johnston explained that Hampton Cove was approved in August of 2005, prior to any requirement for sidewalk development. She said that the project stalled during the housing crash of 2007-2008, but new construction was currently underway. However, she indicated the applicant would like to eliminate the installation of sidewalks due to concerns over storm water runoff to the wetlands to the east, as well as opposition from the current homeowners in the development.

The Planning Director then concluded her report with the following three possible alternatives for the Commission in response to the applicant's request.

1. Approve the request and remove the sidewalks from the development.
2. Require Sawgrass Lane to become one-way for the length of the circle drive. Stripe a 4-foot multi-use path on the asphalt along one side of the Lane, reducing the drive-isle to 20 feet in width.
3. Deny the request, maintain the original approval and require the 5-foot sidewalk on Sawgrass Lane.

She also noted that depending on the alternative they chose, they might have to address what would happen at the entrance before the circular drive.

The Vice Chair asked Ms. Johnston who would enforce the one-way provision if it was imposed. Ms. Johnston said it would be enforced most likely by signage.

Mr. Antosz asked how they would address parking in the street. Ms. Johnston said that could be problem, but again, could be addressed by limiting parking to one side of the street and appropriate signage.

Mr. Loy said that the Township had fought quite hard to get sidewalks, and he was in favor of a one-way street, with at least striping for a walk way, but he thought that the sidewalks should remain.

The Vice Chair asked if there were any plans for non-pedestrian pathways along M-43. Ms. Johnston said none were currently planned for that area. Ms. Johnston did note that the development was approved before sidewalks were required, and took the

Commission through an analysis of development where sidewalks were not required: Kellison Woods, Autumn View and Old Savannah. She also noted that environmental issues dealing with the impervious surface of the sidewalks was significant, given the proximity of the development to the wetlands.

Ms. Farmer asked what they might do with the entrance if they did away with the sidewalks within the development. Ms. Johnston said perhaps they could have a sidewalk at the entrance or simply dispense with the requirement for any type of non-motorized pathway in that area.

The Vice Chair then asked to hear from the applicant.

Mr. Argel Irish introduced himself to the Planning Commission. He said he appreciated the Commission taking time to review his request. He said one of the motivating factors in requesting the removal of the sidewalks was that the development was meant to be a more naturalized development. He noted that the building footprint for each of the sites was very limited and required the remainder of the property to remain in a natural state. He stated that putting in sidewalks was sort of counter-intuitive to the type of development that they were proposing. He said he felt pressured when they originally proposed the development because of the Planning Director's proposals regarding future development in the Township. He also noted that there was a system of rain gardens proposed to be installed to manage the storm water runoff and that sidewalks might compromise or at least increase the runoff to those rain gardens.

Mr. Irish added that the owners of the current homes in this development do not want sidewalks. He explained that if they had to develop the sidewalks within the site, that the sidewalks would be only nine or ten feet from the front door of most of the homes in the development. He also said that they were concerned about the wetlands and that adding any additional impervious surface would be counter-productive. He stated that the proposed rain gardens would likely not be as effective if they had to absorb the additional infiltration of water from the sidewalks.

Ms. Farmer asked about the gazebo on site. Mr. Irish indicated that it was there and that they would put in a wood-chip trail to access the gazebo. Ms. Farmer noted that people would likely walk within the community to get to that gazebo. Mr. Irish agreed, but said he did not think having a sidewalk or a striped trail would necessarily lead to people using that as the main method of access. He said he thought people would likely still walk in the street.

Mr. Boulding, Sr. said that he was not unduly concerned about dispensing with the sidewalks, given the very limited distance within the site. He asked what the distance was from the entrance to the exit of the site. Mr. Irish said he thought it was less than one-quarter mile.

Mr. Irish again noted that he did not want to put the sidewalks in 2005, but he felt pressured to because of what the Planning Department saw coming down the pipeline

for future development in the Township. He said that the site itself was likely to be a gated community in the not-to-distant future and so there certainly would not be any outside individuals accessing the site, especially on foot.

Vice Chair Jackson asked if there were any further questions of Mr. Irish, and hearing none, called for Commission deliberation.

Mr. Loy said that the Commission knew his stance.

Mr. Boulding, Sr. said he was in favor of dispensing with the sidewalks and putting in a designated striped area for pedestrian traffic.

Mr. Antosz said he agreed with Mr. Loy and that if a path was put in on the road that it be striped.

Vice Chair Jackson noted that this property was Rural Residential, and she would not oppose the striping, but she also saw the wisdom in reducing the impervious surface. She also noted that, even if they striped a particular area for pedestrian traffic, it would likely not enhance safety.

Mr. Loy asked if there was a rain garden for each lot. Mr. Irish said that there would be.

Ms. Avery asked if the building envelopes for Lots 1, 2 and 3 could be moved. Mr. Irish said that would be extremely difficult because Kalamazoo College had raised concerns over the possible damage to the wetlands to the east. Attorney Porter noted that Kalamazoo College had raised serious concerns over the development, and thought that changing any of the building envelopes would be problematic.

Ms. Farmer said that she thought they could dispense with the sidewalks because this was not the type of development that expected urban facilities. However, she said she was torn between simply dispensing with the sidewalks or requiring a one-way restriction on the road and a striped area for pedestrian traffic. She raised a concern regarding setting an undesirable precedent.

Attorney Porter said, if the Commission wished to dispense with the sidewalks and not set an unwanted precedent that the Commissioners' best option would be to make a finding that the developer was pressured to put in the sidewalk at the time of the original approval when no sidewalks were required by ordinance, and therefore, he should be granted relief.

Vice Chair Jackson asked for further discussion, and hearing none, called for a motion. Ms. Farmer made a motion to dispense with the obligation for the sidewalks because they were not a requirement at the time that the development was commenced. The motion was seconded by Vice Chair Jackson. The Vice Chair called for a roll call vote. The following Commissioners voted aye: Kimberly Avery, Dusty Farmer, Wiley

Boulding, Sr., and Vice Chair Jackson. The following voted nay: Millard Loy and Fred Antosz. The Vice Chair said the motion passed 4 to 2.

## **OLD BUSINESS**

Vice Chair Jackson asked if there was any old business.

Ms. Johnston indicated that the Site Plan Review Ordinance Amendments were moved to the January 28, 2016 meeting to follow their new schedule of site development the first meeting of the month and other planning work the second meeting.

The Vice Chair also noted that there would be a joint meeting of all boards on Tuesday, February 16, 2016 at 6:00 pm.

The Vice Chair then asked a question as whether there would also be a Planning Commission meeting on February 25 because it was not on their calendar. Ms. Johnston said that there would be a meeting on February 25.

## **ANY OTHER BUSINESS**

Vice Chair asked if there was other business.

### **a. Election of Officers – Chair, Vice Chair and Secretary.**

Ms. Johnston requested the Planning Commission elect its officers. Attorney Porter noted that the Commission needed to elect a Chair, Vice Chair and Secretary. He said they could do that as a slate or individually.

Mr. Antosz then made a motion to make Pam Jackson the Chairman of the Planning Commission. The motion was seconded by Mr. Loy. Ms. Jackson said that due to the time constraints of her job and other commitments, she respectfully declined the position.

The Vice Chair then made a motion to appoint Millard Loy as Chairman of the Planning Commission. The motion was seconded by Ms. Farmer. The Vice Chair called for a vote on the motion. The motion passed unanimously.

Mr. Loy then made a motion to make Ms. Jackson Vice Chair. The motion was seconded by Ms. Farmer. Ms. Jackson again said she respectfully declined the position due to her other commitments.

Ms. Jackson then made a motion to appoint Mr. Antosz as the Vice Chair. The motion was seconded by Ms. Farmer. The Chair called for a vote on the motion, and the motion passed unanimously.



Mr. Loy then made a motion to elect Ms. Jackson as the Secretary of the Planning Commission. Mr. Antosz seconded the motion. A vote was held on the motion, and the motion passed unanimously.

b. Appoint Planning Commission Liaison to Zoning Board of Appeals.

The Vice Chair asked if Mr. Loy would continue to serve as the liaison of the Zoning Board of Appeals. Mr. Loy said that he had another year on the ZBA and would be happy to serve as the liaison to that Board. A motion was made by Ms. Farmer to continue Mr. Loy's representation as the Planning Commission liaison to the Zoning Board of Appeals. The motion was seconded by Vice Chair Jackson. The Vice Chair called for a vote on the motion, and the motion passed unanimously.

### **PLANNING COMMISSIONER COMMENTS/ADJOURNMENT**

Ms. Jackson told the other Planning Commission members that she appreciated their votes of confidence, but that she simply did not have the time to serve in the Chairman position.

Vice Chair Jackson asked if there were any other issues.

Ms. Johnston asked the Planning Commissioners if they wanted to invite Mr. Schley to one of their meetings to acknowledge his past efforts on the Planning Commission. A suggestion was made to do that at the joint meeting of the boards, and all the members of the Planning Commission heartily concurred.

### **ADJOURNMENT**

There being no further business, Mr. Loy made a motion to adjourn, which was seconded by Ms. Farmer. Upon vote on the motion, the motion passed unanimously. The meeting was adjourned at 8:05 p.m.

Minutes prepared:  
January 19, 2016

Minutes approved:  
January 28, 2016