

OSHTEMO CHARTER TOWNSHIP

PLANNING COMMISSION

MINUTES OF A MEETING HELD JANUARY 24, 2013

Agenda

L.L. HARRIS & ASSOCIATES, INC – SPECIAL EXCEPTION USE – REGARDING THE ADDITION OF A DRIVE-THROUGH AND ASSOCIATED IMPROVEMENTS TO AN EXISTING COMMERCIAL CENTER LOCATED AT 5015 WEST MAIN STREET IN THE C-LOCAL BUSINESS DISTRICT (PARCEL #3905-13-430-041).

REVIEW OF 2012 ANNUAL REPORT

DISCUSSION OF ZONING REGULATIONS ON NUMBER OF DOGS PERMITTED

A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, January 24, 2013, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

MEMBERS PRESENT: Kitty Gelling, Chairperson
 Frederick J. Antosz
 Wiley Boulding, Sr.
 Dusty Farmer
 Millard Loy
 Terry Schley

MEMBERS ABSENT: Richard Skalski

Also present were Greg Milliken, Planning Director, Attorney James Porter, and one other interested person.

Call to Order and Pledge of Allegiance

The meeting was called to order by the Chairperson 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. The Chairperson indicated that she would like to add the Introduction of Mr. Antosz to the agenda as item #4. Hearing no other changes, she called for a motion to approve the Agenda, as amended. Mr. Loy made a motion to accept the Agenda, as amended. Mr. Boulding, Sr. seconded the motion. The Chairperson called for a vote on the motion, and the motion passed unanimously.

Introduction of New Member

The Chairperson introduced Mr. Antosz as a new member on the Planning Commission. He comes to the group with a great deal of experience. Because of the number of new members, and given the fact he had been absent at the last meeting, she asked each of the Planning Commissioners to introduce themselves.

Public Comment on Non-Agenda Items

The Chairperson called for public comment on non-agenda items. There being none, she proceeded to the next item on the agenda.

Minutes

The Chairperson asked if there were any additions, deletions or corrections to the minutes of January 10, 2013. Mr. Boulding, Sr. indicated he had concerns about the accuracy of the description of the property identified on page three (3) and hoped someone could provide a suggestion that would not give the idea that the property had access to US-131. The Commission discussed the sentence and various ideas. Mr. Milliken was asked to make an adjustment. Mr. Loy made a motion to approve the minutes, as amended. The motion was seconded by Mr. Boulding, Sr. The Chairperson called for a vote on the motion, and the motion passed unanimously.

L.L. HARRIS & ASSOCIATES, INC – SPECIAL EXCEPTION USE – REGARDING THE ADDITION OF A DRIVE-THROUGH AND ASSOCIATED IMPROVEMENTS TO AN EXISTING COMMERCIAL CENTER LOCATED AT 5015 WEST MAIN STREET IN THE C-LOCAL BUSINESS DISTRICT (PARCEL #3905-13-430-041).

The Chairperson stated that the next item on the agenda involved the proposed redevelopment of the West Century Center.

Mr. Milliken stated that this is the third time this item has been on the agenda. The subject property is located at the southwest corner of West Main Street and Drake Road and is home to Taco Bell, Hunan Gardens, and formerly Blockbuster. The applicants are proposing significant façade and site improvements in addition to a redevelopment of the end-cap that was the former home to Blockbuster Video.

Mr. Milliken indicated that the proposed redevelopment of the Blockbuster space involved a drive-through, which is a special exception use in the C-Local Business District. However, after working through a couple of configurations and discussing the proposals with Planning and Fire Department personnel, the applicants have determined that they cannot proceed with the drive-through portion of the project at this time and have requested a withdrawal.

The Chairperson indicated that she would be seeking a motion for withdrawal after discussion.

Because the Planning Commission had tabled the public hearing to this date specifically, the Chairperson opened the public hearing at 7:14pm. Hearing no comments, she closed the public hearing at 7:15pm.

Hearing no further discussion, Mr. Schley made a motion to accept the withdrawal of the applicants' request for special exception use approval. Mr. Antosz seconded the motion. The motion was approved unanimously.

The Chairperson then asked the Commission members for their opinions regarding the applicants' request for a refund of the application fee, which had been noted in a letter to Mr. Milliken and included in the Commissioners' packets. Being cognizant of the fact that the ultimate decision to retain/return the fees rested with Supervisor Libby Heiny-Cogswell, the Chairperson was desirous of providing the thoughts of the Planning Commissioners to better assist Ms. Heiny-Cogswell in arriving at a mutually fair decision.

Mr. Schley indicated that he believed once the application is filed, there is no guarantee of success. He did not think a refund should be granted.

Mr. Loy stated that he thought maybe half of the fee should be refunded due to the costs that had been expended.

Mr. Boulding, Sr. said that a reasonable amount should be returned after the Township's expenses have been taken out based on the work that was done.

The Chairperson indicated that she had spoken with Fire Marshall Jim Wiley, and he indicated that he had spent approximately 4-6 hours on this project. In addition, the Township had incurred expenses and expended resources involving the Planning Department, Attorney Porter, and publishing fees. Further, it had been on and off the agenda time and time again.

The Chairperson suggested that after the Township's accrued costs had been configured, the balance could be applied toward future application fees. This would provide an incentive for them to continue forward with their project.

Mr. Antosz stated that he would think if a fee is paid, he would not expect to get it back. He did wonder what the costs were.

Ms. Farmer stated that she did not think it should be returned but thought it was reasonable to apply any remaining balance to future costs.

Mr. Schley stated he wanted to state his opposition to any refund as it may set a dangerous precedent for the future. Further, he believed the Township Board established the fees and not the Planning Commission, so he asked why this was even being discussed. The Chairperson referred to the attached letter and was requesting input to be forwarded to the Supervisor.

Mr. Porter indicated that the most the Commission can do is make a recommendation to the Supervisor as to how to address the request.

The Chairperson made a motion to recommend to the Supervisor that the balance of the application fee after Township costs have been removed not be returned to the applicant, but be kept and applied to future application fees and that the Planning Commissioner comments be provided. Ms. Farmer seconded the motion. The motion was approved 5-1 with Mr. Schley dissenting.

2012 ANNUAL REPORT

Mr. Milliken presented the Planning Annual Report for 2012. He indicated that the Michigan Planning Enabling Act requires that the Planning Commission provide a report to the Township Board on its activities for the year. He indicated that staff had decided to expand the report to include not only the activities of the Planning Commission but also the Zoning Board of Appeals, Code Enforcement Officer, and Planning Staff. In doing so, this provides a more complete picture of the planning activities in the Township.

In reference to Temporary Outdoor Events, the Chairperson asked if Texas Corral had obtained one for their fundraising event for the Burn Camp. Mr. Milliken indicated he was not aware of one but that he would check with Zoning Administrator Karen High before forwarding the report.

Mr. Antosz indicated that he thought it was a helpful report as a new member to be able to see what had been previously discussed.

The Chairperson asked if there were any new or additional issues that the Commissioners felt should be reviewed looking ahead and included as a goal.

Mr. Loy suggested reviewing the language on outdoor storage and/or PODS type units. The Chairperson stated she believed that Mr. VandenBrand had previously done research on this subject prior to leaving Oshtemo Township, and Mr. Milliken said he would do some research.

Mr. Boulding, Sr. said that he noticed a lot of tree trimming occurring along power lines and in the right-of-ways, and felt this trimming could impact the character of the community by removing the established canopy. He wondered if it was possible to have any control over such activities. The Chairperson asked Mr. Porter if he could please look into this and the extent to which the Township has the ability to provide control, if any. The utilities certainly have protected rights but perhaps there are some controls. Mr. Schley suggested that Staff talk with Chris Forth at the City of Portage about their standards on this subject.

The Chairperson asked for a motion to accept the 2012 Annual Planning Report. Mr. Boulding, Sr. made a motion to accept the 2012 Annual Planning Report. Mr. Antosz seconded the motion. The motion was approved unanimously.

DISCUSSION OF ZONING REGULATIONS ON NUMBER OF DOGS PERMITTED

Mr. Milliken stated that the Township Zoning Ordinance currently allows a maximum of three dogs per residence on platted properties and nine dogs per residence on unplatted properties with the exception of new litters. He reviewed the standards for other communities in the surrounding region and found them all to be similar to those in Oshtemo.

The Chairperson explained that she knows of at least one instance of a resident that has four dogs on a platted lot. She wanted to review the standard with the Commission to see if any changes should be made.

Mr. Schley indicated that as a former dog owner he understands the responsibilities and challenges associated with dog ownership. He also understands the need to work together within a platted environment. He noted that the Township standards are not uncommon. He suggested that if the Commission desired to make changes, the Animal Legal and Historical Center at Michigan State University could provide additional research and background materials. In sum, he stated he does not have a problem with this requirement.

Mr. Loy stated that he does not have a problem with the Township standard. He noted that there is a lot of unplatted land in the Township, some of which is densely developed. Perhaps if that portion of the standard were evaluated, issues would be avoided. Larger facilities could be treated like kennels.

Mr. Boulding, Sr. said that he believes three is a sufficient number in platted areas. Dogs like to run and more dogs require more attention. He said there is a need to be respectful of neighbors.

Mr. Antosz stated he has no problems with three dogs. He has problems with dogs that bark a lot and that charge after people when they walk by. He does not have a problem with the language.

Ms. Farmer said that she has no problem with three as more than that seems unreasonable. However, nine in unplatted areas seems like a lot of dogs and can lead to problems.

Mr. Milliken indicated that the nine dogs allowed in unplatted areas was unique relative to the standards in other communities.

Mr. Porter stated that the concern legally with the disparity in the standards is in consistency and equality. There are unplatted lots that are smaller than platted lots. He wondered why the smaller unplatted lots should be allowed so many more dogs than the larger platted lots. He suggested that perhaps the limit in the unplatted areas could be tied to the size of the parcel.

The Chairperson asked how it is handled if there is a house identified as having four dogs, but there is no nuisance generated from it.

Mr. Porter indicated that the Township operates on a complaint basis. If someone complains, then the Township has an obligation to act on it.

Ms. Farmer asked how this situation came up.

The Chairperson indicated that new homeowners had moved into the neighborhood and in putting up a new fence, it was noted that there were four dogs on the premises. She asked Staff to please review the requirement for nine dogs in unplatted areas.

ANY OTHER BUSINESS

The Chairperson inquired as to what was slated for the February 14th agenda thus far, and Mr. Milliken indicated that there was nothing currently on the agenda at the present time.

Mr. Antosz asked for clarification about the discussion at the last meeting about research and preparation prior to a meeting. As a scientist, he is used to doing a considerable amount of research.

Mr. Porter reviewed the importance of basing a decision on the information presented at the meeting and not on independent research or analysis conducted prior to the meeting. The Chairperson clarified it is certainly acceptable to drive by a location for familiarization purposes, but not to get out and/or engage with public. Mr. Schley agreed and emphasized the importance of not formulating an opinion prior to the hearing.

The Commission discussed site visits and preparation and how to avoid issues and problems for the Township and applicants.

PLANNING COMMISSIONER COMMENTS

The Chairperson reminded the Planning Commission of the Joint Meeting on February 19th at 6:00 p.m. She also reiterated her compliments to the staff regarding the Annual Planning Report, and thanked them for their efforts and detailed summary.

ADJOURNMENT

Having exhausted the agenda, and there being no other business to discuss, the Chairperson adjourned the Planning Commission meeting at approximately 8:02 p.m.

Minutes Prepared:
January 26, 2013

Minutes Approved:
February 14, 2013