

OSHTEMO CHARTER TOWNSHIP

PLANNING COMMISSION

MINUTES OF A SPECIAL MEETING HELD MAY 31, 2013

Agenda

PUBLIC HEARING – TO CONDUCT SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF GLAS ASSOCIATES ON BEHALF OF DOUG WALTERS FOR A NEW AUTO SERVICE FACILITY LOCATED AT 5617 WEST MICHIGAN AVENUE IN THE C LOCAL BUSINESS DISTRICT (PARCEL #3905-25-190-061)

PUBLIC HEARING – TO CONDUCT SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF JAKE’S FIREWORKS INC. FOR OUTDOOR SALES FROM JUNE 20 TO JULY 5, 2013 IN HARDING’S MARKET PARKING LOT LOCATED AT 6430 WEST STADIUM DRIVE WITHIN THE VC VILLAGE COMMERCIAL DISTRICT (PARCEL #3905-26-465-022)

A Special Meeting of the Oshtemo Charter Township Planning Commission was held on Friday, May 31, 2013, commencing at approximately 12:00 noon at the Oshtemo Charter Township Hall.

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

MEMBERS ABSENT: Dusty Farmer

Also present were Karen High, Zoning Administrator, Attorney James Porter, Meeting Transcriptionist Martha Coash, and five interested persons.

Call to Order and Pledge of Allegiance

The meeting was called to order by Chairperson Gelling at approximately 12:00 noon, 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. Skalski made a motion to accept the agenda as presented. Mr. Schley **seconded the motion**. **The motion passed** unanimously.

Public Comment on Non-Agenda Items

Chairperson Gelling asked if anyone from the public would like to comment on non-agenda items.

There being no comments, the Chairperson closed out this agenda item and proceeded to the next agenda item.

PUBLIC HEARING – TO CONDUCT SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF GLAS ASSOCIATES ON BEHALF OF DOUG WALTERS FOR A NEW AUTO SERVICE FACILITY LOCATED AT 5617 WEST MICHIGAN AVENUE IN THE C LOCAL BUSINESS DISTRICT (PARCEL #3905-25-190-061)

Chairperson Gelling asked Ms. Karen High, Zoning Administrator, to please review and expand upon this item for the Commissioners.

Ms. High showed an aerial view of the property and explained that Glas Associates has submitted a special exception use and site plan review on behalf of Doug Walters of Bud & Doug Walters Auto Sales to construct a service facility for automobiles at 5617 W. Michigan Avenue. The site is located on the south side of Michigan Avenue between the intersection of Stadium Drive and 11th Street. The property is 1.41 acres in size and is located in the C-Local Business zoning district. The site is currently occupied by a single family home that would be demolished and replaced by the proposed development if approved.

She showed the proposed plan and said that in the C district, “filling stations, carwashes, public garages or service stations, excluding auto body and auto paint shops” are identified as a special exception use. The applicant has provided a description of the proposed business which is consistent with the type of operation that exists at the car dealerships along Stadium Drive west of the subject property. The location will provide a site for the dealership to inspect vehicles for potential purchase, to clean vehicles prior to purchase, and to provide routine service to customers following purchase. It would cater primarily to the dealership and customers of the dealership as opposed to the general public. The facility would provide minor auto service and would have traditional business hours.

Ms. High continued, saying the request involves development of a new 5,225 square foot building. It would include one access point on West Michigan Avenue, twelve parking spaces along the north (front) side of the building and 14 additional spaces on the south (rear) side of the building within a gated, fenced area.

She showed elevation drawings to the Commissioners that include one overhead door on the front side of the building that would be the public entry for vehicles and would be visible from West Michigan Avenue. Six overhead doors would be located on the south side of the building, accessible by staff that would drive vehicles from the public access point to the service bays. It is not anticipated there will be a need for overnight parking of vehicles due to the minor nature of service being provided at the site, but if necessary parking would occur in the secured rear lot.

Ms. High added the Zoning Ordinance requires all uses undergoing site plan review to provide a sidewalk, but since there is currently no sidewalk along Michigan Avenue, the PC may consider waiving this requirement. She added that they could choose to require a sidewalk escrow so that a sidewalk could be constructed if/when other sidewalks are constructed on Michigan Avenue.

Next, she showed a landscape plan and explained that the property has a significant number of existing trees and landscaping. The applicant is proposing to keep trees along the property line, which will satisfy the landscaping requirement along the east, west and south property lines. New landscaping is provided along Michigan Avenue as required by the landscaping requirements. She added that the Ordinance requires 390 square feet of landscaping, two canopy trees and four shrubs in the parking lot area. The applicant is proposing over 400 square feet of landscaping area with two canopy trees and two understory trees.

She also pointed out the Zoning Ordinance limits building mounted lights at a maximum of 175 watts, unless used strictly for façade lighting. The site plan shows six building mounted lights at 250 watts. This will require the lights be reduced in intensity or additional details regarding the light fixtures be provided.

Ms. High indicated both the Township Engineer and Fire Marshall have reviewed the plans and pointed out their comments were provided as part of the packet for Commissioners' review. She noted the Engineer's comments regarding storm water had been addressed on revised plans that had been provided to the PC.

Ms. High reviewed the "Standards for Approval" and noted the proposal appears to meet the standards. She noted that since this is a special exception use and site plan review, the Planning Commission assumes responsibility for the site plan review as well as the special exception use and pointed out that Section 82.800 provides the criteria for the approval of site plans.

Chairperson Gelling thanked Ms. High for her review of the proposal and asked if Commissioners had any questions about the proposed use.

Mr. Schley had several questions, including whether Bradford Pear trees, which were specified in the landscape plan, are acceptable, and whether staff will review the planned loading zone area. He also had questions regarding the location of the driveway and the width of the green space requirement along the south and east boundaries. He suggested that staff approval of the final landscape plan be included in any motion to approve the request.

Hearing no further questions from Commissioners, Chairperson Gelling asked the applicant to please step to the podium.

Mr. Adam Harvey of Glas Associates, 6339 Stadium Drive, on behalf of Bud and Doug Walters Auto Sales, noted six (6) service bays are intended as part of the plan. He added the light requirements are very preliminary and explained that they are applying for site plan approval with the expectation that final designs will be prepared after approval. The lighting fixtures will be attached to the building and will comply with zoning requirements. He noted it is the intent to keep a lot of trees for screening purposes but to keep the site functional for operation of the business; if Bradford Pears are not acceptable, a suitable substitute will be made. The business will be a well maintained, clean operation and any car storage will be on a short term basis at the rear of the building in the gated fenced in area.

Mr. Harvey continued, saying the business will generate minimal deliveries, mostly at the rear of the building. One full-time employee in the office area and six (6) technicians will be on site. There will be a drive-thru bay for customers who are there to check in and drop off their car for repair and a waiting room for owners, who will drive their cars away after repair, which will be done in the rear of the building. If the repair takes longer due to parts needing to be ordered or other circumstances, the car will be parked in the rear fenced in area. An oil facility will be at the rear of the building.

Chairperson Gelling noted "traditional working hours" were delineated in the proposal and asked what specific hours the business would be open, what the estimated increase in traffic might be on Michigan Avenue due to the business, and whether repairs would be for Bud & Doug Walters Auto customers only.

Mr. Harvey replied the hours would be 8-6:00 p.m. Monday – Friday, 8-2:00 p.m. Saturday, and no Sunday hours.

Mr. Bud Walters, 1600 S. Drake Road, estimated the increase in traffic would be 5-10 cars per day for servicing and some delivery trucks. He said service would be provided for their customers, pre-purchase inspections would be done and that some outside service would be accepted as well.

Chairperson Gelling noted oil/hazardous materials would be stored in double type barrels and asked how an oil spill in the drain would be handled.

Mr. Harvey indicated the double tanks would be housed in a sealed room and that an oil separator would catch any oil seepage/spill.

Mr. Schley asked whether there would be car carrier deliveries, paint or body work done, if the parking gates would be open during the day, and whether there would be trash recycling.

Mr. Walters said there would be no car carrier deliveries or paint or body work done, that the parking gates would be open during the day, and that there would be recycling of oil but a recycling dumpster is not planned

Mr. Antosz asked about what oil tanks would be on site, whether a permit for them had been obtained and how used oil would be picked up.

Mr. Harvey indicated there would be 4 tanks on site, each with a 250 gallon capacity; a permit has not yet been obtained.

Mr. Walters said they plan to purchase oil from Lyden Oil Company which will also pick up the used oil. He said the Substance Reporting Form would be amended to reflect that.

Chairperson Gelling asked for clarification regarding outside storage.

Mr. Walters said if there is any outside storage it would be short term at the rear of the building for vehicles only; no materials will be stored outside.

Mr. Boulding, Sr. asked whether the size and depth of the planned retention basin would require fencing.

Mr. Harvey said the basin will not require fencing.

Hearing no further questions from Commissioners, the Chairperson asked for public comment. There was no public comment, but Ms. High clarified green space area requirements to answer an earlier question from Mr. Schley. She noted that 10' of green space is required when a property in the "C" Zoning District abuts another property in the "C" Zoning District. Regarding access management guidelines, she noted that she wasn't involved in the review but assumed that since a driveway exists and was being shifted slightly, it met the access management guidelines. Mr. Schley noted that the site plan would need to be amended to reflect the 10' green space requirement.

Chairperson Gelling asked whether the land had been purchased yet. Mr. Walters replied the land had not yet been purchased.

Mr. Skalski asked whether the proposed depth of the retention basin has been increased as suggested by the Engineer's report. Mr. Harvey indicated that it has been increased.

Mr. Boulding, Sr. asked where plowed snow would be put. Mr. Harvey replied it would be put on the east/northeast side of the property toward the retention pond.

Chairperson Gelling indicated the Commission would move to deliberations at this point and asked for Commissioner comments.

Mr. Antosz said he likes the fact that trees will be retained but is concerned about environmental safety regarding oil storage and removal.

Attorney Porter noted many of these types of issues are addressed by code.

Mr. Skalski noted the request is for an area that is in transition to commercial and includes several automobile related businesses. Currently half the homes there are for sale. The business is suitable and appropriate for the area. The applicants maintain their current business well and he feels this would be a nice development for the location.

Mr. Boulding, Sr. also felt the business would be a good addition to the area; his only concern, like Mr. Antosz, is a potential hazardous spill.

Mr. Loy asked how the oil tanks would be filled. Mr. Walters said they will probably be filled from a truck rather than delivered in barrels. Mr. Loy thinks this will be a good business for the area.

Mr. Schley asked Attorney Porter about the green space required; that the plan shows 8 ft. rather than the required 10 ft. He believed the ability exists to increase that amount but not to decrease it.

Attorney Porter confirmed that is correct.

Mr. Schley said his review of the site plan leads him to believe the asphalt area could be reduced by 2 ft. in order to increase the green space to 10 ft. to meet the requirement and with that change he could support the application.

Chairperson Gelling said she would like the escrow in place for a public sidewalk, and would like the Fire Marshall's concerns and the Engineer's list to be included in the motion, as well as requiring a final landscape plan be submitted to staff for approval.

Mr. Schley added he would like to address the potential for a problem with cars being parked outside for a period of time since the Township has historically had a problem with auto businesses in that regard and would like to give the heads up to the owner in advance.

Attorney Porter agreed, saying the Township has had to take enforcement action for cars left outside too long.

Chairperson Gelling asked Mr. Walters if he would be opposed to putting up additional outdoor fencing if needed. Ms. High noted the site plan now includes a chain link fence in the rear of the building.

Mr. Walters said they would put up opaque fencing if needed, but they do not want cars parked at the facility either, and assured the Commission they would commit to ensuring any cars left outside would be hidden from the street at the rear of the building and that the area will be kept clear.

Hearing no further comments from Commissioners or the public, Chairperson Gelling confirmed that two motions were needed, one for the special exception use and one for the site plan review.

Mr. Schley made a **motion** to approve the special exception use as requested contingent upon:

1. a requirement to have escrow in place for a future sidewalk
2. that the concerns from the Fire Marshall be addressed
3. the concerns from the Engineer be addressed appropriately.

The **motion was seconded** by Mr. Skalski. The **motion carried** unanimously.

Mr. Schley made a **motion** to approve the site plan with the following condition:

1. outdoor lighting in compliance with Township requirements including presenting staff with fixture types with photo metrics and details on what that lighting will include
2. the height of the dumpster screen is 6 feet
3. the design of the building meets the spirit and intent of ordinances
4. that a sign permit be acquired for any signage
5. that a driveway permit be secured from Kalamazoo County Road Commission
6. that a site plan approval is subject to approval from the Fire Dept.
7. that the owners appropriately address the list of concerns from the Township Engineer
8. that landscaping plan be submitted to staff for review and approval

9. that the 10 foot wide green space area be provided on the perimeter of the lot adjacent to property in the "C" Zoning District
10. that no hazardous materials be stored outside.

The **motion was seconded** by Mr. Skalski. The **motion carried** unanimously.

Chairperson Gelling thanked Mr. Walters and Mr. Harvey for their patience and for attending the Special Meeting, and apologized for the inconvenience given that the Kalamazoo Gazette had not provided adequate Notice for Publication and thus necessitating the Special Meeting. She then opened the second scheduled public hearing.

PUBLIC HEARING – TO CONDUCT SPECIAL EXCEPTION USE AND SITE PLAN REVIEW OF THE APPLICATION OF JAKE’S FIREWORKS INC. FOR OUTDOOR SALES FROM JUNE 20 TO JULY 5, 2013 IN HARDING’S MARKET PARKING LOT LOCATED AT 6430 WEST STADIUM DRIVE WITHIN THE VC VILLAGE COMMERCIAL DISTRICT (PARCEL #3905-26-465-022)

Chairperson Gelling asked Ms. High to please review and expand upon the special exception use and site plan application from Jake’s Fireworks.

Ms. High explained that the applicant is seeking to locate a temporary fireworks sales tent in the parking lot of Harding’s Market at the corner of 9th Street and Stadium Drive and that such a use is a special exception use in the VC zoning district because it will last more than one day. Section 33.213 of the Ordinance contains specific standards for temporary outdoor events. She said the applicants are seeking to operate from June 20, 2013 to July 5, 2013, and that although specific dates have not yet been confirmed, the applicant has indicated the tent would be erected on June 18, 2013 and removed by July 7, 2013.

She continued, saying the applicant proposes a 40’ by 40’, (1600 square foot) tent for the display and retail sale of a full line of fireworks, ranging from sparklers to aerals. It is proposed to 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. The tent will be located in approximately the same location as last year, although the tent used last year was 30’ x 50’. As with last year, the tent will need to be set back 10 feet from the edge of the parking lot pavement to satisfy the setback requirement of the Village Form Based Code Overlay District.

Ms. High said the tent and the required buffer to surrounding vehicles will be centrally located within the parking lot aisle and will occupy 10-15 of the current parking spaces at the site which is not anticipated to be a problem for the center. The facility will be open from 9 – 9 p.m. during its period of operation. However, the applicant has

indicated it is likely to be open a little later on the days approaching July 4, 2013 based on customer interest. During the night, when closed, an employee will remain on site for security purposes.

She also explained that during last year's review, concerns were expressed regarding potential traffic and circulation impacts near the entry drive to Harding's and the Stadium/Parkview intersection. As a result, Township personnel contacted the Sheriff's Department, Fire Department and Code Enforcement Office for input. The Fire Department and Code Enforcement Office indicated there were no complaints filed or issues identified with the tent last year. No comments were received from the Sheriff's Department. In addition, the Fire Department has reviewed the proposed plans and had no comments. The Fire Marshall indicated the applicant has submitted evidence of an approved plan review by the State of Michigan Bureau of Fire Service covering all the requirements that should be needed.

Ms. High reviewed the Standards for approval and said the special exception use appears to meet all criteria and that it is consistent with existing uses in the VC district as well as within the surrounding commercial center. She recommended approval of the proposed use with two conditions:

- 1) The applicant will comply with any comments or issues from the Fire Department during the course of this review and/or any subsequent inspection.
- 2) Any signage shall require a sign permit in conformance with the standards of the Township Zoning Ordinance.

Chairperson Gelling thanked Ms. High for her explanation and recommendation and asked Commission members for any comments or questions.

Mr. Antosz asked what size and types of fire extinguishers are required on site and whether employees are trained in use of the extinguishers.

Ms. High said the Fire Department requires there be a fire extinguisher within 75 feet of every part of the tent. A drawing is available that shows three extinguishers, which meets that requirement. The Fire Department also reviews the extinguisher type.

Attorney Porter noted fire extinguisher requirements are set by the state.

Ms. High had no further comments and Chairperson Gelling asked the applicant to please approach the podium.

Mr. John Miketa, 4600 28th Street, Grand Rapids, MI, said he would be pleased to answer any questions or address concerns from Commissioners.

The Chairperson asked why the tent size was changed and how it is anchored.

Mr. Miketa said business was good last year and they wanted to provide more space for customers this year. The tent is leased from a rental company that erects and stakes it.

Chairperson Gelling asked Mr. Miketa to clarify the hours of operation they are requesting and the provision of security personnel.

Mr. Miketa explained the business is seasonal, based on the 4th of July. In the days approaching the 4th, people tend to want to buy fireworks until 10 or 11:00 p.m. On these days, they would like to be open until 11:00 p.m. to accommodate late sales. One person will be on duty overnight, every night.

The Chairperson asked why the request for the tent to be up is longer than the time it will be needed for sales.

Mr. Miketa told the Commission that time is needed for the tent company to erect the tent and for Jake's employees to put up lights and stock the tent so they are ready for sales to begin on June 20, 2013. After the 4th, time is needed to remove lights and merchandise and take the tent down. He indicated he could reduce the time on either end if necessary and that he expects to have an exact schedule by June 8, 2013.

Chairperson Gelling noted the date the tent was scheduled to be down was exceeded by quite a long time last year, which was very unfortunate.

Mr. Miketa said he was unaware of that issue and will commit to respecting the dates that are settled on this year.

Chairperson Gelling asked what signage would be presented and whether a permit had been obtained.

Mr. Miketa said signage would consist of a banner, likely 6' x 8'. He will clarify the exact size and a permit will be obtained.

Hearing no further questions from the board, Chairperson Gelling asked for public comment regarding the application from Jake's Fireworks.

Themis Corakis, 6416 Stadium Drive, owner of Ted & Marie's Restaurant and owner of the driveway in question, told Commissioners the restaurant has no issues with this request. Last year was the first year Jake's was at Harding's and it was very nice to see them there. They left the site clean and there were no complaints from Ted & Marie's customers.

Hearing no further comment from the public, the Chairperson thanked Mr. Corakis for his comments and again asked the Commissioners if they had further questions for Mr. Miketa.

Responding to questions from Mr. Boulding, Sr. and Chairperson Gelling, Mr. Miketa confirmed the dates of June 19th to July 6th from erection of the tent to removal of the tent were acceptable and that he would make sure those dates are honored.

Mr. Antosz said his concern is a safety issue and asked about training for personnel in use of fire extinguishers. He also wondered if there would be security during the day.

Mr. Miketa explained all employees attend an operations meeting during which they are instructed in the use of fire extinguishers. He assured the Commission that all fire department requirements would be met. There will not be a security guard in addition to regular employees during the day. He explained that Jake's is new to Michigan but has experience operating 2000 tents nationwide.

In response to a request for confirmation of business hours from Chairperson Gelling, Mr. Miketa said the hours they would like to be open are 9 a.m. – 9 p.m. from June 20 to June 28, and 9 a.m. – 11p.m. from June 29 through July 4.

It was noted that Harding's is open Saturday until 11 p.m.

In response to a question from Mr. Schley, Mr. Miketa said he agreed that any signage used will be subject to Township Ordinance.

Chairperson Gelling thanked Mr. Miketa for his comments and moved to Commissioner deliberations.

Mr. Schley said he had no objection to the dates agreed upon or the open hours requested.

Mr. Boulding, Sr. expressed his safety concern.

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

Mr. Loy made a **motion** to approve the exception as requested as long as the tent would be up June 19 through July 6 only; hours would be limited to 9:00 a.m. – 9:00 p.m. from June 20 -28 and 9:00 a.m. to 11:00 p.m. June 29 – July 4; all signs would meet Township code, and someone would be onsite 24 hours. The **motion was seconded** by Mr. Boulding, Sr. The **motion carried** 5 to 1, with Fred Antosz voting no.

ANY OTHER BUSINESS

Chairperson Gelling asked Commissioners if there was any other business to be considered. Hearing none, she closed out this agenda item.

PLANNING COMMISSIONER COMMENTS

Mr. Boulding, Sr. said he agreed with Mr. Antosz' concerns regarding fire extinguisher training, but noted that they wouldn't help much in an explosion.

Chairperson Gelling said the Fire Department had reviewed the plan in light of State Code and they would have to trust that all will go well.

Attorney Porter explained there is no problem in raising the issue, but that control rests with the State for firework sales.

Mr. Schley suggested that in the future the Township might want to look at a different approach for protecting groundwater quality.

Mr. Skalski agreed and recommended looking at a standard.

There was some discussion of how specific communities and businesses handle hazardous materials to protect water quality.

Attorney Porter thought it might be valuable to look at this issue on a site by site basis.

Chairperson Gelling extended her appreciation for everyone's attendance and thanked them for coming in for this Special Meeting. She noted Ms. Farmer was unable to attend due to her job responsibilities.

ADJOURNMENT

Having exhausted the agenda and with there being no further business to consider, Chairperson Gelling adjourned the meeting at approximately 1:22 p.m.

Minutes prepared:
June 2, 2013

Minutes approved:
June 27, 2013