



**CLINTON COUNTY
PLANNING COMMISSION**

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Wendy Ward

PLANNING COMMISSION MEETING
Thursday, August 13, 2009
7:00 p.m.

1. Call to Order and Roll Call -

The August 13th, 2009 Planning Commission meeting was called to order at 7:00 p.m. with Madam Chair Shannon Schlegel presiding.

Members present: Mark Simon, Dave Pohl, Bing Barks, Shannon Schlegel, Jim Ostrowski

Members absent and excused: Pam Pohl, Bob Kudwa

Staff present: Wendy Ward, Assistant for the Planning Commission and Dan Leonard, Assistant Planner / Zoning Enforcement Officer, Community Development Department

Visitors:

2. Pledge of Allegiance -

The pledge of allegiance was given to the flag.

3. Approval of Agenda -

PLANNING COMMISSION ACTION

Moved by Barks, supported by Ostrowski to approve and accept the August 13th Planning Commission agenda. There being no further discussion, motion carried 5-0, 2 absent w/notice.

4. Approval of Per Diem Vouchers -

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Dave Pohl to approve and accept the August 13th Planning Commission per diem vouchers. There being no further discussion, motion carried 5-0, 2 absent w/notice.

5. Approval of Planning Commission Meeting Minutes - July 9, 2009

PLANNING COMMISSION ACTION

Moved by Dave Pohl, supported by Ostrowski to approve the July 9th Planning Commission minutes, as presented. There being no further discussion, motion carried 5-0, 2 absent w/notice.

6. Communications -

- A. Fowler Village Council – Renewable Power Supply (RPS) Devices
Dan Leonard, Assistant Planner, reviewed correspondence received from the Fowler Village Council stating their concerns regarding Renewable Power Supply (RPS) devices. The council requests that the Planning Commission consider a complete ban from the immediate four square mile area in which the village exists. Dave Pohl added for clarification that this is not around the village limits; it's the four square miles that encompasses the village and includes the village.

PLANNING COMMISSION ACTION

Moved by Barks, supported by Dave Pohl to review, accept and place on file. There being no further discussion, motion carried 5-0, 2 absent w/notice.

7. Public Comments -

There were no public comments.

8. Old Business -

A. PC-10-09 SLU / SP - Application for a Special Land Use / Final Site Plan Review

An application for a Special Land Use / Final Commercial Site Plan Review has been submitted by Thomas Pennell / Shirley E. Lacchia, to allow a four-unit Bed and Breakfast on property located at 10841 Bond Road (Parcel ID#19-110-035-400-017-00), Section 35, Olive Township. The Planning Commission tabled Case PC-10-09 SLU / SP on April 9th for 30 days, 60 days on May 14th, and 30 days at the July 9th Planning Commission meeting pending further information and review.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Simon to remove Case PC-10-09 SLU / SP from table. There being no further discussion, motion carried 5-0, 2 absent w/notice.

At the July 9th Planning Commission meeting, staff was directed by the Planning Commission to set up a small meeting with applicants and agencies to discuss concerns related to this case and site. Tom Pennell, applicant and Scott Hawkins, representative for applicant, a few members of the board, staff and representatives from local agencies met and discussed various concerns; how large the events are planned for - specifically weddings, what type of parking facilities, health department's concerns and requirements for approval and what will be the requirements on the site plan to accommodate number of people allowed for events. All conditions for approval and requirements were reviewed and stated, including an approximate occupancy rate.

A site plan update was received by staff earlier today from applicant that was a scenario for the use of each one of the rooms within the structure and approximate square footage of each. This will be applied to the building code to come up with an approximate occupancy rate. According to the building code, 58 people would be the number to be placed on this structure. This evening, applicant distributed to staff a parking plan for outdoor events. Staff stated that this information, being just received this evening, does not allow for ample time to review; more time is needed. Correspondence dated August 10th, 2009 had been received from Matt Remus, Environmental Health Specialist II, Mid-Michigan District Health Department stating

that applicants are working with the health department but they have not completed all the requirements. Applicant has applied for and been issued a septic permit to install a new septic tanks that meets proper isolation distances, however, the final inspection has not taken place. If this property is used for occasional larger gatherings, the existing sewage disposal system may not be adequate and the well must be fit with an approved well cap. It was also noted that if this property has food prepared for other guests, a foodservice license from Michigan Department of Agriculture will be required. The on-site sewage disposal system is currently not designed to handle excess grease and increased daily flows created from a commercial foodservice operation. Further evaluation and upgrades to the on-site sewage disposal system may be required to support a licensed foodservice establishment. When large outdoor events take place on this property the daily flows to the on-site sewage disposal system are greatly increased. This may be addressed by use of portable chemical toilets. It is acceptable for a licensed caterer to provide food for such events.

Further discussion followed. The MMDHD will permit this system based upon a five (5) bedroom bed & breakfast operation, which would involve 10-15 people. The number of the building department is based off the number of bedrooms and one of the larger meeting rooms on the site. The septic system calculation was based on the uses of the site (bed & breakfast) and only based on the number of sleeping rooms existing (only the parcel to the north). To apply as per the building code, the bedrooms have a maximum occupancy rate of 22 people and the group hall restrictions are much lower. Similar in line to what the health department is saying. Dave – 50 people, give or take, if this is presented, this needs to be presented to the health department as such. This must meet health department codes. Madam Chair Schlegel shared that staff is not prepared to make a recommendation because of information just received this evening and this is a number that would need to be furnished to the health department to say that this is what we're looking at for one or two events. Parameters were discussed at the meeting with applicants and agencies and that this would be a stretch for staff to provide information or present for discussion. At last month's meeting, a recommendation was made for applicants to provide information to staff with enough review time; 4 or 5 days prior to the meetings to be certain that everyone is on board with this. Staff feels uncomfortable moving forward on this tonight. We have covered a lot of ground and would like to see this resolved but we do still have concerns remaining on the table. With the parking information being reviewed this evening, Leonard stated that we should be able to assess a number and come up with an equation – the methodology used for the special use permit he would like to apply to both sites so they are both uniform in character.

Barks shared a phone call he had received from a concerned person who has booked a wedding for September 2009 at the site and wondered if they would still be allowed to hold their event. The Planning Commission needs to provide the applicant some assurance to fulfill the obligations to the people who have concerns. The Planning Commission and staff feel that the health department's requirements can be met and that we definitely need to try to move this along as far as we can. Madam Chair Schlegel shared her concerns that staff and Commissioners had just received the parking information this evening without time for review. Schlegel continued with that all

requirements and conditions for approval were made clear when all parties met. Dave Pohl added that the Planning Commission and staff should at least decide the parameters tonight and then see if the health department can make it fit; the only thing we need to accomplish today is to get some general parameters today for the maximum allowable for a large event or in-house event. If the health department can make it fit then we come back, if not then it won't work. There is no point in the Planning Commission approving something that the health department won't approve.

Discussion continued. Leonard added that, with the formula for parking, each use has a certain amount of parking per certain amount of people. Commissioners and staff need to figure out an approximate number of people that can fit into the building and then figure out the parking spaces. Another decision to make would be the acceptable number of port-of-johns on site. Leonard shared the health department's requests. Discussion this evening does only refer to the one parcel. We need to give the health department something to work with; they say it's adequate to meet the bed & breakfast requirements (not sure for how many people – can assume around 15-18 people). The parking plan was important to determine the size of an outdoor event. The health department will tell the applicants the number of port-of-johns and the meals prepared on site. Everything the Planning Commission sets will be subject to the approval of the MMDHD. If we set a number / parameter, the MMDHD will make the final approval and see if it satisfies their requirements. The Planning Commission needs to set the parameters before the health department and give them something to proceed with. It would have been helpful if staff would have had the parking information ahead of time so that it could have been reviewed before this evening. Added comments included that the petitioner will need to clarify the site plan, there is no traffic flow shown on the site plan. Madam Chair Schlegel reiterated the importance of staff getting ample time to review the site plan and requirements and not ask staff to throw out information in just a short period of time.

The Planning Commission reviewed and reiterated what is needed: a thorough plan; traffic flow, parameters for staff to work with, a conversation with the County Road Commission, the Drain Commission, the Health Department in regards to parking spaces and what would be the impact on water flow, roadways, etc.; staff would feel much more comfortable for them to see the information. The only remaining information from the applicants needed would be that staff would still like to see the overall location for any type of port-of-johns that are brought on site. Mr. Pennell, applicant, shared that the health department has required a 2500 gallon tank be placed in his back yard and abandon a completely good system and he feels there is nothing wrong with the existing septic system.

Further discussion included two options:

- that the Planning Commission and staff come up with numbers now or
- give staff time to review this parking plan and ask questions needed instead of picking numbers out of the air.

We need to establish parameters to fit – it has been suggested for 50 people for inside activities and 100 people for outside activities. Mr. Pohl is in agreement and he feels that it is reasonable to limit these events to four times a year. It has been determined by staff that the occupancy of the building could handle 58 people – this gives the health department something to work with; a parameter.

Ostrowski reviewed what has been discussed - that this gives the health department a parameter and that he would have no problem to set a maximum amount - we would allow a 50 person inside event, maybe limit the number of times a week / a month, subject to with adequate facilities as determined by the health department, and that there is adequate parking as determined by staff – as according to the plan. The larger outdoor events could be limited to 100 people and that some day this will be tied into the other site to the south and then more people would be allowed for the two sites. For now, only 100 people at this particular site and subject to meeting the requirements of the health department and the decided number of times to hold these events. Set a time frame for an event of a particular size; i.e. over by 10:00 p.m., catering for any event must be done by a licensed food service establishment with appropriate food service licenses, the requirements for overnight guests meet the current ordinance standards; so many in a room. Ostrowski offered this as a motion but first wanted to give applicants a chance to provide comments. Madam Chair Schlegel requested applicants to stay on what's being discussed this evening – no discussion on parking because this will be reviewed by staff. It is the health department's final requirements that must be adhered to by applicant.

Tom Pennell, applicant and Scott Hawkins, representative of the applicant were both present. Applicants stated that they are very comfortable with the listed requirements as stated in the presented motion and are in agreement with the time frame for submission of required documents..

Dave Pohl added a friendly amendment stating that this information must be received by staff no later than ten (10) days prior to the next Planning Commission meeting so that staff has ample time for review. Items required by applicant include (for review on the site plan) locations of the port-of-johns, the width of the driveway, parking in general, the traffic flow, some type of screening for both the parking and the port-of-johns. Anything additional noticed between now and then, it will be discussed. The Planning Commission and staff stated that they are comfortable moving forward with this. Leonard added that it is his interpretation that the existing operation is operating outside or beyond what was originally adopted or established in their original special use permit and if it comes down to it, an ordinance violation could be submitted but feels that applicants are working well with staff and agencies and doesn't see it necessary.

Chair Schlegel opened the floor for public comments:

Patti Schafer, Eagle Township supervisor (not in this area), was present and approached the Planning Commission, questioning whose responsibility it is to monitor this site. Since this operation is already happening and it is not in the guidelines, whose responsibility is it to monitor these events while they are taking place – response back was that the Office of Planning & Zoning / Code Enforcement is the responsible party for any zoning violations.

Madam Chair Schlegel reminded all present that a motion is on the floor, presented by Ostrowski. Barks supported based on the same rationale with the parameters thrown out

here and added to include Dave Pohl's friendly amendment that any information in the future that is required by staff will have to be submitted to staff within 10 days prior to the Planning Commission meetings but to change the time requirement to fifteen (15) days prior to the meetings to Ostrowski's motion. Ostrowski accepted the friendly amendment. Parameters specifically set for outdoor events by the Planning Commission:

- four (4) events a year'
- up to 100 people at the site for the events
- subject to site plan approval - the parking;
- placement of port-of-johns
- subject the MMDHD requirements, for just this facility.

These are the parameters that the Planning Commission would like to set for under the Bed & Breakfast special use permit that was previously granted – this is not falling into the assembly hall category.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Dave Pohl to table this request until the material is brought back to staff by the applicant and it must satisfy the required 15 day time frame - prior to the next scheduled Planning Commission meeting. There being no further discussion, motion carried 5-0, 2 absent w/notice.

Case PC-10-09 SLU / SP – Application for a Special Land Use / Final Site Plan Review has been tabled until the required material is brought to staff prior to 15 days of the next scheduled Planning Commission meeting.

B. PC-19-09 MA – A Petition for Change of Zone / Map Amendment 62-09

A Petition for Change of Zone, submitted by Miller Sand & Gravel, LLC, on behalf of Bruce & Deborah Gould, has been received in the Office of Planning & Zoning, Community Development Department. Applicant is requesting to rezone property located at 15805 Howe Road (Parcel ID#19-070-007-200-010-00), Section 7, Eagle Township, from A-2, General Agriculture District to MR, Mineral Resource Extraction District. On July 9th, the Planning Commission tabled Case PC-19-09 MA for 30 days as per applicant's request.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Barks to remove Case PC-19-09 MA from table.

There being no further discussion, motion carried 5-0, 2 absent w/notice.

Dan Leonard provided a brief review of staff's report. Correspondence dated July 15th, 2009 was received from the Eagle Township Board stating that a presentation was provided by Mr. Pete Buurstra, Land Development Solutions, on behalf of applicant, at their July board meeting regarding the proposed project, as well as interaction with Mr. Dennis Miller, applicant and Mr. Bruce Gould, property owner. The Board recommended approval of the requested rezone and felt confident that Mr. Miller will conduct the operation in the agreeable manner in which he currently operates within the township.

The Drain Commissioner submitted correspondence dated July 6th, 2009 stating that the office is not opposed to the requested rezone to accommodate the indicated sand extraction activities as there are no county drains in close proximity to be impacted.

There does appear to be a natural drainage course running from south to north across the property that will have to be appropriately accommodated throughout the mining process to ensure that drainage from upstream landowners is not blocked. The Road Commission submitted correspondence dated June 8th, 2009 stating that there are no objections to the rezone request but that a commercial driveway would be required for the entrance onto Howe Road, along with any work in the Howe Road right-of-way. Also, the Road Commission would like language in the special land use document regarding dust control. Correspondence from Mr. John Gustafson, adjacent property owner, was received by staff stating his concern with maintenance of Howe Road and control of the dust in that area.

PLANNING COMMISSION ACTION

Moved by Barks, supported by Ostrowski to open the public hearing. There being no further discussion, motion carried 5-0, 2 absent w/notice.

Pete Buurstra, Land Development Solutions, and Denny Miller, Miller Sand & Gravel, LLC, applicant, were both present. Mr. Buurstra approached the Planning Commission and provided a brief presentation on the intended plans. The material will be used primarily for livestock bedding. The final site plan review will follow approval of the rezoning and will provide more detailed information.

Madam Chair Schlegel opened the floor for public comments.

Patti Jo Schafer, Eagle Township Supervisor, was present and approached the Board. She stated that the township board did indeed recommend approval of this rezone. She also stated that Mr. Miller does take care of the roads, keeps adjacent property owners happy, the roads will not be hit any harder with any large trucks and the resources need to be used.

There being no further public comments, the public hearing was closed.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Barks to close the public hearing. There being no further discussion, motion carried 5-0, 2 absent w/notice.

PLANNING COMMISSION ACTION

Moved by Dave Pohl to recommend approval of this rezone request to the County Board of Commissioners based on the rationale that the applicant has met the 7 Findings of Facts as required, the information provided demonstrates that there is proper material at the site, and the Eagle Township Board recommended approval of this rezone. Ostrowski supported based on the same rationale and also added a friendly amendment that the concerns of the adjacent property owners submitted will be addressed in the final site plan portion of this process.

Madam Chair Schlegel requested a roll call vote. Those voting aye (5) – Ostrowski, Simon, Barks, Dave Pohl and Schlegel. Those voting nay (0). There being no further discussion, motion carried 5-0, 2 absent w/notice.

Case PC-19-09 MA – Petition for Change of Zone / Map Amendment OR-62-09 has been recommended for approval by the Planning Commission to the County Board of Commissioners for their review on Tuesday, August 25th at 9:00 a.m.

9. New Business -

There was no new business to be presented.

10. Other Business –

A. State of Michigan Department of Agriculture - Farmland and Open Space Preservation Completed Contracts

These parcels are coming out of PA 116, some are renewing their contracts and are acknowledged by the Michigan Department of Agriculture. These files are recommended to be received and placed on file.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Barks to review, accept and place on file these contracts on file. There being no further discussion, motion carried 5-0, 2 absent w/ notice.

B. Limited Recreational Retreat Proposed Language Discussion

Dan Leonard provided a brief discussion of a proposed language for Limited Recreational Retreat. To allow for the addition of a potential Limited Recreational Retreat Center to be established as a special land use within the R-1, RR, C-1, C-2 zoning classifications. To be included in Sections 418, 419, 423, 424, 1340 and 1103. This type of operation would typically go from Thursday to Sunday, only one cooking facility will be allowed on site (must meet Health Department's requirements. The number of occupants allowed for sleeping quarters was taken directly from the building code - 120 square feet for the first two (2) occupants and fifty (50) square feet per each additional occupant. Principal structure's means of ingress/egress shall be illuminated at all non-daylight times during permitted hours of operation. All parking areas of greater than five space shall be set back from residentially planned, zoned or occupied parcels by no less than fifteen feet of the rear and side yard property lines. Right now we will look at the number of rooms allowed per the zoning. Based upon a question regarding the commercial approach of this use, presented from the audience, Leonard stated that a clause could be placed in the language that would state 'no retail available.' Leonard stated that this would be for a temporary use and nothing would be provided by home owner / applicant other than the space provided; for occupancy of an area only. The only commercial issue would be that this use could be allowed in a commercial district but not a commercial enterprise (also R-1 – residential zoning and RR – rural residential zoning districts). Ostrowski questioned Item D – *the stay of guest shall be no longer than a period of four consecutive days or three nights with a maximum not to exceed 30 days within one calendar year.* Leonard stated that this was taken directly out of the Bed & Breakfast language in the zoning ordinance. Occupancy for not more than 30 days by one person – Ostrowski read it that it couldn't be used for this purpose for more than 30 days in one calendar year. This needs to be clarified – ***occupancy not more than 30 days by one person.*** Ostrowski likes the limited recreational retreat center title. It fits the purpose of a couple of other similar issues that

have come before the Planning Commission; they could have been more tailored for this. Leonard stated that the Planning Commission should look at the language for a B&B exclusively and look at this as an opportunity to slim down the recommendations of a B&B. Nothing is stated on forcing the applicant to live on site; they are basically renting out the whole house; it is not the same as a B&B operation.

PLANNING COMMISSION ACTION

Moved by Ostrowski to recommend that the Planning Commission address this amendment to the ordinance at the September 10th PC meeting and post legal notice. Simon supported. Ostrowski stated that he is assuming that staff will make the changes – clarification on the length of stay and there will be no retail sales. A brief discussion followed on the maximum capacity of people allowed – maybe 20 people – how many people can park here. Leonard received the information directly from the building code. If using the indoors, there should be no more parking than what is needed. Dave Pohl added that there are six (6) bedrooms; maybe a maximum capacity of 20 people. Applicants stated that the maximum they plan to have for the retreat would be no more than 12. Ostrowski offered a friendly amendment to the motion suggesting that the language state something to the effect of ‘not to exceed four (4) per bedroom’. This would allow for 24 people. Simon accepted the friendly amendment. There being no further discussion, motion carried 5-0, 2 absent w/notice.

Actual discussion by Planning Commission had discussion of Item 10.B first and then item 10.A followed. As no motion was made to amend the agenda, the minutes reflect the order of the agenda.

11. Community Development Report –

Leonard would like to provide some wind ordinance language for review next month – not available for public information but only for the board to look at. He would like to have more of an opportunity to review the language, not just one meeting. Legal counsel has reviewed the draft proposed language and have returned their comments.

A brief discussion followed on a ‘decent – sized’ mining operation in Eagle Township that staff was made aware of. Owner’s original intent was to mine at small levels but this has now become a more intense operation. A rezone request will be forthcoming.

12. Adjournment –

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Barks to adjourn the August 13th PC meeting. There being no further discussion, motion carried 5-0, 2 absent w/notice. The meeting was adjourned at 8:50 p.m.

Respectfully submitted,

Wendy Ward, Community Development Department