



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg, Michigan
7:00 p.m. Monday, August 25, 2008

Meeting called to Order with the Pledge of Allegiance at 7:02 p.m.

Members present: B. Carstens (Vice Chair), C. David, R. Hardin, D. Krause, D. White, L. Wikle, J. Zollinger
Members excused: M. Vermetten, P. Yamaguchi
Staff Present: S. Vreeland, Township Manager/Recording Secretary
J. Hull, Zoning Administrator
M. Grant, Legal Counsel
J. Iacoangeli, Consulting Planner

INQUIRY AS TO CONFLICTS OF INTEREST: None noted.

APPROVAL OF AGENDA: Motion by Wikle, support by White to approve the agenda as presented. Motion carried unanimously.

1. Consent Calendar:

Motion by Zollinger, support by White to approve the Consent Calendar as presented, including:

Receive and File:

- a) **Draft Unapproved Minutes of:**
 - 1. **Regular Board on 08/12/08** meetings
- b) **Meeting Notes of:**
 - 1. **07/28/08 Commission** meeting where quorum was not present

Action:

- c) Approve minutes:
 - 1. **06/23/08 Special** Commission meeting
 - 2. **06/30/08 Regular** Commission meeting
 - 3. **07/14/08 Special** Commission meeting
 - 4. **08/11/08 Special** Commission meeting

Motion carried unanimously.

2. Correspondence: None

3. Limited Public Comment: None

4. Preliminary Hearings: None

5. Public Hearings: None

6. Old Business:

- a) **Continued review and deliberation regarding Application #2007-05P Bates Crossings for shopping center on M-72, west of Bates Rd:** Iacoangeli reported that no new information has been received from the applicant. A meeting was held at 4:00 today between the applicant, township staff and the traffic engineers from OHM (subcontracted to Beckett & Raeder) and URS (contracted to the applicant) regarding the traffic study requirements. It was a good discussion resulting in the following to

be presented to the applicant by its representatives for full agreement: that Lautner Commons traffic projections will be factored in, that the ITE trip generation codes being used are acceptable, 1% in traffic volume growth will be projected, that URS will re-verify their peaking ratio data versus the MDOT standard of 0.95, and the traffic study tables would show the results of both a Syncro model and a traffic simulation model because they generate different data. The applicant's attorney, Julie Harrison, will report back to the township if this is agreeable to her clients. The study would also be based on the existing Bates/M-72 intersection alignment. Work continues on realignment to the west of the existing intersection, but this could only improve the situation so the worst-case scenario that things remain the same will be used. It was good to get both traffic engineers in the room at the same time.

Zollinger asked a question about the growth factor. He also asked if the traffic study without factoring Lautner Commons in will be available; it is. Krause asked how signalization of the driveway for the project would affect traffic at North Bates Road. Doug Mansfield, Mansfield & Associates, stated that there is an initiative well underway to realign North Bates Road with the proposed new driveway for a new signalized intersection. So far it appears that Consumers Energy, which owns land required for the realignment, the GT Band of Ottawa & Chippewa Indians, which is interested in an easement across the Consumers Energy land for access to their property, the applicant, MDOT, the Road Commission and the township are all in favor of proceeding, but details need to be worked out. Even if the realignment does not occur, a signal at the driveway will help provide a traffic gap.

Mr. Mansfield wanted to make it clear that Lautner Commons will be included in the traffic projections, but the Village at Grand Traverse will not be because of a difference in the technical legal status of each. He also felt it was a good meeting. They have been getting competitive bids for a wastewater treatment plant and getting clarification from the DEQ as to what they will require for a hydro-geological study. They also met with MDOT and the railroad company about getting an at-grade railroad crossing to connect the two halves of the property. This is hard to do at best but is looking promising for them. The discussion included TART.

Hardin understood that the Tribe will be asking for signalization at the casino for M-72. They are still pursuing this request, but such a signal if warranted would space out well with potential future lights at Lautner Road, Bates Road and/or Elk Lake Road. He also asked if the requested R-3 rezoning for much of the south part of the property is likely to include a future commercial component to that development. Kevin Vann, Generations Management, stated that this is unlikely because the on-grade crossing will likely cross the area to remain zoned to R-1MH. The reason the crossing is being pursued is to provide a second possible ingress/egress from the residential portion of the property along with the Bates Road linkage, rather than for any intended commercial use on the southern portion of the property. Hull believes that regardless of how the southern property is developed, the linkage would be beneficial to the community at large. Hardin also asked if the Lautner Commons traffic study included the Village; part of it did. This traffic study will include only Lautner Commons because its legal status is clear – a permit is in place that can be immediately used. The status of the Village is less clear at the current time, and it is consistent with standard practice to include the impact of approvals with clear legal standing only.

David recalls that the proposed on-site wastewater treatment system is being designed for the proposed commercial development plus up to 350-450 residences, and asked if this implies that the plant would serve both halves of the property; Mr. Mansfield replied that it would.

Motion by David, support by Wikle, to continue discussion regarding Application #2007-05P at the September 29 regular Commission meeting. Motion carried unanimously.

- b) Consider amended Amendment Application #141 by Immanuel LLC: Mr. Mansfield presented the proposed amendment to the rezoning application originally submitted around the beginning of the year. In response to concerns raised by the Board of Trustees regarding the original application to rezone the entire R-1MH portion of the property to R-3 and the amended application to change the text of the R-1MH section of the ordinance, the applicant is amending its application again to rezone most of the southern part of the property currently zoned R-1MH to R-3, leaving a portion of the site easily accessed from the existing entrance from Bates Road which has moderate slopes (15% or less) zoned R-1MH and rezoning the balance to R-3 to permit more flexible treatment of the remainder of the property. The rest of the property tends to have slopes that can be in excess of 20%. They feel that along the road corridor the parcel can be well integrated in conjunction with the natural features. The applicant is seeking to have the amended application set for public hearing at an upcoming meeting.

Hardin asked about a triangular notch in the parcel along the railroad tracks; it belongs to Consumers Power. There are some existing service and distribution power line easements across the property that can be crossed under but not built under. Mr. Mansfield does not believe they will unduly restrict use of the property, particularly the R-1MH portion. Krause observed that the proposed R-1MH area is somewhat irregularly shaped, which could cause planning difficulties. The shape works around an existing power line configuration and the ways it may be possible to lay out some housing lots around it. A small irregular area should be useful in the water detention plan. The proposed railroad crossing was designed with safe sight distances in mind.

White asked if prior recommendations by the Commission to the Board set an expectation for how much of the property, if entirely rezoned, would be set aside for mobile home park use, recalling it to be about 15 acres. White asked Hardin if the Board is likely to refuse the amendment again if sent to the Board. Hardin believes that there is a good chance of success. Wikle was in the audience and heard that the Board's concern with the earlier "floating" area was that it would not be binding on someone else if they purchased the property – that it would be an unenforceable promise by the applicant. Hardin noted that the amended application follows what the Board asked for after the initial application was sent back for further revision. Mr. Mansfield stated that to some extent this is the applicant "capitulating to a stubborn planner and stubborn legal counsel" because this is what they have advised will make the township most secure. Vreeland read the Board's actual motion aloud, stressing the two key factors that the applicant and Commission need to address to bring the matter to a successful conclusion. There are no absolute guarantees that the Board will take the Commission's recommendation, but there is nothing to be served by wasting everyone's time if there is no genuine desire to salvage the application, so it's reasonable to assume that the township would like to work with the applicant if possible. Grant amplified that legal staff worked with the applicant on the most appropriate way to keep the application alive if everyone desires this. He stressed the first of the two key questions that need to be answered, and the six questions we generally use to answer the question as to whether the proposal meets the general criteria for a rezoning. These questions include whether or not the current zoning designation is appropriate, whether a mistake was originally made in the zoning, and how the proposed rezoning comports with the township's master plan. He suggested that as Iacoangeli was working on the township's behalf earlier in this process that it

would be appropriate for him to continue in this capacity. Grant pointed out again that this is effectually the only property available for mobile home park use in the township, and the township should be sure that enough land remains zoned for this use to avoid a claim of exclusionary zoning, which is essentially the second question the Board asked the Commission to examine. Will reducing the area zoned for mobile home parks reduce the likelihood that it can be developed for such a use.

David noted that the zoning ordinance currently requires a minimum of 15 acres for a mobile home park. He asked Iacoangeli in general terms if this is a large enough area for a viable mobile home park project. Iacoangeli feels it's possible, but his advice would include looking at current such projects around the state to see what their sizes are for comparison. David wonders if, since the township previously determined by putting in its ordinance that 15 acres would be appropriate that it's defensible. He feels that the township has enough information already without additional studies to make this decision. Hull gave calculations assuming that 15% of the area would be needed for infrastructure, 15 acres could still handle 100 or so viable mobile home park sites. Without a wastewater treatment plant only about 28 homes would be possible, so if one is going to go to the expense of a plant one would want to achieve at least 100 homes.

Zollinger feels that little additional study is needed. He wonders about the acreage and number of homes in other parks in the area, but finds that 100 units is quite a few. Mr. Mansfield stated that 60-120 units of anything are needed to cover the costs of a manager and maintenance. Kings Court has several hundred units on 160 acres, Woodland Creek has about 250 units on 80 acres but quite a bit of their site is in protected wetlands. Downstate there are mobile home park developments over 200 units, but that may not make sense as a comparable to this area.

Wikle asked if the triangular area belonging to Consumers Energy holds a transformer; it does not. The applicant is hoping to swap it for different land with Consumers. Carstens asked for additional discussion about what can and can't occur under the power lines.

Iacoangeli stated that his approach is not the number of acres, which are already zoned R-1MH, but how you end up with them. You are subtracting from 90 current acres, so the question is will the remainder be sustainable as a mobile home park piece, and how much of the 90 acres can become R-3 so that a reasonable piece remains to become developed as a mobile home park. He used the example of gas stations; some townships left 20,000 sq. ft. sites zoned for this use but they require an acre or more today, so the effect is an accidental exclusionary zoning situation. The density ratios of the Woodland Creek project cited by Mr. Mansfield are different than those discussed for this site; but Mr. Mansfield feels that he was quoted out of context.

Grant asked if the applicant is seeking full R-3 rezoning; Mr. Vann stated that he previously heard that a conditional rezoning application would not be entertained. Mr. Mansfield stated that it's his understanding that Chris Bzdok is discouraging consideration of a conditional rezoning.

David observed prior discussion that many on the Commission believe that there is no demand for mobile home park housing at this time. If the township seeks to ask for an increase in the number of acres from 15 to remain R-1MH, perhaps it would remove the economic value of too much land in a way unfair to the applicant. He is comfortable with the current minimum acres of 15 as set forth in the current ordinance.

Vreeland observed that, with respect to Iacoangeli, she is leery of the use of even sample site plans with rezoning requests. All too easily they can come to be seen as promises by a developer.

Nels Veliquette, 311 S. Maple Street in Traverse City, stated that without sewer it appears there could be 28 units, with about 100. If one is concerned about the sustainability of the parcel, it seems as if serving the area with sewer should be a precondition to rezoning. He asked how many acres of R-3 zoned land currently exist in the township. Vreeland read from the “Acreage Totals per Zone” table in the Master Plan, noting that the number of R-3 properties or total number of acres has not changed significantly since the table was created in 1999, that the total number of acres zoned R-3 is slightly in excess of 1,500 acres.

Andy Andres, Jr., 1107 Barlow Street in Traverse City, stated an impression that the Bates Crossings commercial project is projected to have the on-site treatment system, so if that project does not come to fruition, will the treatment system exist? If the treatment system is not built, will a small R-1MH parcel be viable?

Ms. Harrison feels that some terms are being confused. She and her client stand by the principle that there is no exclusionary zoning concern, and that whether or not sewer is available is the issue – that’s a matter for the eventual developer to deal with. What’s at issue is whether 15 acres is sufficient to develop a mobile home park.

Motion by Zollinger, support by Krause to set a public hearing on revised Amendment #141 for the September 29 regular meeting. Motion carried unanimously.

The Commission took a brief recess from 8:18 to 8:26 p.m.

7. New Business:

a) Annual election of Planning Commission Officers:

Motion by Wikle, support by Hardin to re-elect the current officers to a new one-year term of office (Vermetten as Chair, Carstens as Vice-Chair, Krause as Secretary.)

Zollinger sought and received confirmation that all are willing to serve again.

Motion carried by unanimous roll call vote.

8. Public Comment/ Any other Business that may come before the Commission:

Mr. Nels Veliquette, observed a comment by Ms. Harrison about the future developer being responsible for meeting the requirements for developing a mobile home park. He has yet to hear a determination of what the appropriate size for such a park would be, and he applied for a rezoning for one. Mr. Veliquette believes we will find that 15 acres is not an appropriate size, which will end the need for further inquiry.

Staff is working on updates to Commission by-laws and the resolution that creates it, as well as preparing for creation of a Capital Improvement Plan.

Meeting adjourned at 8:38 p.m.