



ACME TOWNSHIP PLANNING COMMISSION MEETING  
Acme Township Hall  
6042 Acme Road, Williamsburg, Michigan  
7:00 p.m. Monday, August 27, 2012

Meeting called to Order with the Pledge of Allegiance at 7:00 p.m.

**Members present:** V. Tegel (Chair), B. Carstens (Vice Chair), S. Feringa, T. Forgette, R. Hardin, M. Timmins, K. Wentzloff, D. White, J. Zollinger

**Members excused:** None

**Staff Present:** S. Vreeland, Township Manager/Recording Secretary  
N. Lennox, Zoning Administrator  
J. Iacoangeli, Planner  
J. Jocks, Township Legal Counsel

**INQUIRY AS TO CONFLICTS OF INTEREST:** None noted relative to all agenda items except the Garvey SUP application. The Garvey application will be addressed separately.

**APPROVAL OF AGENDA:** Motion by Wentzloff, support by Zollinger to approve the agenda as presented. Motion carried unanimously.

1. **Continuing Education/Special Presentations:** None
2. **Consent Calendar: Motion by Zollinger, support by Wentzloff to approve the Consent Calendar as amended to remove the Planning, Zoning & Administrative Activity Report for further discussion, including:**
  - a) **Receive and File:**
    1. **Draft Unapproved Minutes of:**
      - a. **Board 08/14/12**
      - b. ~~**Planning, Zoning & Administrative Activity Report**~~
  - b) **Approval:**
    - a. **Planning Commission 07/30/12**

**Motion carried unanimously.**

3. **Limited Public Comment:** None
4. **Correspondence:**
  - a) **Bertha Vos Ribbon Cutting Ceremony Invitation:** The event will be on Friday, September 7 from 3:30 – 5:00 p.m.
5. **Public Hearings:**
  - a) **SUP/Site Plan Application 2012-04P Agri-tourism Special Events at 7490 Lautner Road:** This public hearing is being continued from the July 30 meeting. A letter was delivered earlier that day raising concerns about potential conflicts of interest. Because it had arrived so late, the public hearing was opened and recessed until this month to allow Jocks the opportunity to review the issues and report back his opinion. Jocks' opinion is provided this evening, and was marked “privileged and confidential” in error. It is fully public information. His opinion is intended to serve both the Planning Commission and the Board. Jocks analyzed township conflict of interest policy, case law and state statutes and Attorney General opinions.

As to the question of campaign finance contributions, the standards in the township conflict of interest policy stated that payments and gifts of over \$50 in value are not to be accepted. The state statute indicates that public officials shall not solicit gifts from members of the public. Jocks stated that if campaign finance contributions are considered a potential conflict of interest, no member of the public could risk ever making a contribution to any campaign in case they needed to bring an application before the township in the future. In looking at the campaign finance act, he found that contributions to candidates can only be used for campaign expenditures. They are not gifts to the private individual running for office. Any leftover dollars cannot be used by the individual personally; they either have to be held for future campaigns, returned to donors, or given to certain other entities or causes. The funds are restricted. Further, if campaign contributions are considered gifts contrary to the conflict of interest policy it could severely hamper township operations and the ability of citizens to have their petitions heard or decided. The state Attorney General has draft ethics rules that municipalities can use, and Jocks is going to recommend that the Board modify its current policy to include some of its elements. This draft specifically exempts campaign contributions, although it is silent as to why. Jocks' opinion is that campaign donations do not result in a conflict of interest that would prevent a Planning Commissioner or Board member from deliberating or voting on an application.

The second concern raised was that Mr. Garvey had represented several township officials in lawsuits against Meijer, Inc. This is not an explicit conflict of interest, Jocks stated that the question to be considered is whether it creates an appearance of bias. This can include: a pecuniary interest in the outcome of an application, whether an official has endured a level of personal abuse or criticism that could create a bias, whether the applicant is related to the official in other ways, or whether the official might have prejudged a matter because of prior involvement with the applicant. Jocks could find no case law addressing a situation where an official had received legal representation from an applicant. The most similar thing he found was the rules for judges. Judges are disqualified from hearing a case when a former partner is a party to, or representing a party to, the case if it is within 2 years of the existence of their former relationship. Jocks stated that the Commission should decide whether any of its members have a perceived conflict of interest. Individual officers should make disclosure of any potential conflict of interest they may have, and according to the Conflict of Interest policy the Commission will decide whether the potential bias is immaterial, and if it is in the township's best interests to have the member participate.

Jocks and Tegel asked if any members of the Commission have received campaign contributions from, or have been represented legally by, Mr. Garvey, or if any other relationship of potential concern has existed. Carstens stated that Mr. Garvey represented him in a personal lawsuit against Meijer Inc., in response to their original suit. Hardin was also represented by Mr. Garvey in a personal lawsuit against Meijer, Inc., and received a campaign contribution from him. Tegel has received a campaign contribution from him. Jocks recommended that no conflicts of interest exist relative to campaign contributions for reasons he has set forth. Jocks recommended that the Commission should discuss and vote on the other issues. A vote that they may participate must be unanimous. Wentzloff asked if the 7 commissioners without any potential perceived bias can make an official decision; they can because a quorum can participate and a majority of the quorum would decide. She asked if it would be best to "play it safe." Jocks believes there is enough "grey area" that either course of action is legally defensible should the township be sued over its ultimate decision.

Zollinger is comfortable with Jocks' opinion regarding the campaign finance contributions; however, why not ask all three individuals to refrain from participation

in the decision so there can be no doubt that the decision is entirely based in fact with no potential bias.

Timmins asked if tonight's decision about who should participate would set precedent for future decisions, particularly if officials do not participate due to campaign contributions. Jocks replied that it would probably be made on a case-by-case basis, but citizens could raise concerns about consistency in the future. Again, he is going to recommend that the Board amend the policy to clarify the campaign contribution issue. Timmins stated that she is only marginally aware of the timeline for the Meijer issue. Jocks stated that the lawsuits between the individuals and Meijer had nothing to do with the planning and zoning decisions themselves, and Jocks believes that it has been approximately three years since those lawsuits have ended. He did suggest that the Commission ask if any of the individuals still receive legal representation from Mr. Garvey.

Zollinger retracted his thoughts relative to campaign contribution based on Timmins' question and Jocks' response. However he still feels that the individuals represented by Mr. Garvey should refrain from participating in deliberating and deciding this application.

Wentzloff asked how far the perception of bias can go. Is it a problem if Commissioners eat at a township restaurant that may need an additional zoning decision some day? What relationships may be problematic? Jocks replied that he can't articulate a firm line, having found no answers in statute or case law. In this case, the lawsuits in question did not involve the township, but they arose out of the officials performing their township duties. Being related, or being in a current business relationship would clearly represent conflicts. A past business relationship might or might not create bias concerns.

Tegel asked if Jocks had considered a potential conflict of interest regarding this situation before the letter of concern arrived. He had not. There was some slight discussion of the concept at the Board level while the necessary zoning amendment was being considered. At that time Jocks stated no conflict of interest existed because it was a zoning ordinance amendment available to everyone, and that when an application came forward the question could be considered further. Tegel also felt that since three years have gone by since the lawsuits, and since judges may hear cases involving former partners after two years, she would hope we could include all Commissioners in the decision process for this application.

**Motion by Feringa, support by Wentzloff that Hardin and Carstens do not have a material conflict of interest or appearance of bias, and it is appropriate for them to participate in the Garvey SUP decision. Motion carried by a vote of 7 in favor (Feringa, Forgette, Tegel, Timmins, Wentzloff, White, Zollinger), 0 opposed and 2 abstaining (Carstens, Hardin).**

Thomas Dixon, the same individual who raised the concerns regarding conflict of interest, [sent a letter this afternoon](#) at about 4:00 p.m. requesting that a decision on the Garvey SUP be deferred for 90 days to allow time to study the question of whether the easement across the Ziebart property used to access the Garvey property gives Mr. Garvey the right to use the easement for agritourism special events. Jocks stated that this is not a zoning issue, but a property law issue. He recommends that the township's basis for decisions is found in the Zoning Ordinance. The township does not have the authority to decide easement rights. If there is a concern about easement rights they should be raised by the property owner with the easement holder. If there is conflict, they might properly be decided in court.

The question about the easement should not, in Jocks' opinion, be a factor in the township's zoning decision.

Iacoangeli reviewed the application for the public. Mr. Garvey has applied for a special use permit under Section 6.11.3(2) of the Zoning Ordinance which provides for special events as an agritourism land use. Mr. Garvey's application states he wishes to hold no more than 12 "barn weddings" or private parties a year, that if there is music it would cease by 11:30, that food preparation would be performed off-site, that portable restroom facilities would be brought in for events. Staff recommends that the number of public and private events be limited to 12 per year, that events end by midnight with music to end by 11:30, with food prepared off-site and catered in, with tents, tables, chairs and portable restrooms be provided by third parties and removed promptly, that no generators and portable outdoor lighting be permitted, that the Zoning Administrator be advised of each event a minimum of 2 weeks in advance, and that all Health Department requirements be met.

**Public Hearing opened at 7:48 p.m.**

Dorothy Mercer, 7277 Lautner Road handed out a [document](#) to the Commissioners. She asked if the 12 events per year must be spaced out at one per month, or could all be concentrated in the summer. She asserted that on October 10, 2004 Mr. Garvey stated under oath in a deposition that he enjoyed the peace and quiet of his property. Mrs. Mercer is uncertain if the types of special events requested are consistent with a peaceful and restful environment. She believes that the building in question is not a true barn, but a banquet hall disguised as a barn. It does not house animals or grain, instead having a hardwood floor. She stated that Mr. Garvey lives downstate and is not a true farmer of the land. She and Mrs. Ziebart own property that immediately surrounds 2 sides of the Garvey property. Mrs. Mercer stated that she bought her property because it was peaceful, beautiful and restful, the same reasons Mr. Garvey gave in his deposition. She and her husband purchased the land as a quiet retirement home. She and Mrs. Ziebart are permanent residents and citizens of the township. They only learned of Mr. Garvey's plans through the required public hearing notice, while he appears to have been planning the business for some time. Mrs. Mercer requested a 90 day continuance of the public hearing to allow her to do more research regarding agritourism land uses. She also cited the general standards for special land use approval from the township zoning ordinance. One of the general standards is that the activity proposed not unduly negatively impact residents and landowners who are immediately adjacent. The Mercers and the Ziebart are the people who will have to live with the impacts. Another of the conditions is the protection of natural resources, and again immediately adjacent residents and landowners. Mrs. Mercer does not believe the application meets these standards.

Paul Brink, 9617 Winter Road spoke in favor of the application and the agritourism ordinance amendment. The new ordinance allows agricultural landowners to expand the ways they can productively use their land. He believes Mr. Garvey has been patient in promoting the ordinance amendment and his application.

Jean Aukerman, 4151 Huntington Drive expressed appreciation for Mrs. Mercer's statements. She asked if the Mercers and Garveys both own land that is agriculturally zoned; both do. She asked if Mr. Garvey can hold private parties any time he chooses in unlimited number. Mrs. Aukerman spend time with the Zoning Administrator to research the regulations. She spoke with the Township Manager about the concept that whether or not an application is popular, if it meets the ordinance standards for approval it should be approved. Mrs. Aukerman feels that the proposed land use fits the zoning district, and that reasonable ways can be found to manage the potential

impacts.

Gordie LaPointe, 6375 Plum Drive, appreciated Mrs. Mercer's presentation of her concerns. 12 events per year sounds fairly innocuous, but the feel changes if there's a chance that the events could happen every weekend over the summer. If the land use is within the realm of the ordinance but requires a special use permit, care should be exercised. If the Mercers were only advised of the application within weeks of the hearing, they could need more time to consult an attorney, or perhaps meet with the landowner to work out mutually agreeable answers to the concerns. Mr. LaPointe would support the concept of a 90-day continuation to allow them to discuss options such as brining the dirt driveway to keep dust down, or a minimum required spacing for the events. He has been to parties at the site and enjoyed them, and he can also appreciate neighbor concerns about having 100 cars travel to and from events at a time.

Pat Salathiel, 4882 Five Mile Road, has not attended the last few meetings and thought this issue was resolved months ago. She agreed with Mrs. Aukerman. She expressed understanding for the Mercers' point of view, but has also been a Planning Commissioner and understands that the requirements of the ordinance must be followed. She knows Mr. Garvey and believes a reasonable solution can be found.

For the public hearing record, Vreeland noted that the following letters from the public were included in the July meeting packets regarding this application:

In support:

- Jan Corey Arnett, 2444 Halbert Rd, Battle Creek MI
- Haggard's Plumbing and Heating, PO Box 35, Charlevoix MI
- Steve Stier, President – Michigan Barn Preservation Network
- Paul & Amanda Brink, 9617 Winter Road, Williamsburg MI
- Kortney Freese
- Jean Aukerman, 4155 Huntington Dr, Traverse City MI
- Jim Hunt & Ryan Dobry-Hunt, 6265 Brackett Rd, Williamsburg MI
- Brian Hicks, 6373 Deepwater Point Rd, Williamsburg MI
- Charles Leik, Immediate Past President of the National Barn Alliance, 9625 Locust Hills Dr., Great Falls, VA

In opposition:

- Roger & Dorothy Mercer, 7277 Lautner Road, Williamsburg, MI
- Thomas Dixon, Dixon Wright & Associates (law firm), Osceola, IN
- Petition signed by Roger & Dorothy Mercer and Edith Ziebart

Patty Dixon, the Mercers' daughter, spoke at last month's meeting. She stated again that while Mr. Garvey appears to have taken significant time before the hearing process to encourage letters of support, the number of letters of support is not as significant to the outcome of the application as whether or not the application meets the intent and requirements of the Zoning Ordinance. There are potential significant negative impacts to the neighbors from large numbers of people and vendors coming to and from special events on an adjacent property. She supports agritourism, but it should be considered on case-by-case basis and including the impact on adjacent landowners. She is concerned because she does not believe Mr. Garvey maintains this as a working farm from which he derives a significant portion of his income, and it is not their principal residence. They are not trying to raise money to maintain the farm or the land, and should the land allowed to be commercially used, particularly if it is not accessed directly from a public road but relies on an easement across private property that may not have contemplated commercial use. She and her parents had hoped that consideration of the conflict of interest issue would cause the process to

be drawn out for a sufficient period of time for the Mercers and Ziebart to more fully present their case, but if this doesn't happen they ask that the application be denied.

James Redmann, 4656 Arthur Court asked how this proposed business is any different than the Williamsburg Dinner Theater. It sounds like a commercial business to him and not agricultural in nature. Just being in a barn does not make something agricultural. He wonders if this was the township's intent when they adopted the agritourism ordinance amendment. Perhaps this land use should be in a different location properly zoned for business, or perhaps the landowner should ask to have his land rezoned to a commercial designation. He does not believe this is an agribusiness proposal.

**Public Hearing closed at 8:18 p.m.**

Mr. Garvey stated that he does not come from a long line of farmers. He stated that he did make the statements Mrs. Mercer attributed to him during a deposition. He offered that the agritourism ordinance specifically mentions the type of social events he is requesting. He first approached the township about inserting "barn functions" as an allowable use in the zoning ordinance over a year ago. Since then there has been extended consideration of an appropriate ordinance amendment, he has made SUP application, and he has met with the County Construction Code department about construction and safety requirements for social event use of the barn. Mr. Garvey stated that he obtained other letters of support from nearby neighbors during the ordinance amendment process, and that all but one of his surrounding neighbors support the application. He understands the Mercers' point of view. They purchased property in an agricultural district, which is the only type of zoning district where land purchasers are advised that they may be subjected to noises, smells and activities common to agricultural operations. Mr. Garvey offered that if someone was more actively farming his property it wouldn't be as quiet and beautiful as it is; there would be noise and smells and spraying.

Mr. Garvey read a letter from neighbor Kourtney Farro. He did not know her before she asked to have her wedding in his barn. The letter talks about the approach of her dream wedding day in front of family and friends, and of the beauty of the setting. It mentions that she grew up on a family farm and has a true appreciation of farmlands. She mentions that the barns on her family farm would not be in suitable condition for hosting a wedding, and she was delighted when she found the Garvey barn as a potential location. He held this up as an example of the spirit they have fostered on their property and why people want to use it. He believes this upholds the intent of the ordinance to maintain a pastoral setting in the agricultural district, and provides a good buffer between the agricultural district and the commercial corridor a mile south. On property next door to him the state approved a potential deep injection well. Comparatively speaking he believes his proposed land use is much more desirable. He listed a number of other community members who publicly supported the agritourism ordinance amendment, and noted that there were a variety of people united in support of it who are normally on opposite sides of land use issues. Mr. Garvey read a portion of an article from Steve Stier, president of the state historic barn preservation network that discusses adaptive reuses for historic barn structures as positive for communities.

Mr. Garvey stated that the Mercers' main concerns are noise and dust. He has tried to accommodate both by requesting a limited number of events per year and proposing a limit on the hours of operation and music. The Mercer home is about 500' away from the barn, or nearly 2 football fields. In the Summer of 2011 he had 6 events at the

barn, 4 of which had music, 2 of which included live bands. He received no complaints about dust, noise, or unruly behavior. The Mercers are saying that the addition of 6 more events per year would force them from their home, but they never complained about the earlier events.

Mr. Garvey owns 50 acres. This could potentially be divided up into 10 single family housing lots under current zoning. The number of potential car trips per day could add up to over 21,000 car trips per year at 6 trips per day from 10 homes. He calculates the number of car trips for 12 special events at approximately 900 total. The total number of hours per year for 12 events at 6 hours each would be 72 hours. Some events are requested in the middle of the day and not the evening.

Mr. Garvey supported Horse Shows by the Bay as a perfect example of agritourism. There is noise associated with the event from 7:30 am to 4:00 p.m. involving the use of loudspeakers that can be held miles away. This may be appropriate in the agricultural district, where it would not be in a residential district. Mr. Garvey believes the request is consistent with the standards in the ordinance and requests approval.

Iacoangeli stated that this is a proposed commercial operation in the agricultural district. Some agricultural properties have farm stands, corn mazes, and haunted houses, all of which are commercial operations in agricultural districts. The requested number and timing of events deserve Commission consideration. He recommended that 12 days out of 365, or 3% of the year, would be an acceptable situation. The frequency and duration of events are legitimate concerns. This land use is not "outside" of the ordinance as one speaker suggested; it is specifically allowed by special use permit. The higher level of review is necessary to the type of land use due to potential community impacts.

Zollinger asked for clarification of the distance between the Mercer house and the driveway; it is about 200'. Zollinger asked if there is a reason why Mr. Garvey never discussed the application with the Mercers, even though they are the closest residents to the property. Mr. Garvey stated that when the Mercers built their home, the viewshed from the Mercer house to the Garvey barn and trout pond was opened up when the Mercers allegedly cut down trees on the Garvey property. Mr. Garvey sued Mr. Mercer because the trees were cut on the wrong side of the fence without discussion between the parties. In short, there was a prior conflict between the property owners resulting in the Mercers' insurance company paying \$15,000 to replace the Garvey trees.

Zollinger's understanding is that the SUP if granted would allow 12 events for commercial use during the year, but that outside of the permit there can be additional personal events. Iacoangeli recommended a grand total of 12 personal or private events, but Mr. Garvey has requested 12 commercial events without specifying a limit on personal events.

White was asked earlier by Mr. Garvey how many times a year he sprays his croplands. He sprays multiple times per year, but tries to minimize negative impacts on residential neighbors by spraying areas near homes later in the day rather than earlier in the morning. White also stated that when Mr. Garvey moved the barn, he didn't do it to house animals, equipment or crops. White is concerned because for those who are newer to the Commission, it could sound like the barn was moved for agricultural use and it only later became an idea to use it commercially, when this may not be the case. Mr. Garvey mentioned that the moving of the barn became much more expensive than he originally anticipated due to the need to disassemble it

to fit it under power lines. When disassembled it was too deteriorated to reassemble without replacing much of the structure. Mr. Garvey asserted that he built it to host private family events and to preserve it. He said that only after people began approaching him about renting it did he begin to pursue the option.

White noted that Mr. Mercer objected to some of Mr. Garvey's assertions about their prior lawsuit, and asked if he would be permitted to make a statement. Jocks stated there is no legal reason why he should not be permitted. Mr. Roger Mercer stated that he had a deposition from the lawsuit from Mr. Garvey. Mr. Mercer asserted that the fence line wound between the various trees, and that Mr. Garvey accused him of selling limbs cut from the Garvey side of the fence. He asserted that Mr. Garvey has twisted the truth, and invited anyone out to visit the property and view the tree situation. Mr. Mercer believes that seeing this information might inform people's perception of Mr. Garvey.

White expressed concern about not knowing the timing of the 12 proposed events. Most farmers live close to their barns, and if they have a party they inconvenience themselves as much as their neighbors. He objected to the concept of the ordinance amendment, and he still has concerns about disruptions to neighbors. There is only one neighbor to be disrupted in this situation, but it appears that they will be disrupted. The township has a responsibility to consider them.

Wentzloff asked who will be present at the events to represent Mr. Garvey in case of a complaint or concern. Has he been present at all events held there, or is he relying on the renters to control their party's behavior, particularly when there is alcohol served. Mr. Garvey has not fully attended all events, but did attend the end of several. He stated that only Dan Kelly or the GT Resort would cater events at the barn. He trusts them to ensure that everything is taken care of appropriately.

Wentzloff also referred back to the question of whether the total number of events per year would include only commercial events or both commercial and private events. Mr. Garvey requests 12 commercial events plus his private events, while Iacoangeli recommends a cap of 12 total.

Wentzloff is concerned about potential noise issues. She noted that the township has a Noise Ordinance that should be respected. She noted that noise seems to carry particularly well in a rural environment. She also observed that the argument that the natural beauty is unique to an agritourism event seems to dissipate after 10:00 p.m. when it's dark. This is also the time when many people retire to bed for the evening.

Timmins visited the Garvey property yesterday, and noted that it sits in a valley which may create somewhat of a natural amphitheater that might contain the noise on site. There is also a berm in front of the house, and she believes the Mercer would only see the cars pass by at two particular points. The berm might also provide a noise barrier.

Wentzloff asked if bands would be allowed to play outside the barn, or only inside the barn? Mr. Garvey hadn't thought about this, but said he would plan to have the music inside the barn only. In the past he has taken care to arrange things so that amplifiers point away from the Mercer home.

Feringa built a home in an agricultural district. There was spraying at all hours of the night when the wind was quiet. He knew he was in such a district and that was part of the package.



Hardin stated that right now only lavender farming is occurring on the site. With climate change, it is unknown what crops will be able to grow on the property in the future. A future landowner might not use this SUP. Future neighbors will be aware of the adjacent land use when they purchase. Hardin used to live in Yuba, with the brining pits at what is now the natural area right behind him. Again, he knew to expect such impacts when living in an agricultural district and adapted. He believes this is a good use for the land and for the community. He appreciates that the Mercers oppose the change.

Carstens finds things on both sides with which to sympathize. In summary he believes the proposed land use is consistent with the zoning ordinance. Forgette concurred. Zollinger stated that the Commission must consider the ordinance standards. Zollinger hopes that the landowners can work out their differences, and feels that the proposed condition of 12 total commercial or private events per year is a suitable recommendation.

Wentzloff would favor a slightly earlier ending time than midnight for events, 11:00 p.m. for music. While recognizing that farming operations can include noise at all hours, farming noise is different than music noise. When events end at midnight, it's still about an hour before everyone finishes leaving. She suggested that events end at 11:00 p.m. and music end at 10:30 p.m. Mr. Garvey stated that this would be acceptable to him. Mrs. Dixon asked about ordinances that have set maximum decibel levels at certain hours of the day.

Tegel expressed appreciation for the quality of life issues raised. She lives near the VASA and has been bothered by chain saw noise starting at 8:00 a.m. for 8 days in a row on adjacent private property. The decision needs to be made based on ordinance requirements.

**Motion by Timmins, support by Wentzloff, to recommend approval of SUP/Site Plan Application #2012-04P subject to the following conditions:**

- 1. Applicant may hold not more than 12 weddings and or private or public parties per calendar year.**
- 2. Any function will cease operation by 11:30 p.m. If music is involved during the event it shall be conducted only inside the barn and will cease by 10:30 p.m.**
- 3. Food preparation will be done off-site.**
- 4. Tents, chairs, tables, and portable toilets will be provided by third party providers in the community.**
- 5. Tents, chairs, tables, and portable toilets shall be removed no later than the day following the event.**
- 6. The use of on-site generators for light towers and portable lighting equipment is prohibited.**
- 7. The Township Zoning Administrator shall be notified at least two weeks in advance when an event will take place.**
- 8. Code-related issues addressed by the Grand Traverse County Construction Code Department and MESA shall be satisfied prior to holding any event under this permit.**

Carstens requested clarification about the number of events. If Mr. Garvey had 19 children and grandchildren and wanted to hold a birthday party for each at the site, would he be limited to only 12. What does "private public party" mean? Iacoangeli stated that there had been fundraisers for various organizations in the past at the site. To him, an assembly is an assembly regardless of whether it's a wedding, or an anniversary party, or a fundraiser. His recommendation is that there be 12 maximum

events in any combination of public, private or commercial. Family birthday parties would therefore fall under the limit.

Timmins noted that there is a cabin and a small horse barn on the same property. Could additional parties be held in those structures, or is the entire site limited to 12 uses? Iacoangeli's suggested limitation was specific to the barn.

Mr. Garvey asked about what if he wanted to have 10 friends over after church, with no music. Absent an SUP he is currently entitled to do as much private entertaining as he likes. If he has four friends over would that count towards his limit? Is there a threshold for number of people? Jocks suggested that one option would be to specify that fewer than "x" people would not be an event subject to the SUP, but "x or more" would be. Wentzloff observed that this could open the door to having an infinite number of parties for under "x" people. Carstens believes that no personal events of any size should count against the annual maximum. Iacoangeli believes that problems arise when arbitrary categories that are difficult to enforce are assigned. The Commission could allow an increased number to provide for family parties. Feringa countered that private events may not fall under the category of agritourism, which is the use subject to SUP. Tegel noted that she often has 10-15 people over for a casual gathering, and she would not see such gatherings limited by the permit.

Vreeland offered that to date when serving as Zoning Administrator, her determination of whether a party was public or private was based on the level of personal involvement by Mr. Garvey. If the event was something in which he was personally involved or interested, such as a family party or a party for a cause or political candidate he supports she has determined it to be private. If the event was for someone who is not a family member or personal friend, or for a cause he does not personally support, she considered it to be public.

Hardin asked if the barn is structurally sound enough to be used as a barn. He is unsure if a tractor could be driven into the upper level, but it is sound and will have to be recertified by the county every year.

**Motion amended by Timmins, support by Wentzloff to specify that the only events subject to the conditions of the proposed SUP would be public/third party events. Motion to amend original motion failed by a vote of 4 in favor (Feringa, Hardin, Timmins, Wentzloff) and 5 opposed (Carstens, Forgette, Tegel, White, Zollinger).**

**Original motion adopted by a vote of 6 in favor (Carstens, Hardin, Feringa, Forgette, Tegel, Zollinger) and 3 opposed (Timmins, Wentzloff, White).**

**The Chair declared a recess from 9:21 p.m. – 9:23 p.m.**

Mr. Garvey expressed concern about the number of events per year under the SUP including both public and private events. Right now he can have unlimited private events, and his application proposed that this would continue with the addition of 12 public events per year. He is particularly concerned because he has a private event scheduled for September 8, his application might be approved with the recommendation that private events are also subject to the SUP, and one suggested condition of the permit includes meeting Construction Code requirements for the barn. The barn is not expected to meet code for public events by September 8. Vreeland wondered aloud if the construction code has to be met for both public or private events regardless of when the SUP is approved. Jocks noted that until the Board renders a final decision on this SUP only private events may be held on the

site, and would be unregulated by the township.

- b) **Zoning Ordinance Amendment 022 Winery Special Events:** Vreeland summarized the proposed ordinance amendment, which would remove the several pages of specific conditions for the holding of special events at wineries and substitute language specifying that all other land uses allowed by right or by special use permit in the agricultural district are permitted with a winery subject to the appropriate process for approval. This will make the winery ordinance consistent with the new agritourism ordinance provisions.

**Public Hearing opened and closed at 9:27 p.m., there being no public comment.**

**Motion by Zollinger, support by Wentzloff to recommend approval of proposed Zoning Ordinance Amendment 022 as presented. Motion carried by unanimous roll call vote.**

6. **New Business:** None

7. **Old Business:**

- a) **Deep Injection Well Regulations:** At the July meeting the Commission asked legal counsel if there were additional recommendations for items to include in the proposed ordinance. Jocks recommends that the draft ordinance as it stands is as far as he would recommend the township may legally go in regulating this land use. He was also asked what types of wastes are classified as “industrial waste.” He has not yet provided the materials that answer these questions.

**Motion by Carstens, support by Timmins to continue discussion regarding deep injection well regulations to next Commission meeting. Motion carried unanimously.**

8. **Items Removed from Consent Calendar:**

- a) **Planning, Zoning & Administrative Activity Report:** This information was just provided today, and being substantial Tegel was unsure if anyone had time to review it. Zollinger asked about the VGT status. Vreeland replied that the applicant was hoping to have permits in hand by September 1, begin site work and infrastructure construction in September 2012, Begin M-72 reconstruction and begin Meijer store construction in May 2013. M-72 road reconstruction is expected to begin in mid-May and continue through July 2013, followed by Lautner Road reconstruction. The Meijer store is expected to open in Spring/early Summer 2014. Carstens asked who is reviewing various required final documents prior to permit issuance. Dr. Chris Grobbel is providing environmental reviews, Beckett & Raeder engineer Heath Hartt is reviewing plans for road, water and sewer infrastructure. Birbiglia Associates has reviewed photometrics plans, Jocks is providing legal document review, and Vreeland is handling general and miscellaneous details.

Tegel pointed out the need for the Planning Commission to provide its annual report to the Board, including a list of requested projects. This will be discussed at the September Planning Commission meeting.

The Commission asked to be informed of any opportunities for capital improvements planning training. CIP committee membership needs to be updated, and this process needs to move forward. Iacoangeli suggested having a special training session by MSUE or MAP for whole Board and PC. Perhaps the timing would be best if this occurs after the new Board takes office in November. Jocks noted that in this case it should be noticed as a public meeting of both bodies.

**Motion by Wentzloff, support by Forgette to receive and file the Planning, Zoning & Administrative Activity Report as presented. Motion carried unanimously.**

**9. Reports:**

**a) Placemaking Update – John Iacoangeli**

**To the public interested in the Placemaking process, please be sure to visit [www.acmeshores.org](http://www.acmeshores.org) or follow us on Twitter: @AcmeShores. There will be a public open house on Wednesday, September 5, from 4-7 p.m. at the Williamsburg Dinner Theater to display the work to date and solicit public feedback. This is a drop-in event – no formal presentation.** Iacoangeli asked all Planning Commissioners to attend and provide their thoughts. Carstens asked if the transportation framework for the plan has been addressed at all; it has.

Tegel drew attention to the June 2012 *Planning and Zoning News* which was entirely about Placemaking and contains references to numerous resources. Tegel asked if the press release has been sent to local churches as one more way to circulate information. Wentzloff and Tegel asked that an event be created on the township Facebook page, and that it be made shareable so that people can forward it to their friends.

Carstens encouraged everyone to weigh in on the MDOT long-range transportation plan, particularly as to encouraging them to make it easier to include pedestrian crossings in community transportation plans.

Tegel asked when the creation of new zoning ordinance amendments to go with the Placemaking plan would come to the Commission, Iacoangeli predicted that it would be on the October Commission agenda.

Tegel asked how bringing together the proposed technical team has gone. Iacoangeli has tried to schedule the meeting three times now, and to date the only response has come from the Regional Land Conservancy. Iacoangeli and Vreeland met with Rise Rasch and Dave Langhorst from MDOT to discuss the plan.

Tegel asked that the project area map on the websites be updated to include the expanded project areas.

- b) [Master Plan](#) –John Iacoangeli:** This project is in the township’s 12-13 FY budget. It was suggested that this be deferred to the September meeting so that it can be discussed more thoroughly when everyone is fresh. Tegel suggested that those who attended the January Master Planning training session review the materials.

**10. Planning Commission Items for Discussion (*items must be submitted one week prior to the scheduled PC meeting. Discussion limited to 5 minutes for each item listed.*)**

- a) [PC Members Educational Form](#):** Iacoangeli likes to know the educational background of Commissioners he works with. This helps to identify people who need additional training in various areas. More importantly, Commissioner activities can generate litigation, so training is a good risk management tool. Completing the form helps administration understand everyone’s training level, and listing education received by Commissioners can be a valuable part of the annual report to the Board. Please complete the form to the best of your ability and return to the township offices for compilation. There will be further discussion regarding budgeting and work planning at the October meeting. It might also be good to look into video recording

of sessions.

- b) **Upcoming evaluation of planner services:** Beckett & Raeder was hired for an initial 6-month period as our contract planner in April. Tegel supports ongoing feedback as part of any relationship, and this is the first time the township has used external ongoing planning services. She encouraged everyone to think about a variety of professional factors about the service to date. A group of people will be meeting on September 5, to work on developing a formal evaluation form for the Board's use this fall.

**11. Public Comment/Any other business that may come before the Commission:**

Mrs. Salathiel asked what will be covered at the Placemaking open house on September 5<sup>th</sup>. Preliminary concept designs will be displayed for the entire shoreline area from the southern township boundary on US 31 N northwards to the entrance to the GT Resort. Both sides of the US 31 corridor are included in the planning. Initial concept drawings to be displayed on the 5<sup>th</sup> won't be available on-line until after the open house.

**Meeting adjourned at 10:11 p.m.**