

# **BYRON TOWNSHIP PLANNING COMMISSION**

**January 15, 2007**

## **MINUTES**

### **CALL TO ORDER, ATTENDANCE & PRAYER**

Vice Chairman Dutch Zeinstra called a regular meeting of the Byron Township Planning Commission to order at 7:00 p.m., on Monday, January 15, 2007, at the Byron Township Offices, 8085 Byron Center Avenue SW, Byron Center, Michigan 49315.

Commission members present were: Dutch Zeinstra, Bernie Schuitema, Jeff Gritter, Tim Slot and John Stone. Absent: Seymour Gould and Carroll Elenbaas. Also present were Township Attorney Jim Brown, Township Planner Larry Nix, Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

Prayer was offered by Jeff Gritter.

### **APPROVAL OF MINUTES**

A motion was made by Schuitema supported by Gritter that the minutes of the December 18, 2006 be approved as written.

Yes - 5. No - 0. Absent - 2. Motion Carried.

### **PUBLIC COMMENTS**

Mr. John Carlson stated he had some comments concerning the Curtis Outdoor Advertising request. He was not sure when he could make his comments. Vice Chairman Zeinstra stated he could make those comments at the time of the public hearing.

### **BUILDING INSPECTOR REPORT**

Randy Zomerlei gave a brief report regarding total permits that were issued in 2006. A copy of that report was received and placed on file.

### **SITE PLANS**

No site plans were submitted for consideration.

**To Set Public Hearing – T.E.S. Properties LLC (Titan Equipment) – rezoning request to rezone property located at 6180 Clyde Park from R-S Suburban Residential to D-1 Industrial.**

An application for Titan Equipment was reviewed.

A motion was made by Stone supported by Schuitema to set a public hearing for the next regular meeting to be held on February 19, 2007.

Yes - 5. No - 0. Absent - 2. Motion Carried.

**To Set Public Hearing – Park West - requesting approval for the final PUD Site Development Plan for property located at 1778 - 84<sup>th</sup> St. SW.**

An application for Park West Development (Marlo Farms) was reviewed.

A motion was made by Gritter supported by Schuitema to set a public hearing for the next regular meeting to be held on February 19, 2007.

Yes - 5. No - 0. Absent - 2. Motion Carried.

**Public Hearing – Johnston’s Enterprises, LLC (MTS Trucking) requesting to rezone subject parcel from R-U Urban Residential to D-1 Industrial for the property located at 7300 Clyde Park Ave. SW.**

Vice Chairman Zeinstra declared the public hearing open for MTS Trucking. Bernie Schuitema read the public notice and affirmed that the notice was published once in the South Advance and mailed to all property owners within 300’ of the proposed site.

Mr. Eric Starck lawyer for MTS Trucking was present on behalf of Rick Johnston. He explained they are seeking approval of this rezoning and site plan because the present site is not large enough. He commented that Mr. Don De Groot from Exxel Engineering and Mr. Rick Johnston were present to answer any questions that someone may have.

Larry Nix reviewed his memorandum date January 5, 2007 of which a copy is attached and made part of these minutes. He explained the Planning Commission approved a site plan for the property at 7300 Clyde Park Ave for Rite Transportation (RTS) which is currently MTS (Martin Transportation Systems) in 2001. Since that time the Township has received several complaints in connections with site plan violations and other breaches of Township requirements. The code enforcement staff has worked with the applicant and the Township Attorney to bring the property into compliance with the site plan and required regulations. This rezoning request together with a site plan application has been submitted as required. It is suggested that the Planning Commission recommend approval to the Township Board of the request to rezone parcels 41-21-12-151-037 (a portion of), 41-21-12-151-010 and 41-12-151-009 from R-U Urban

Residential to D-1 Industrial for the following reasons:

1. The request represents a logical expansion to the existing industrial zoning.
2. A portion of the area is currently used for industrial purposes.
3. The expanded zoning area provides an opportunity for the existing use to expand their facility and maintain their location in Byron Township.

Vice Chairman Zeinsta opened the hearing to the public.

**Leslie Van Laan – 7150 Clyde Park Ave. SW – commented they are the owners of the adjacent property to the north of MTS property. Their main concern is the presence of a very large old tree near the edge of the lot line between the two properties. MTS actually owns 1/3 of their driveway and the driveway is paved. The roots of this large tree are creating “speed bumps” in their driveway. The driveway does have to be resurfaced but if this tree remains the problem remains. Large branches litter their yard when there is a strong southwest wind and the possibility of the tree falling down across their house could cause unnecessary damage. They would expect if this rezoning request is considered their concern about this tree would be considered as well. Attempts to get in touch with them in the past have not been fruitful and they wanted the opportunity to talk to them. Other than the tree issue MTS has been a good neighbor and they would like to continue a good relationship with them which is very important.**

No further public comments were made.

Vice Chairman Zeinstra closed the public portion of the meeting.

After some discussion a motion was made by Slot supported by Stone to recommend approval for the rezoning request from the Township Board per the Township Planners recommendations as follows:

1. This represents a logical expansion to the existing industrial zoning.
2. A portion of the area is currently used for industrial purposes.
3. The expanded zoning area provides an opportunity for the existing use to expand their facility and maintain their location in Byron Township.

Yes - 5. No - 0. Absent - 2. Motion Carried.

**MTS Trucking - requesting Site Plan approval for the property located at approximately at 7300 Clyde Park Ave. SW**

Planner Larry Nix stated that the Township has been working with MTS for several months regarding the site plan violations. A lot of progress has been made and he is recommending that this Site Plan be approved including the 10 conditions that are listed on the memorandum dated January 5, 2007 which a copy is attached and made part of these minutes.

Eric Starck the lawyer representing MTS was present and commented on the conditions that were listed on the Planners memorandum. There are two of those conditions that they would like the Planning Commission to consider making slight modifications. The first is #2 stating that the northern trailer parking area shall be at least 25' from the adjacent residential zone. He stated they have met with some of the residence of Amber Terrace Condos and they have agreed to a fence or some type of berm along the property line. MTS would be willing to maintain that fence or berm. Instead of the 25' from the residential zone they would like to be allowed to be 8' to 15' from the residential zoning. The other condition is #7. A sidewalk shall be installed parallel to Clyde Park Ave. for the entire length of the property. This issue is new to them. No one has ever made them aware of this before. If you drive down Clyde Park you will see that there are no other sidewalks along that area and also the ditch between the road and the property will make it difficult to place a sidewalk there. They are asking that you consider a sidewalk not to be required.

Vice Chairman questioned the requirement to be at least 25' away from a residential zone.

Township Attorney commented that the Township Ordinance states that "it shall be at least 25'. We have no opportunity to change it.

Nix commented that both items can be approved with conditions.

Schuitema addressed the issue of the tree that was brought to their attention.

Rick Johnston assured Mrs. Van Laan that he will take care of the tree. They want to keep their landscaping looking nice as well.

After some additional discussion a motion was made by Schuitema supported by Stone to approve this site plan with the following conditions:

1. No site modifications shall take place until the Township Board first approves the rezoning associated with this request.
2. The northern trailer parking area shall be at least 25 feet from the adjacent residential zone.
3. The applicant shall provide a written agreement signed by any future property owner of the northern portion of parcel -37 stating that the berm and evergreen trees will be preserved and maintained in perpetuity in compliance with the site plan dated January 4, 2007 and other conditions attached to the approval. The Township Attorney shall approve the content and form of such agreement.
4. Evergreen plantings along said berm shall be shown on a revised site plan, shall be provided along the "outside" of the fence and shall be at least 6' in height.
5. A landscape plan shall be submitted and shall comply with the Zoning Ordinance.
6. Township staff prior to installation of any lighting facilities shall approve a lighting plan for the tractor and trailer parking areas and for any building-mounted lighting.
7. A sidewalk shall be installed parallel to Clyde Park Avenue for the entire length of the property.

8. The Township Engineer shall approve the proposed site modifications within the Buck Creek floodplain.
  9. Items needing clarification:
    - a. Elements and phasing of the “possible future connector”
    - b. Opaqueness of the proposed fence along the northern property.
    - c. Boundaries of the fence to screen the enclosed rack storage areaThese items shall be clarified in writing.
  10. The applicant shall provide a financial guarantee of equal value to the cost of preparing and paving the parking area, landscaping, and sidewalk improvements. The amount shall be reviewed and approved by the Township Engineer.
  11. The owner Rick Johnston will work with the adjacent property owner (Van Laans) to resolve the tree issue as offered by Mr. Johnston.
- Yes - 5. No - 0. Absent - 2. Motion Carried.

The Township Attorney was requested to create this resolution/approval in the proper form and format due to its complexity.

**Public Hearing – Curtis Outdoor Advertising – requesting a modification to the PUD for the property located at 8250 Pfeiffer Farms Dr.**

Vice Chairman Zeinstra declared the public hearing open for Curtis Outdoor Advertising. Bernie Schuitema read the public notice and affirmed that the notice was published once in the South Advance and mailed to all property owners within the proposed site.

Mr. Jay Carll was present to explain the proposed modification. He explained that he met with Mr. Nix to revise the proposed modification to the PUD to bring the billboard in full compliance of the zoning ordinance.

Mr. Nix reviewed his memorandum dated January 4, 2007 of which a copy is attached and made part of these minutes. Mr. Nix commented that the applicant has offered to provide a recognizable and substantial benefit to the Township in exchange for the proposed deviations: lowering the current height of the Pfeiffer Farms sign adjacent to US131. To some that sign may be excessively tall and somewhat unattractive, thereby detracting from the character of the Township. Prior to making a recommendation to the Township board on this application, the Commission should discuss the rationale of setback and size deviation with the applicant. Further justification for the deviations are being requested. Once that is determined a recommendation can be fully developed. If the Planning Commission recommends Township Board approval of the request we suggest consideration of the following condition and any others deemed necessary:

1. The existing Pfeiffer Farms sign shall be lowered by a least one-third of its current height.

Vice Chairman Zeinstra opened the hearing to the public.

**John Carlson – who stated he has owned property in the Township for 25 years and now has lived in the Township for 2 years proceeded to read to the Planning Commission the definition of a billboard. He commented that there is no size specified for any sign. The township is already in violation with all the billboards that have been approved. How does the commission determine who gets one and who does not. It is who you know? American RV has a billboard and Millbrook was denied one. Why! The 1000' rule is in violation between 76<sup>th</sup> & 84<sup>th</sup> St. and 84<sup>th</sup> to 100<sup>th</sup> St. He was wondering if a permit has already been issued for this request. He was assured by the Planning Commission that a permit has not been issued yet. He was wondering if the Commission was aware of the new State law regarding billboards. They no longer allow any billboards as of January 1, 2007. He asked the Planning Commission to be fair and consider all things if you desire to issue permits for billboards. He stated he was financially hurt when a certain billboard was allowed to go up and now he can not put a billboard up on his property due to the 1000' ft. rule.**

**Craig Ellis – owner of American RV stated the billboard Mr. Carlson is referring to is a sign not a billboard.**

No further public comments were made.

Vice Chairman Zeinstra closed the public portion of the meeting.

Attorney Brown was questioned about the new state law regarding billboards. He commented that this refers to MDOT. Locally we can still issue permits.

It was the consensus of the commission members that the trade off of lowering the sign on the Pfeiffer property would be favorable.

Items discussed by the commission members were the height, size of various billboards and setbacks.

Nix commented that the definition in the ordinance of a billboard is very clear. The size is covered in the sign section of the Zoning Ordinance.

After some additional discussion a motion was made by Schuitema to deny this request. No support was given.

A motion was made by Stone that we approve this request to allow the billboard to be located closer to the highway and lowering the existing sign on the Pfeiffer property and that the size of the billboard sign would be the standard size of 672 sq ft.

No support was given.

Stone withdrew his motion.

A motion was made by Stone supported by Slot to table this request.

Yes - 5. No - 0. Absent - 2. Motion Carried.

Commission member Gritter asked the Township Attorney to get him some information regarding the new State law regarding billboards.

### **Master Plan (tabled at the December 18, 2006 meeting)**

Planner Larry Nix reviewed his memorandum dated January 10, 2007 of which a copy is attached and made part of these minutes. Mr. Nix stated that on January 3, 2007 a subcommittee of the Planning Commission met with members of the Downtown Development Authority (DDA) and representatives of the Township Board to discuss concerns the DDA expressed regarding the Master Plan. The open discussion resulted in a proposed adjustment to the Master Plan text regarding the Village Center concept. Basically this concept was divided into two categories for clarity purposes: Village Center and Mixed Use PUD.

A motion was made by Gritter supported by Schuitema to remove the Master Plan from the table for discussion.

Yes - 5. No - 0. Absent - 2. Motion Carried.

Schuitema commented that when they met regarding the Master Plan with DDA and Township Board members they went over the entire Master Plan. He thanked Mr. Nix for doing an excellent job.

After some additional discussion a motion was made by Stone supported by Schuitema to adopt the new Master Plan.

Yes - 5. No - 0. Absent - 2. Motion Carried.

Master Plan now goes to the Township Board for their approval.

### **Miscellaneous**

#### **- Macatawa Bank (requesting to alter code)**

The zoning code as currently written allows for a wall sign up to 15% of the wall for a bank that is in a B-2 and B-3 zone. It does not allow a wall sign for a bank that is in an O-S Office Service District. The banks in these zoning districts can and are located with in viewing distance of each other and have the same traffic, street and setbacks, yet one bank is in the B-2 zone and will have wall signage to adequately identify the building while the bank located in the O-S zone is not allowed to be identified with a wall sign. Macatawa Bank would like the Planning Commission to evaluate the O-S zone and alter the code to allow wall signs per the B-2 and B-3 zone for a bank that is located in the O-S zone.

Vice Chairman Zeinstra asked if there was any other way to allow this beside amending the ordinance. Would it be better to get a variance?

Gritter stated they are allowed a 32 sq ft ground mounted sign.

Slot commented that you do see more ground mounted signs than wall signs. The board worked hard on the sign ordinance.

Mr. Nix explained they are just looking for feed back and no decisions will be made.

- **Jeltsma Property**

Mr. Nix stated that this property is located on the north side of 76<sup>th</sup> St. across from the Methodist Church. The property is surrounded by D-1 Industrial zoning. This parcel is zoned R-S Suburban Residential. The property is for sale and they do have an anxious buyer. The application and the fees were brought tonight hoping that they could set a public hearing for the rezoning request for the February 19, 2007 meeting.

A motion was made by Schuitema supported by Gritter to set a public hearing for the next regular meeting to be held on February 19, 2007.

Yes - 5. No - 0. Absent - 2. Motion Carried.

- **Carlisle Commons**

Mr. Nix commented that a public hearing was held for this in October. There were no public comments made at that hearing. This is the property located on the NE corner of 76<sup>th</sup> St. & Clyde Park. At that time the rezoning request was not consistent with the Master Plan. The request was tabled at the October meeting in anticipation of the adoption of the new Master Plan. Mr. Dave Apol was present and explained he would like to proceed with the rezoning request.

Mr. Nix stated that there will be no action taken now but the commission should look at it in February and possibly meet with Mr. Apol and discuss the PUD potential.

- **Clerical error in minutes that were approved earlier tonight.**

On page 5 of the December 18, 2006 minutes (Williams Sand Mine) number 1 of the listed stipulations should read 1 on 5 not 5%.

A motion was made by Gritter supported by Slot to correct the clerical error.

Yes - 5. No - 0. Absent - 2. Motion Carried.

- **Township Board Report**

Tim Slot reported to the Commission members that the Board has voted to establish a C.I.A. committee (Corridor Improvement Authority) for the improvements along Division Ave. from 60<sup>th</sup> to 84<sup>th</sup> St. The Board will have a public hearing on

February 14, 2007 to adopt this committee. Gaines has already held their public hearing and have adopted their committee. Also the Board is still researching the idea of adding 2 new Planning Commission members in the future.

- **Zoning Board of Appeals Report**

Seymour Gould was absent to give the report. Building Inspector Randy Zomerlei gave a brief report stating that at the last meeting Titan Equipment was present seeking an extension for the variance for their site plan for the property located on Clyde Park Ave. At that meeting they were told that they had to get the parcel located in front of their property rezoned to D-1 Industrial. The original site plan that was approved for Titan included the house and driveway located in front of Titan Equipment. Titan received a variance from the ZBA to have non-paved parking area where the house used to be. The house was torn down and removed without a permit. The variance granted was for that area. That piece of property was never rezoned D-1 Industrial like Titan Equipment. He has submitted all the needed paper work and fees for this rezoning and that public hearing was set tonight for the February 19, 2007 Planning Commission meeting.

- **Election of Officers**

Vice Chairman Zeinstra then read a letter received from Chairman Seymour Gould. The letter read as follows:

“For the past ten years I have been chairman of the Planning Commission and have enjoyed it for the most part. As you are aware, I will be having surgery and will not be at the January 15<sup>th</sup> meeting. Election of officers is normally held at the January meeting. At this time I am hoping one of you will consider taking over the chairman duties. I will remain on the commission, but I don't believe I can expend all the energy that I have in the past to serve as the chairman.

It has been a pleasure to serve as chairman. You all have been very supportive over the years for which I am thankful. I will assist the new chairman in any way that I can. Thank you for understanding.”

Seymour Gould

A motion was made by Stone supported by Gritter that the following be elected:

Chairman - Dutch Zeinstra  
Vice Chairman - Seymour Gould  
Secretary - Bernie Schuitema

Yes - 5. No - 0. Absent - 2. Motion Carried.

**Adjournment**

A motion was made by Schuitema supported by Stone that the meeting be adjourned.

Yes - 5. No - 0. Absent - 2. Motion Carried

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Bernie Schuitema  
Planning Commission Secretary