

# BYRON TOWNSHIP PLANNING COMMISSION

February 19, 2007

## MINUTES

### CALL TO ORDER, ATTENDANCE & PRAYER

Vice Chairman Seymour Gould called a regular meeting of the Byron Township Planning Commission to order at 7:00 p.m., on Monday, February 19, 2007, at the Byron Township Offices, 8085 Byron Center Avenue SW, Byron Center, Michigan 49315.

Commission members present were: Seymour Gould, Bernie Schuitema, Jeff Gritter, Tim Slot and John Stone. Absent: Dutch Zeinstra 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 John Stone.

### APPROVAL OF MINUTES

A motion was made by Schuitema supported by Gritter that the minutes of the January 15, 2007 be approved as written.

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

### PUBLIC COMMENTS

No public comments were made.

### BUILDING INSPECTOR REPORT

The building inspectors report was received and placed on file.

### SITE PLANS

**07-04: T-Mobile** – Mr. Nix commented that a letter was received from the Haley Law Firm requesting this site plan be tabled until the March 19, 2007 meeting. He then reviewed the other four site plans for approval and consideration.

A motion was made by Stone supported by Slot that the site plan **07-01: CBS Outdoor Advertising** be approved as presented with the following stipulation:

1. The billboard shall consist of a v-type facility, with two total sign faces, each up to 238 square feet in area, having only one of those faces visible to traffic proceeding from any given direction on a street or highway.

2. The billboard and its supporting structure shall be constructed in such a fashion that it will withstand all wind and vibration forces which can normally be expected to occur in the vicinity. A billboard shall be maintained so as to assure proper alignment of structure, continued structural soundness, and continued readability of message, in accordance with Section 17.6 (8) of the Township Zoning Ordinance.
3. Illumination shall be concentrated on the surface of the sign face and glare or reflection onto adjacent roadways or properties shall be avoided. Lighting sources shall not flash, rotate, oscillate or be intermittent.
4. The billboard and its supporting structure shall not exceed a height of 30 feet measured from grade or the abutting roadway whichever is higher.
5. A permit from MDOT must be obtained and copy submitted to the Township prior to the Township issuing a building permit.

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

A motion was made by Stone supported by Gritter that site plan **07-03: T-Mobile** be approved as presented with no conditions.

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

A motion was made by Slot supported by Gritter that site plan **07-05: Hearty Fresh** be approved with the following conditions:

1. Sand mining activities shall not occur on the property without the proper permits and unless said activities comply with the Byron Township Zoning Ordinance.
2. Retail activities shall not take place on the property; and concrete pieces, gravel, or any other non-agricultural item, shall not be generated, transported or sold from the property.
3. Approval from the Township Engineer shall be obtained prior to issuance of a building permit.

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

A motion was made by Gritter supported by Slot that site plan **07-06: Byron Center Self Storage** be approved with the following conditions:

1. A financial guarantee shall be provided equal to the cost of preparing and paving the parking area illustrated on the site plan.
2. No new freestanding sign is permitted, only building wall signage as per ordinance.
3. An underground irrigation system shall be installed in the landscape area.
4. Front yard landscaping shall meet the requirements of Section 4.44.
5. The curb cut shall be reviewed and approved by the Kent County Road Commission prior to the Township issuing a building permit.
6. The applicant shall work with the Township Water and Sewer Department to maintain proper access to the sewer system.

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

**To Set Public Hearing – Dykhouse Construction – rezoning request for the property located at 1410 – 84<sup>th</sup> St. SW from R-S Suburban Residential to O-S Office.**

An application for Dykhouse Construction was reviewed.

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

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

**Public Hearing – T.E.S. Properties LLC – rezoning request for the property located at 6180 Clyde Park Ave. SW from R-S Suburban Residential to O-S Office.**

Vice Chairman Gould declared the public hearing open for T.E.S. Properties. 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.

No one was present to represent T.E.S. Properties.

Larry Nix reviewed his memorandum dated February 2, 2007 of which a copy is attached and made part of these minutes. The memo concludes the Planning Commission recommend to the Township Board that the petition to rezone 6180 Clyde Park Ave. from RS Suburban Residential District to D-1 Industrial be approved based on the following findings:

1. The property is currently a part of an industrial enterprise and is being used for industrial purposes.
2. Rezoning the site to D-1 Industrial would bring the site into compliance with the Zoning Ordinance, since the property is presently used for industrial activities.
3. The rezoning would represent a logical extension to the existing industrial zoning.
4. The application is in harmony with the future land use suggested in the Master Plan.
5. The Zoning Board of Appeals has granted a variance to permit storage of equipment on a gravel surface on the subject parcel related to industrial purposes.

Vice Chairman Gould opened the hearing to the public.

No public comments were made.

Vice Chairman Gould closed the public portion of the meeting.

After some discussion a motion was made by Schuitema supported by Stone to recommend to the Township Board approval of the rezoning for the property located at 6180 Clyde Park Ave. SW along with the Planners six findings stated above.

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

**Public Hearing – Park West (Marlo Farms) - requesting the final PUD Site Development plan for the property located at 1778 – 84<sup>th</sup> St. SW**

Vice Chairman Gould declared the public hearing open for Park West. 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.

John Healey from Park West Developers of Toledo, Ohio was present to explain some of the changes made to the plan and to address the issues brought forth by the Township Planner. He stated he would be happy to address each issue individually.

1. The first area of concern is the material of the path connecting to the residential subdivision, and where it would connect to within the subdivision. He stated that he could not answer that at this time as he does not know where the path will end up. He also commented that Don DeGroot from Exxel Engineering and Jerry Felix of Felix Properties were present to answer questions.
2. The transport of trash from the Quick Stop to the dumpster can not be addressed at this time either. He is sure that Spartan has pick-up of trash daily and something would have to be worked out.
3. The lighting impact will be minimal. The lighting fixtures to be utilized will contain flat lens not concave lens and the lighting under the gas canopy will be flush with the ceiling of the canopy.
4. The tanker staging area will be spacious for the tanker to provide service from either side. They will not create any safety hazard in that area.
5. The architectural elements of the building have not been designed or determined yet. The pictures that were submitted show brick, stone and combination of the two. They have to work with Spartan Stores on this issue and will achieve the architectural concept illustrated in the pictures submitted.
6. The status of the County Drain Commissioner, Township Engineer and or Drain Commissioner regarding proposed storm water facilities, they will adhere to all of the standards set. There may be a conflict along the rear buffer with the utility easement but they are prepared to put landscaping there or comply with the Township Engineer.
7. Regarding outdoor displays and restricting those could be difficult. They do have seasonal displays. They will try and comply to whatever restrictions are placed on the Quick Stop. This topic is up for discussion.

In terms of the proposed condition offered by Planner Nix, Mr. Healey offered the following:

1. Referring to the elevations of the store, these have not yet been discussed with Spartan.
2. They will comply with the requirements set forth in Section 4.44 regarding the individual outlots on the property.
3. Signage – they will comply with the Township Zoning Ordinance regarding signage as noted on the site plan presented.
4. Outdoor displays – that will have to be discussed with Spartan and something will have to be worked out.
5. Refuse container enclosures will be enclosed.

6. Mechanical equipment will not be visible to the public.
  7. Performance bond – if that is the policy of the Township they will comply.
  8. Lighting fixtures – include flat lenses on the lights and recessed canopy lighting.
- He also stated that a modification has been made on the second outlot. There is a grading problem and a retention wall will have to be placed at an access point based on the grading.

Mr. Nix reviewed his memorandum dated February 5, 2007 of which a copy is attached and made part of these minutes. Mr. Nix commented that he felt Mr. Healey addressed all the concerns and conditions that were set forth. Issues not answered will need to be discussed. The plan is the same from December, they have added a lot of landscaping along the southern property line and they did move the store further north from the residential area to the south. The out lot landscaping will be approved as each is proposed. They will be obligated to comply with the landscape ordinance. This is a little unusual because they can not state how certain things will be done but this can be worked out. Mr. Nix suggested they will have to come back to the Planning Commission when these details are worked out for final site plan approval. He suggested a public hearing would not be required unless there were major changes.

Vice Chairman Gould opened the hearing to the public.

**William Sheriden – 1824 Portadown stated his home is probably the closest one to this new proposed development. On the south end of the property there is a nice bunch of full grown trees and he would like to see those remain for a natural buffer zone if possible.**

No further public comments were made.

Vice Chairman Gould closed the hearing to the public.

Don DeGroot addressed the concern that Mr. Sheriden had regarding the trees along the south property line. He stated that he could not assure him that those trees would remain. The Kent County Drain Commission could remove them if it interferes with drainage. He again assured Mr. Sheriden that there is a generous buffer proposed for the south of the property.

Commission member Gritter stated it is possible for the Drain Commission to remove obstructions in a county drain.

Stone commented that he liked the idea of Park West coming back to the Planning Commission for approval when all the questions and concerns have been taken care of and answered. He feels more comfortable doing it that way.

Mr. Nix stated that Mr. Healey has been very honest tonight with his comments. It is hard to address some of these issues until they work with Spartan Stores. Areas to

be worked out are trash, lighting, architectural elements, and drain issues with the Township Engineer. These are just some items that have to be worked out.

Attorney Brown stated he could include these conditions in the resolution that have been discussed and this would have to be approved when they come back for approval.

Gritter commented that he is feeling a little more comfortable doing it this way but still is concerned about what will be coming on the outlots.

Further discussion was made on the lighting, signage, refuse (transportation of trash), mechanical equipment, C-store outside display, and the Township performance bond.

Vice Chairman Gould then asked Mr. Healey what the timetable is for this project?

He replied that they would like to start the development this summer. They would begin with the C-Stop and open that in the fall of 2007, and they may begin construction of the grocery store in the spring of 2008.

Mr. Nix again commented that they will have to come back to the Planning Commission for the final site plan once all the items have been addressed and clearly explained and shown to us. The site plan as we see it tonight is acceptable only the unknown items have to be approved.

Schuitema felt we should have some type of stipulation stating that this is a package deal. Let's just say the C-stop is built and the grocery store backs down. Now we sit with a lone gas station at a corner where we really don't want a stand along station.

Nix commented that it is not unreasonable to put a stipulation in the resolution stating that fact. It could be a condition on the phasing project. Mr. Brown concurred with this stipulation.

Mr. Healey stated that this could be a little difficult. He first has to buy the land and he is governed by his client.

Slot felt that a sufficient amount of time should be given to Park West for the completion of this project. He stated by giving them ample time is better than sitting with a vacant strip mall. He would rather see vacant land on that corner.

Schuitema stated we do not want a stand alone gas station.

Attorney Brown stated we can put a condition in the resolution that the grocery store has to be built. If they fail to build the store, the gas station would be shut down and locked up.

Healey suggested that when they come before the Planning Commission for the final approval that they have a date to submit for the construction of the grocery store along with a underwriting statement from Spartan Stores stating their intent.

Gritter again stated that the applicant has represented up to this point that the grocery store and the Quick stop go together. The Planning Commissions must be cautious. They should break ground at the same time.

Schuitema stated that Spartan Stores have been a great neighbor! Maybe if we can get a time line for project completion with guarantee before we issue a building permit this may be acceptable.

Attorney Brown liked the idea of a time line when issuing the building permit for the C-stop. A building permit will not be issued if no date is given.

Planner Larry Nix then commented that Spartan Stores has been the strongest private company in the Township. Their stock price doubled in 2006. It is a very strong company. It is good to ask what if but we have to take a leap of faith. We should step forward here and support this project. Spartan Stores has been a good neighbor for decades. A properly crafted resolution can address your concerns.

Commission member Gritter stated that Spartan has been a great community member, but the Commission must be cautious with long term land use decisions. Spartan has done very well! It is a good use but the two depend on each other.

Vice Chairman Gould felt a little more comfortable knowing they have to come back for approval and inform us of the date the store will be begin to be built.

Commission member Stone felt he had a level of comfort knowing they have to come back for approval.

Commission member Slot stated we need to trust the applicant and the project presented. We take a chance every time we rezone or approve a project in the Township. Anything can fail. With the help of our professionals we should feel comfortable approving this project. Strong provisions can be made with the resolution.

Gould commented that without seeing a resolution it is hard to approve this.

Mr. Nix encouraged the Planning Commission to take action tonight. Mr. Brown will draw up a resolution with all the concerns, this will be available prior to our next meeting at which time the Commission can approve the resolution with the minutes and the final review.

Vice Chairman Gould stated that there are three options to choose from. We can approve it with all the stipulations and language change in the resolution, or table until the language of the resolution is approved or simply deny it.

After some additional discussion a motion was made by Slot supported by Stone to approve the Final Site Development Plan for the Marlo Farms PUD contingent upon approval of the resolution to be drafted reflecting the comments outlined this evening.

Roll call vote: Stone - yes. Schuitema - yes. Slot - yes. Gritter - yes. Gould - yes.  
Absent: Elenbaas, Zeinstra.  
Motion carried.

**Public Hearing – First Companies Inc., requesting to rezone the property located at 1111 – 76<sup>th</sup> St. SW from R-S Suburban Residential to D-1 Industrial.**

Vice Chairman Gould declared the public hearing open for First Companies. 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.

Don De Groot from Exxel Engineering was present to explain the rezoning request. He commented that this is a straight forward request saying the property is surrounded by D-1 and the property is consistent with the future land use plan of the Township.

Mr. Nix reviewed his memorandum dated February 2, 2007 of which a copy is attached and made part of these minutes.

Vice Chairman Gould opened the hearing to the public.

No public comments were made.

Gould commented that as a church member and board member of the Methodist Church across the road from this property, they have no problem with this rezoning request.

After some discussion a motion was made by Slot supported by Gritter to recommend to the Township Board approval of this rezoning request with the findings contained in the Planners memo.

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

## Miscellaneous

- **Curtis Outdoor Advertising – requesting a modification to the PUD for the property located at 8250 Pfeiffer Farms Dr.** (tabled January 15, 2007)

A motion was made by Stone supported by Schuitema to remove this request from the table for discussion.

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

Mr. Jay Carll was present and explained they are asking for a deviation of the size and setbacks in exchange for lowering the Pfeiffer sign 30'. He stated he has the state permits and with the new legislation which took effect in January this permit is in effect for one year.

After some discussion a motion was made by Stone supported by Gritter to recommend to the Township Board approval for this request for Curtis Outdoor Advertising with the stipulation that the Pfeiffer sign be lowered by 30'.

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

- **Township Board Report**

Tim Slot gave a brief report regarding the C.I.A (Corridor Improvement Authority committee) and asked if any of the Planning Commission members had anyone in mind who would be interested on serving on this committee to contact him.

He also asked if anyone had been approached or called in regards to the Master Plan. No comments had been received.

- **Zoning Board of Appeals Report**

Seymour Gould reported that the ZBA did not meet in January.

He also thought it would be a good idea to revisit the zoning ordinance to address some of the areas which are not real clear. He also thought it would be good idea to reconsider the billboard sizes again.

## Adjournment

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

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

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Bernie Schuitema  
Planning Commission Secretary