

# BYRON TOWNSHIP PLANNING COMMISSION

October 15, 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, October 15, 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, John Stone Tim Slot and Carroll Elenbaas. Absent: Dutch Zeinstra. Also present were Township Attorney James Brown, Township Planner Larry Nix, and Brian Wegener, Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

Prayer was offered by Seymour Gould.

### APPROVAL OF MINUTES

A motion was made by Schuitema supported by Gritter that the minutes of the September 17, 2007 meeting be approved as written.

Yes - 6. No - 0. Absent - 1.

### PUBLIC COMMENTS

No public comments were made.

### BUILDING INSPECTOR REPORT

The building inspectors report was received and placed on file.

### SITE PLANS

A motion was made by Stone supported by Elenbaas to approve **Site Plan 07-18 Byron Center First Christian Reformed Church 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. The Township Engineer shall determine the amount.
2. Any comments of the Township Engineer shall be addressed and any requirements of the Township Engineer shall be met.

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

**To Set Public Hearing – W. Sidney Smith requesting to rezone property located at 396 – 84<sup>th</sup> St. from R-A Rural Agricultural to B-3 Interchange Business and the property located at 400 – 84<sup>th</sup> St. & 424 – 84<sup>th</sup> St. SW from R-U Urban Residentail to B-3 Interchange Business and property located at 8470 Byron Commerce, 430 – 84<sup>th</sup> St., 8498 Byron Commerce, 8500 Byron Commerce and 8550 Byron Commerce from D-1 PUD and R-U to B-3 Interchange Business.**

An application for W. Sidney Smith was reviewed.

Larry Nix commented that there are three different owners involved in this request and three separate applications have been submitted. The applicants are requesting “conditional” rezoning to B-3 rather than a PUD.

Mr. Doug Stalsonburg stated that a copy of the offer of conditional rezoning was submitted to Audrey Nevins on Friday the 12<sup>th</sup> of October.

Attorney Brown commented that he has not seen the conditional offer.

Commission member Slot stated he had a copy of the conditional offer in his vehicle if someone needed a copy.

Larry Nix commented that the conditional offer should be looked at and reviewed before a public hearing is set.

Commission members asked the Township Attorney if this could be tabled until the conditional offer was reviewed by everyone.

Attorney Brown said yes you can table setting a public hearing.

A motion was made by Schuitema supported by Slot to table the setting of a public hearing until next month.

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

**Public Hearing – T-Mobile requesting a special land use and site plan approval to construct a wireless facility in a wooded portion of parcel, utilizing a 50’ x 50’ space with a 170’ monopole tower within fenced compound for the property located at 8085 Byron Center Ave.**

Vice Chairman Gould declared the public hearing open. Bernie Schuitema read the public notice and affirmed that the notice was published once in the South Advance.

Mr. Walley Haley was present on behalf of T-Mobile. He commented that they did look to co-locate on an existing tower but the existing tower located at 2630 – 84<sup>th</sup> St. does not have the height available for T-Mobile’s antennas to adequately transmit and receive radio frequency for the needed service so they had to come up with another solution. Most Townships prefer to have the tower on Township property. And the Township does have a big piece of property. They looked at a number of sites on the property and felt the proposed location is the best due to the screening of the trees for the residential homes nearby. Concerns have been heard regarding the 170’ pole having the possibility of someone trying to climb the pole. He stated the pole that is proposed does have an anti climbing device on it to prevent this from happening. According to the Township Ordinance some landscaping would be required, but he feels the east side of the property would be the only part that would need the additional landscaping.

Township Planner Larry Nix reviewed his memorandum dated October 4, 2007 of which a copy is attached and made part of these minutes. He commented that the applicant is petitioning to place a 50’ x 50’ lease compound and a 170’ tall communications tower within the wooded area near the southwest portion of the park, which is generally west of the tennis courts and north of the adjacent residential neighborhood. Bicentennial Park falls within the RU Urban Residential District where a communications facility is permitted only by special use. The Township Board has negotiated a contract agreement with the applicant for tower placement within Bicentennial Park. Area residents were present at the Board meeting when the contract was approved, but public comment centered on the inappropriate behavior taking place within the wooded area. Board members indicated that revenue from the proposed facility is earmarked to cover costs associated with the recreational building to be constructed in Whistlestop Park. It is important that citizen input be received and honored in the review of the special use petition.

If the Planning Commission approves the request the following draft conditions may be incorporated into a motion.

- a. The notarized statement submitted with the application narrative supplement shall be signed and presented to the Township prior to issuance of any Township permits.
- b. At least 5 evergreen trees a minimum of 6’ in height at time of planting shall be planted in a row along the east side of the proposed 12’ wide paved driveway so as to obscure vision into the tree opening and to the lease compound area.
- c. An anti climbing device shall be installed on top of the fence enclosing the lease compound.

Vice Chairman Gould opened the hearing to the public.

**Sally Wachter – 8206 Merton stated that her home is probably the closest to the proposed tower. Her concerns would be with the loss of land as a park and the recreation use for the Township. This is a much loved and used park, daily by many families. It is the last remaining forest land in the community. Schools use this park as well as home school groups. She does not feel this is the best**

**use of this property. Also she is concerned as to what the radiation does to birds in the area. Cell towers are a new technology and we don't really know the long term affect that they have on animals or people. With all the growth that is going on in Byron this is a much needed park. As an example – Byron Days – the park was very much used that weekend. She also is concerned about the property value of their home. A home is more valuable placed near a park than it is placed near a cell tower. Byron Township remains a desirable area for people to move to. Please relocate this cell tower and have it not affect the park.**

**Jeff Wachter – 8206 Merton agreed with his wife. This park draws a lot of kids and families. They have lived here for 17 years and truly love it here. Please keep it a park.**

**Roger – 8235 Merton agrees with everyone so far. He would hate to see part of the park be used for a cell tower.**

**Don Lambeck – 8220 Merton commented that this is not a useless piece of land. He begged the Planning Commission members to please look at the earthly value and not just money!**

No further public comments were made.

Vice Chairman Gould closed the hearing to the public.

Vice Chairman Gould asked Tim Slot why the Township Board went into a contract with T-Mobile before the Planning Commission had a public hearing?

Tim responded by saying that T-Mobile did not want to go to the Planning Commission without the Township Board blessing. He also stated that at the DDA meeting he attended they did not take a position either way. The footprint of the tower is only a small area and not heavily wooded. He asked Mr. Nix if the tower can be placed anywhere else in the park and still meet code.

Larry Nix commented that it could be moved to another location but it would probably be more visible.

Gritter commented he did not have a lot of comments on this. The Township property is occupied with a lot of things, large wetlands, consumers power lines, the skate park, and ball diamonds. Locating the tower in the back would be more out of sight.

Schuitema made a comment concerning the cell tower located near McDonalds. He stated that once they have a top user on the tower no one wants to co-locate on that tower. He looked at the tower on 108<sup>th</sup> St west of Burlingame and it looks like there is only one user on that tower. It really doesn't make a lot of sense to him to build another tower.

Elenbaas commented that she is not in favor of such a high tower in a residential area. Perhaps the Township should have had looked at this before the agreement was made with the Township Board. Why does a cell tower have to be in the middle of a residential area?

Walley Haley stated towers are located in a certain area to serve the people. The proposed tower could have been placed on another spot on the Township property but it would have been out front. Towers service people and these carriers are going to be where people are concentrated. The issue of the birds has to do with towers that are 500' – 1,000' in height. The red lights confuse the birds and they fly into the guide wires. This proposed tower would have no lights with lower power transmitters and receivers. The radiation is not killing the birds.

Commission member Stone really feels that the Parks & Recreation Department should give their opinion on this. He asked if that was a reasonable request.

Attorney Brown commented you certainly can consult with them and others who would help make this decision.

Stone stated he would like to see this section of the property staked off so we can see where it will be located.

Vice Chairman Gould also added that a variance may be needed due to the height of the tower. As a Zoning Board of Appeals member how do you stop these variance requests? If you approve one someone else wants the same thing or a little more.

A motion was made by Stone supported by Elenbaas to table this request until the Planning Commission members have a chance to meet with the Parks & Recreation Department and given the opportunity to see the exact location of the tower..

Roll call vote: Elenbaas - yes. Stone - yes. Schuitema - yes. Slot - no. Gritter - yes. Gould - yes. Motion carried. Request tabled.

### **Providence Lake Phase II – Preliminary Plat approval**

Larry Nix reviewed his memorandum dated October 4, 2007. A copy of that memorandum is attached and made part of these minutes.

Mr. Doug Stalsonburg from Exxel Engineering was present on behalf of Jim Ogg who is the owner of the development. He stated that since the market is quit bleak they do not intend to begin Phase II until maybe in the spring. Jim does want to build a “keeper’s shack” which was promised to lot buyers. With the approval of Phase II we are now required to put in a secondary means of access. We are proposing to build an access road using crushed concrete going to the north into the proposed condo development. According to Mr. Nix’s memorandum stating a required 20’ wide access drive. He is

requesting a 10' wide access drive.

Slot stated that the developer has done an excellent job with this project. He is not against the temporary road but feels a time limit should be in place.

Gritter also had no problem with this temporary road but strongly feels that input from the Fire Chief would be a good idea regarding the width of the road.

Schuitema felt it was a good idea to get the Fire Chief's thought on this if he gives his approval then its okay with him.

Elenbaas stated she is in favor of the road being 20' in width.

Slot commented that maybe we can approve this request contingent upon the okay from the Fire Chief.

After some additional discussion a motion was made by Slot supported by Stone to recommend to the Township Board Preliminary Plat approval for Providence Lake Phase II subject to the approval from the Fire Chief concerning the second access point and after 2 years the applicant must return to revisit the second access point.

Roll call vote: Schuitema - yes. Gritter - yes. Stone - yes. Elenbaas - yes. Slot - yes. Gould – yes. Motion carried.

### **Miscellaneous**

#### □ MASTER PLAN

The memorandum from Jim Brown and Larry Nix was then discussed. It was the consensus of the Planning Commission that they want to get the Master Plan approved. There is a difference of opinion between the Township Board and the Planning Commission regarding some areas in the Township.

- 100<sup>th</sup> St. & South Division The Board recommends that the land use designation be changed from Commercial to Commercial PUD. A PUD is suggested.
- 84<sup>th</sup> & US-131 (Dome World property) The Board recommends that the designation be changed from Commercial to Commercial PUD. An overlay of the PUD in this area is suggested.
- Burlingame & 84<sup>th</sup> St. (the northeast and northwest corners) The Board recommended that the Planning Commission review the current designation of MRF/OS-PUD and consider the land use designation shown in the future land use map of the 1998 Master Plan (Commercial and MRF PUD).
- M-6 & Wilson (between 68<sup>th</sup> St. & 64<sup>th</sup> St.) The Board recommends that the Mixed Use PUD be revised so that the requirement of a “traditional town atmosphere” and the use of land in a way that would function in a manner consistent with a traditional small town be eliminated together with other changes so that the Mixed Use PUD would permit less restricted commercial

- uses. A text change eliminating percent of land use was eliminated.
- Southwest corner of Byron Center Ave & 64<sup>th</sup> St. The Board members were not in favor of the Office Service designation on the southwest corner. This area is suggested as a mixed use PUD.

The Planning Commission wants to stress a need to continue to develop quality developments in the Township.

Tim Slot commented that the Planning Commission and the Township Board can reach a fair compromise and it can work. He stated he did not know if the other Township Board members have seen this new revision but stated the suggested changes were acceptable.

Vice Chairman Gould stated that he is a little gun shy sending this back to the Board. What happens if they deny it again?

Attorney Brown stated it would be a good idea to try and avoid that situation. There should be a good interaction between the Board and the Planning Commission to avoid that situation. He felt it would be a good idea for the Township Board and Planning Commission to meet prior to another public hearing. The goal is to arrive at an agreement with the revisions that have been made.

Larry Nix stated he always encourages meeting together for good discussions. He stated he did not distribute a copy of these proposed changes to anyone except the Planning Commission members. We also have to consider public comments that will be made at the public hearing. It may change again. We need to blend the wisdom of the Planning Commission with the political reality of the Township Board to try and reach a reasonable mid-point on this Master Plan.

Elenbaas feels best if they sit down with the Township Board and find out where the Planning Commission stands. There are a lot of mixed feelings involved.

Stone was in favor of the joint meeting and he wants to get this job done.

Vice Chairman Gould said we have to get it done. We can't have a public hearing on this if we don't agree.

Schuitema stated there has to be a meeting before a public hearing. We want this done as much as everyone else does. Lets face it 2 1/2 years is a long time.

Gritter stated he agreed with everyone.

Slot agreed that the Township Board and the Planning Commission should meet first. Keep in mind he can't speak for the rest of the Board, but he would like to see this resolved also. He does not think the Board will have any issues with the

proposed changes. He felt it is a fair compromise.

Vice Chairman Gould suggested if we do meet he wants the Attorney present, a representative from Williams & Works and Dutch Zeinstra (Chairman of the Planning Commission). He also commented that he received a letter from the Boverhof's on Friday. That letter will be attached and made part of these minutes.

Discussed was the possible day and time for the special joint meeting. The date of October 29, 2007 at 7:00 p.m was tentatively set. Members will be notified if this date works for everyone involved.

□ **ATTACHED GARAGE**

Larry Nix stated that Randy Zomerlei has given him some ideas to work with and that report should be available next month.

□ **TOWNSHIP ZONING BOARD OF APPEALS REPORT**

Seymour Gould stated that at the last ZBA meeting a hearing was held and they were given the wrong information. They have sent the applicant a letter stating that the variance that was granted will be revoked at the next Board of Appeals meeting.

□ **TOWNSHIP BOARD REPORT**

Tim Slot reported that the next board meeting will be held at the Byron Center Historical Museum. The building has been renovated and this is a good change for the public to see it as well as attending a board meeting. He also said if anyone had any questions regarding the Master Plan he would answer any questions.

Adjournment

A motion was made by Slot supported by Stone that the meeting be adjourned.  
Yes - 6. No - 0. Absent - 1. Motion Carried

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Bernie Schuitema  
Planning Commission Secretary