

BYRON TOWNSHIP PLANNING COMMISSION

September 15, 2008

MINUTES

CALL TO ORDER, ATTENDANCE & PRAYER

Chairman Dutch Zeinstra called a regular meeting of the Byron Township Planning Commission to order at 7:00 p.m., on Monday, September 15, 2008, at the Byron Township Offices, 8085 Byron Center Avenue SW, Byron Center, Michigan 49315.

Commission members present were: Dutch Zeinstra, Jeff Gritter, Tim Slot, John Stone and Mike Marshall. Absent: Seymour Gould and James Faber. Also present was Township Attorney James Brown, Township Planner Brian Wegener, Building Inspector Randy Zomerlei and Recording Secretary LaVonne Kuiper.

Prayer was offered by Jeff Gritter.

APPROVAL OF MINUTES

A motion was made by Stone supported by Slot that the minutes of the August 18, 2008 meeting be approved as written.

PUBLIC COMMENTS

No public comments were made.

BUILDING INSPECTOR REPORT

The building inspectors report was received and placed on file.

SITE PLANS

Mr. Wegener reviewed his memorandum dated September 4, 2008 for **Site Plan 08-15: M & K Truck Sales** located at 8800 Byron Commerce of which a copy is attached and made part of these minutes. Mr. Wegener stated a site plan has been submitted by Ron Meyering seeking to expand an existing semi truck parking area. The subject site is located within the Byron Commerce industrial park and is zoned D-1 PUD. The proposed parking area would include 33, 9' x 20' motor vehicle spaces and 51 semi truck

spaces. The applicable dimensional requirements of Article XVI, parking, and the underlying D-1 District would be met. The parking lot would be paved as required by ordinance. Additional lighting or signage is not proposed. A landscape plan has been submitted with the application and a few plantings will need to be added to the plan. This includes one canopy tree and one shrub. This would bring the total to 6 canopy trees and 10 shrubs. The arrangement and types of plantings meets the ordinance requirements. It is recommended that this site plan be approved subject to 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. Township Engineer concerns shall be addressed and requirements of the Township Engineer shall be met.
3. The applicant shall submit a revised front yard landscape plan for Zoning Administrator review and approval. The revised landscape plan shall meet the standards in Section 4.44 (5)(c), and shall depict 6 canopy trees; 10 shrubs; 200 square feet of garden bed area; and underground irrigation.

Site Plan 08-16 Spartan Stores Freezer Building located at 820 – 76th Street. Paradigm Design has submitted a site plan in connection with a proposed expansion to a warehouse building on the Spartan Store property located at the southwest corner of 76th Street and Clyde Park Avenue. Spartan stores is proposing an 113,730 square foot addition to the 546,976 square foot perishable items warehouse toward the south portion of the site. The addition would involve demolition of an existing 20,500 square foot, 29 foot tall building and some parking areas. An existing lawn area near the center of the property would be converted into truck parking. All dimensional requirements of the D-1 Industrial District would be met, except the 35 foot building height limitation. The applicant did receive a 30 foot height variance from the Zoning Board of Appeals on August 27, 2008 to construct the 65 foot tall building addition. The setback from the road would be approximately 1,000 feet. Existing site lighting would not be significantly changed and additional signage is not proposed. Fire protection is important for a facility of this size. During the development of the site and building plans, Fire Chief Russ Jensen has been consulted several times in terms of department needs, requirements and information to effectively fight a fire if the need ever arises. The needs of the Fire Department have been addressed by the applicant. The applicant is encouraged to apply “green” building standards to this addition to the Spartan complex whether it be in the use of building material, lighting fixtures or landscape areas to reduce the carbon footprint of the proposed building. It is recommended that this site plan be approved subject to 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. Township Engineer concerns shall be addressed prior to the start of construction.
3. The Kent County Drain office shall review and approve drainage plans prior to the start of construction.

A motion was made by Stone supported by Slot to approve **Site Plan 08-15** with the conditions set forth by the planner and approve **Site Plan 08-16** with the conditions set forth by the planner and the Township Engineer. A copy of the Township Engineer report is attached and made part of these minutes.

Yes - 5. No - 0. Absent - 2. Motion carried. Site Plans approved.

To Set a Public Hearing – Ken Hedlund – requesting to open an auto repair facility for the property located at 7780 Clyde Park Ave. SW.

An application for Ken Hedlund was reviewed.

A motion was made by Slot supported by Marshall to set the public hearing for October 20, 2008.

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

Public Hearing – Robert & Pamela Smith – requesting a Special Land Use permit to open a dog day care facility for the property located at 4188 – 104th St. SW.

Chairman Zeinstra declared the public hearing open. Secretary Jeff Gritter read the public notice and affirmed that the notice was published once in the South Advance and properties within 300' were notified.

Robert & Pam Smith were present to explain this request. Pam stated this special land use permit would allow them to open a dog day care center for property at 4188 – 104th Street. They plan on using the existing pole barn on the property. There will be a small area inside the pole barn as a meet and greet for the dogs. They will then be ushered to one of the play areas with other dogs. The barn is insulated and heated already. The hours of operation will be from 7:00 a.m. to 6:00 p.m. To stay within Township requirements and common courtesy of neighboring homes, there will be a privacy fence installed on the west side of the pole barn to deaden any noise which may occur during operating hours. This is a dream for them and this location would be ideal. All animals will be required to have their updated vaccinations, including parvo, distemper, kennel cough and rabies. Records will be kept on each dog. All dogs must be spayed and neutered. The dogs will be cared for by one or two persons the entire time they are on the premises. All waste from the animals will be removed immediately to eliminate odors. The south side of the pole barn will be the fenced in area where dogs will be able to play and roam. The base of this area will be sand with pea-gravel layered over the top for drainage. In case of emergency they are both certified by the American Red Cross for CPR and minor emergencies. The facility will be kept clean throughout the day and will be sanitized nightly for any odors. Their goal is to be a good neighbor and conduct a peaceful business and not to make enemies of anyone living in the surrounding area. She did go and visit all the neighbors and no one had a problem with this type of business.

Planner Brian Wegener reviewed his memorandum of which a copy is attached and made part of these minutes. He comments that this 10 acre site is located between Wilson Avenue and Kenowa Avenue on the south side of the road. The parcel is zoned R-A Rural Agricultural. A single family home and a 24' x 48' pole barn exist on the lot. The proposed use is not considered a kennel where animals are boarded for several days at a time, although such a use is permitted by right. K9 Campus would be a day care facility for dogs similar to a child day care establishment. A few concerns he has is that there is no landscaping to the west of the play area, the play area is only 10 feet from the lot line and noise and odor. The 600' long driveway and the existing 40' x 60' parking area are gravel. In Section 16.4 (1) of the Zoning Ordinance requires paved parking and maneuvering areas for non-residential uses. The Planning Commission should determine whether this applies to this special use. The original application did not specify the number of dogs, but the applicant indicated in a telephone conversation that 5 – 10 dogs would be ok. Knowing that the Township Animal Ordinance Section 8.3(b) of the Animals Ordinance, Chapter 8 of the Byron Township Code of Ordinances allows any person in Byron Township to care for up to three dogs over the age of 6 months. Section 4.3 of the Zoning Ordinance allows 17 farm animals. Keeping in mind that a kennel is permitted by right. The applicant feels 5 – 10 dogs would be ok but he feels we should limit them to 5 dogs to balance the objectives of the business and the objectives of the Township to preserve rural residential character of the area. Allowing five dogs on the property during the day should not have a remarkably greater impact than farm animals which are permitted by right in the RA district. He feels noise could be a concern and if the Planning Commission is comfortable approving this application, it is recommended that the approval of a special use permit to establish a canine day care be subject to the conditions in Mr. Brown's resolution.

Chairman Zeinstra opened the hearing to the public.

Amy Voogt – 4200 – 104th St. – commented that her house is the first house to the west of the Smith property. They are very nice people but at this time the Smith's are only renting this property with the option to buy. She stated that she and her husband sleep during the day because they work at night. They have had problems with their old neighbors with the dog chasing her horses also she has been bitten by a neighbor dog. This is very stressful to her. Also she does not have air conditioning in her home. She leaves her windows open and knows that she will hear these dogs barking. She also spoke to some of the neighbors who are not in favor of this.

Potential client of the Smith's stated he is not a Byron resident but intends to use this dog day care center. He lives in Dorr but works in Grandville. By right they are allowed to have 17 dogs (animals) on this 10 acre parcel. They are good people and he feels this type of business would do a good job in the Township. There could be worse things than this type of business.

Tim Dykstra – 4091 – 104th St. - commented that he did not come to this meeting to create a problem. This is the first that he has seen Mr. and Mrs. Smith. They did stop at

his house and spoke to their daughter. He feels a stockade fence and extra trees is not going to help with the noise factor. Barking will be an issue unless they put muzzles on all of the dogs. Farm animals such as cows don't make noise. Neutered and spayed animals are territorial and they will growl and bark at each other.

Lori Collins who also does not live in the Township but does own and operate a dog day care facility in Saugatuck Township. She went through this same process for her business. Her business is also open from 7:00 am until 6:00 pm. People come in and drop their dogs off and any aggressive dogs are not allowed to come to the camp. If they show any type of problems she does not tolerate that. When these dogs get used to being together they do get excited when they see each other in the morning. But once that is complete they settle right down. Her dogs are supervised all day long and she has a total of 20 dogs. There have been no complaints by anyone concerning her day care. Until the people actually see how these are run they are afraid of the unknown. She feels if you limit the Smith's to 5 dogs it would not be profitable for them. They have to have at least 10 dogs to break even.

Chris Brown – 10505 Wilson Ave. SW was present and stated her concern with drainage. When they hose off and clean the kennels where would this go? They have a creek between their properties and she does not want it to drain into that because her children do play in that creek. She also does not want to create a problem but this is a big concern to her. She also asked who would do the inspections and keep track of the number of dogs and if this business is run properly. This can be approved tonight and you all go to your homes but they have to live with it. Would this business be in the jurisdiction of the Township or the State?

Attorney Brown commented that a serious issue such as animal cruelty would go to the State otherwise it is the Township's jurisdiction.

Chairman Zeinstra, Attorney Brown and Planner Wegener stated that the applicant would be required to comply with the Township Engineer's requirements and the storm water ordinance. How this is disposed of would be up to the Township Engineer.

Laura Vander Zouwen – wanted to make sure that there was someone there all the time with the dogs. Who can she call if she has a complaint? Also who will check to make sure there are not more dogs than what she is allowed.

Pam Smith stated there would always be someone at the dog day care center while they had dogs in their care.

Lori Collins again commented that by allowing only 5 dogs would be unreasonable. You can't turn on the lights or the heat for that.

No further public comments were made.

Chairman Zeinstra closed the public hearing to the public.

Commission John Stone addressed a comment to the neighbors that were present. He stated that the Smith's did not even have to come and ask permission for this. They could have just opened their dog day care and say nothing. But no they were concerned about their neighbors so they did come to seek permission from the Township.

Stone also commented on the drainage. He feels this issue has really not been addressed by the Planning Commission. When they are spraying these areas off where does the water go? The dog waste has not been addressed.

Attorney Brown stated that the storm water ordinance would cover the drainage from the property. The Township Engineer under the storm water ordinance would establish a drainage plan.

Marshall is also very concerned about the drainage. It's tough to try and bring this type of a business into an established rural area. Traffic issues should not be a big issue.

Slot agrees with Marshall regarding the drainage. With a potential of more than 5 dogs there is going to be a lot of noise. Also think of the enforcement nightmare that this could produce. How can you prevent these people from dropping the dog off at 5:00 in the morning instead of waiting until 6 and when they get picked up. This will really keep Randy and Brian busy.

Gritter stated that a group of dogs are going to bark and ruff house. A dog kennel is allowed to have 17 dogs, but remember they did come in and ask for approval when they really did not have to.

Chairman Zeinstra thinks this location is a good one. The dog day care that was denied a few years ago was located in downtown Byron Center. That was not a good location.

After some additional discussion a motion was made by Stone supported by Gritter to approve this special land use for a dog day care center per the Attorney's resolution of which a copy is attached and made part of these minutes.

Roll call vote: Slot - no. Gritter - yes. Zeinstra - yes. Marshall - no. Stone - yes.
Motion carried.

Public Hearing - Robert VanderVeen requesting to rezone property located at 8824 S. Division from R-A Rural Agricultural to R-S Suburban Residential.

Chairman Zeinstra declared the public hearing open. Secretary Jeff Gritter read the public notice and affirmed that the notice was published once in the South Advance and properties within 300' were notified.

Robert VanderVeen was present to explain this rezoning request. He commented that a map was submitted with his application showing parcels "A", "B", "C" and "D". He is

proposing to rezone parcel "A" and "D" to R-S. He stated that he hopes to sell parcel "A" in the future.

Brian Wegener reviewed his memorandum dated September 4, 2008 of which a copy is attached and made part of these minutes. He is suggesting that the Planning Commission recommend approval of this rezoning application to the Township Board based on the following findings:

1. The requested rezoning is consistent with the Byron Township Master Plan's future land use recommendation for the subject property.
2. The proposed rezoning appears to be consistent with the land use recommendations of the Gaines Township Master Plan.
3. It appears that the applicant can overcome topography challenges associated with the site to make use of the proposed zoning district given the size of the parcels proposed.

Chairman Zeinstra opened the hearing to the public.

David Wensink – 8820 Division Ave. SW commented that by creating another parcel drainage will be an issue. The current driveway is not completed and should have 2" of black-top put on it. Also tiling should be installed underneath the driveway. He commented that he maintains the drive in the winter but this driveway has to be completed. Robert owns 2/3 of the driveway and does not want to pay his share.

No further public comments were made.

Chairman Zeinstra closed the public hearing to the public.

Chairman Zeinstra asked Attorney Brown about the water run off and who governs this issue.

Attorney Brown commented that the law of the state says the one can't use their land to create a problem on another person's property. This is not covered as a specific Township Ordinance but the one person can sue another over drainage but this is recognized as a nuisance. It is better if the two parties can work the problem out together.

Slot commented that he would feel a lot better if the applicant would fix the drainage issue. He has no problem with the rezoning or split.

Gritter also stated he has no problem with the rezoning, but the neighbor issues have to be resolved. It's nice to get along with your neighbors.

Marshall has no problem with the rezoning but agrees they have to work the driveway issue out.

After some discussion a motion was made by Stone supported by Slot to table this rezoning request until Mr. VanderVeen and his neighbor Mr. Wensink meet with the

Township Engineer to discuss the drainage issue.

Yes - 4. No - 1 (Gritter). Motion carried.

Just Properties LLC (Ric Johnston to rezone property located at 7164 Clyde Park Ave., SW (portion of) and 7160 Clyde Park Ave. SW from R-U Urban Residential to D-1 Industrial. (Tabled at the January 21, 2008 meeting.)

Brian Wegener commented that this should remain on the table and Attorney Brown summarized the status of the Township's efforts.

Miscellaneous

TOWNSHIP BOARD

Tim Slot had nothing to report.

ZONING BOARD OF APPEALS

Seymour Gould absent no report given.

DAY CARE CENTER (MASTER PLAN LANGUAGE)

Attorney Brown reviewed Draft 2 of his resolution for Child Care Centers.

PORTABLE STORAGE UNITS

Attorney Brown reviewed Draft 2 of the proposed Zoning Ordinance Amendments on Temporary Portable Storage Containers.

After some discussion a motion was made by Slot supported by Gritter to set a Public Hearing for October 20, 2008 for the following ordinances:

1. Child Care Centers (Special Land Use)
2. Temporary Portable Storage Containers
3. Outdoor Storage Areas (discussed at the August, 2008 Meeting)

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

Adjournment

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

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

Jeff Gritter, Secretary
Byron Township Planning Commission