

BYRON TOWNSHIP PLANNING COMMISSION

November 17, 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, November 17, 2008, at the Byron Township Offices, 8085 Byron Center Avenue SW, Byron Center, Michigan 49315.

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

Prayer was offered by Tim Slot.

APPROVAL OF MINUTES

A motion was made by Stone supported by Slot that the minutes of the October 20, 2008 meeting be approved as written.

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

PUBLIC COMMENTS

Ron Van Singel from the Merestone Group was present and commented that at the last planning commission meeting they explained their intended use for the Mixed Use PUD for the property located at the southeast corner of 64th Street and Byron Center Avenue. Taking into consideration the concerns and questions that were heard that evening they have made some changes on the plan. He stated that one of the suggestions that were made was to connect the upper level with the lower and that change has been made. The drainage incorporated in this revised plan shows it going to the north near Saint Mary's hospital. More details will be shown on the next plan. They sent out over 100 notices of the special meeting for the neighbors which was held at Rivertree Community Church on November 3, 2008. Approximately 25 people attended this meeting and heard a lot of good comments. He stated a revised plan will be submitted by this Friday so the changes can be discussed at the special advisory public hearing to be held on December 1, 2008.

No further public comments were made.

BUILDING INSPECTOR REPORT

The building inspectors report was received and placed on file.

SITE PLANS

Mr. Brian Wegener reviewed his memorandum dated November 6, 2008 for **Site Plan 08-21: Auto Zone** which is located at 6729 South Division Avenue. A copy of that memorandum is attached and made part of these minutes. Mr. Phillip Pecord has submitted a site plan to construct a new Auto Zone store at 6729 South Division. The applicant would demolish the former gas station structure, remove the existing underground tanks and develop a new retail building. All requirements of the MDEQ would be met as the underground tanks are removed. The applicant received a variance from the Zoning Board of Appeals on October 22, 2008 to deviate from Section 16.5 which requires that the front yard parking area be at least 10 feet from the right-of-way line and from each part of the side property lines in the front yard. The proposed parking area is approximately 2 feet from the sidewalk in compliance with the variance. The applicant also received a variance from the Zoning Board of Appeals to deviate from the requirements of Section 11.3(8) which requires a 10 foot landscape buffer along the west property line. The Cutlerville Fire Station is located to the west and is zoned MFR. The MFR zoning triggers the requirement for the 10 foot buffer. The applicant is proposing to maintain this paved area consistent with the variance and present use. It is recommended that the site plan be approved subject to the following two conditions:

1. Township Engineer concerns shall be addressed and requirements of the Township Engineer shall be met.
2. 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.

A motion was made by Slot supported by Gould to approved **Site Plan 08-21 for Auto Zone** with the conditions listed by the Township Planner.

Yes - 6. No - 0. Absent - 1. Motion carried Site Plan 08-21 approved.

Public Hearing – Masterpiece Flower Co. – requesting to rezone the property located at 8084 Clyde Park Ave., from R-S Suburban Residential to D-1 PUD Industrial Planned Unit Development.

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.

Chris Mast and Ryan Dykhouse were present to answer any questions or concerns.

Brian Wegener then reviewed his memorandum dated November 6, 2008 of which a copy is attached and made part of these minutes. He commented that this site is essentially the last piece of residentially zoned land in the immediate vicinity. Masterpiece Flower Company is seeking to expand the existing operations by constructing a maintenance building and associated parking and maneuvering areas, plus expand semi-trailer parking. The site meets the qualifying conditions expressed in Section 15.2 necessary to be eligible for PUD rezoning including a minimum lot area of 2 acres and the availability of public water and sewer. The two existing buildings and an access drive from Clyde Park Avenue currently situated on the property will be removed. A new 15,300 square foot building will be constructed. A couple concerns that should be addressed is the lot is only 115' wide, but a 200' width is required. This needs to be combined with the larger Masterpiece Flower Company lot to the south. Also they need to define the use of the new building, office and warehouse for us to determine the parking needs. Ten new motor vehicle parking spaces are proposed immediately west of the proposed immediately west of the proposed maintenance building. The parking spaces are shown at 8'x18' and the maneuvering drive is 24 feet in width. Section 16.2 requires that parking spaces be 9'x20' and that maneuvering drives be 26 feet in width. The applicant has not submitted any statement requesting a deviation from these standards and it appears the requirements can be met. And finally the parking material must be determined. It is suggested that the Planning Commission recommend Township Board approval of the D-1 PUD rezoning request and the preliminary site development plan with the understanding that the following items will be clarified in the final site development plan:

1. Confirmation that the subject parcel will be combined with the larger Masterpiece Flower Company property to the south.
2. Compliance with the provisions of Article XVI, including parking space dimensions and the number of required parking spaces.
3. Clarification of the use areas (office/warehouse) in the proposed maintenance building to determine parking requirements.
4. The applicant shall furnish to the Township Clerk a commitment letter and deed restriction in a form approved by the Township Attorney for sidewalk installation adjacent to Clyde Park Avenue.

Chairman Zeinstra opened the public hearing.

No public comments were made.

Chairman Zeinstra closed the public portion of the meeting.

Seymour Gould asked the applicant if he is definitely going to combine these lots. He also commented that this rezoning only makes sense.

Chris Mast said yes the lots will be combined.

James Faber asked to abstain from voting due to conflict of interest.

After some additional discussion a motion was made by Stone supported by Gritter to recommend Township Board approval of this rezoning along with the 4 conditions set forth by the Township Planner.

Yes - 5. No - 0. Absent - 1. Abstained - 1. 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 application can remain on the table.

Dykhouse Associates – Land Use Variance – a request from Mr. Ron Quakkelaar for a land use variance for the property located at 2488 & 2496 – 84th St. SW. The land use request is to have residential use in a B-1 zoning district.

Brian Wegener commented that Dykhouse Associates has submitted an application for a land use variance. The applicant has proposed residential dwellings in the B-1 Central Business District, but residential uses are not permitted in the B-1 zone. To move forward the applicant has submitted a land use variance application. Land use variances may be sought when a proposed use is not permitted in the zoning district in which the property is located. Section 21.7 of the Zoning Ordinance requires that the Planning Commission provide a recommendation to the Zoning Board of Appeals on any proposed land use variance and that the ZBA not make a decision on a requested land use variance until the Planning Commission's recommendation is considered.

The subject property is 2488 & 2498 – 84th Street along the south side of 84th Street between Freeland Avenue and Harlow Avenue. The site plan for this building was approved by the Planning Commission at its May 19, 2008 meeting. The project included the demolition of the "Happiness Is" restaurant and construction of a 6,048 square foot retail building. The applicant is seeking the variance to establish 6 dwellings. A floor plan submitted illustrates 5 retail or office tenant spaces and 1 residential dwelling on the first floor and 5 residential dwellings and a partial retail tenant space on the second floor.

While the request is consistent with the policies expressed in the Township Master Plan for the future of downtown Byron Center the request has implications on parking and urban design that should be addressed.

The Planning Commission must suggest that the ZBA approve or deny the land use variance request. It is suggested that the Planning Commission recommend this land use variance to develop residential living units in Byron Center as it implements a Master Plan recommendation, enhances business opportunities in Byron Center, provides opportunity for alternative housing only offered on a limited basis in the

township, provides a viable use to the second level of a retail building that has only marginal opportunity for use, and does not diminish the quality of life or diminish business opportunities in Byron Center.

Tim Slot commented that he is all for units above, but the unit on the main floor he does not feel is acceptable. It can be used as it is currently zoned.

Chairman Zeinstra commented that it is his understanding that the main floor unit would be used for a handicap unit.

Seymour Gould stated there are major parking issues on this property.

Chairman Zeinstra stated he likes the concept for a handicap unit on the main level but the parking is the issue.

Township Attorney Jim Brown reminded the commission members that they need to look only at the use variance. Seymour Gould can bring these other concerns to the Zoning Board of Appeals.

After some additional discussion a motion was made by Slot supported by Gritter to recommend to the Zoning Board of Appeals approval of this land use variance as long as the parking issues are addressed and resolved.

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

Miscellaneous

- **TOWNSHIP BOARD**
Tim Slot had nothing to report.
- **ZONING BOARD OF APPEALS**
Seymour Gould commented that they are still dealing with billboard issues.
- **Michigan Planning Enabling Act 33 of the Public Acts of Michigan of 2008.**
Attorney Jim Brown explained that although the Michigan Zoning Enabling Act, Act 110 of 2006 became effective July 1, 2006, the legislature and the governor subsequently approved Act 12 of 2008, which consists of amendments in the Zoning Enabling Act. Some of the amending provisions in Act 12 of 2008 require certain amendments in the Township zoning ordinance and this is the purpose of the enclosed ordinance. Most of the relevant amendments relate to the Zoning Board of Appeals and some changes will occur in the Board of Appeals chapter for clarity and greater completeness.

After some discussion Chairman Zeinstra asked the commission member if they would like a month to study this or if they ready for a public hearing. It was the consensus of the commission member to go ahead and have the public hearing.

A motion was made by Gould supported by Slot to set the public hearing for December 15, 2008

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

□ **Byron Zoning Ordinance Discussion**

Brian Wegener stated that a memorandum that was written in January of this year that reminded the Planning Commission that the Master Plan which was adopted in December of 2007 included several policies and guidelines that must be reflected in the Zoning Ordinance to be successful. Also listed in that memorandum were some provisions of the Zoning Ordinance that could be clarified or strengthened to ensure that the intent of the ordinance is fulfilled. We have new enforcement challenges that we hope the Planning Commission can address. Maybe a series of special work session would be a good idea to go over possible changes to the Zoning Ordinance.

Attorney Jim Brown suggested that a comprehensive review and updating of the Township zoning ordinance is very appropriate undertaking for the Planning Commission. It has been many years since the zoning ordinance was revised. Some of its provisions are less relevant than they once were and a number of other provisions are no longer lawful based upon state law changes. He stated that he would get together with Larry Nix.

Adjournment

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

Jeff Gritter, Secretary
Byron Township Planning Commission