

NORTHFIELD TOWNSHIP PLANNING COMMISSION Minutes of Regular Meeting August 20, 2014

1. CALL TO ORDER

The meeting was called to order by Chair Marlene Chockley at 7:20 P.M. at 8350 Main Street.

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

AND DETERMINATION OF QUORUM

Roll call:

Janet Chick	Present
Marlene Chockley	Present
Brad Cousino	Present
Kenneth Dignan	Present (arrived at 7:15 P.M.)
Sam Iaquinto	Present
Larry Roman	Present

Also present:

Planning Consultant Douglas Lewan,
Carlisle/Wortman Associates
Recording Secretary Lisa Lemble
Members of the Community

4. APPROVAL OF AGENDA

Chockley switched the order of the Second Call to the Public with Comments from Commissioners.

- **Motion:** Iaquinto moved, Roman supported, that the agenda be adopted as amended.
Motion carried 5—0 on a voice vote.

5. FIRST CALL TO THE PUBLIC

Zoning Ordinance Updates. Dale Brewer, 11548 East Shore Drive, asked that recently approved revisions to the zoning ordinance be made available to the public.

Biltmore Development Request for Master Plan Amendment. Ed Wojtys, 6235 Hellner Road, said members of the public who spoke at the last meeting were overwhelmingly opposed to the Master Plan change and said if the Commission feels differently he would like to know why. He said this is a similar situation to the Grand Sakwa proposal and said he would not like the Township to go through that experience again. He said there is no reason to change the Master Plan.

Joanne Martilla Pearson, 5756 Earhart Road, said five acre residential zone is the best tool for preserving the Township's rural character. She said this has created small farms and residences where at least half of the land is preserved in open space. She said 28 of the 30 people who spoke at the last meeting were opposed to changing the Master Plan and multiple public planning sessions are needed to review this idea. She said the narrative should be "Protect Our Master Plan."

Renee Mulcrone, 366 Glenmor, said everyone wants growth in the Township and wants the Township to thrive. She said the business district has an ideal location, but problems—mainly lack of parking—have hindered its development, but there is now a bike path going through town and a Downtown Development Authority working to improve it. She asked that the Township not act on the Biltmore request until the school district annexation is decided, and cautioned that changing the Master Plan based on the Biltmore request will mean the Plan will not be defensible when other developers ask for changes.

[Dignan arrived at this point].

Craig Warburton, 450 W. Joy Road, read from Township documents a couple of years ago stating that the Master Plan—a guide for future development—had recently been adopted after public input and would help prevent urban sprawl and leapfrog development and support small farms. He said the results of community input cannot be amended by amending the Master Plan and this is really a rezoning request.

Cecilia Infante, 1035 E. Five Mile Road, said she supports development and Township growth, but the Township would not benefit from this if the school district is not annexed by Ann Arbor. She said the people in the proposed homes will not shop in Whitmore Lake, and she estimated an additional 9,000 daily car trips on the two major roads in the area.

Jeff Hayner, 187 Pontiac Trail, Ann Arbor, said once agricultural land is gone, it's gone, and it needs to be preserved. He said it is much less expensive for governments to serve agricultural land with public services than residential, and the land south of the Biltmore site is designated for agricultural use. He said New Urbanism would be supported by developing land closer to the downtown.

6. CORRESPONDENCE

Lewan reported that registration for the October 8-10 Michigan Association of Planners (MAP) conference is will be closing soon.

7. REPORTS

7A. Board of Trustees

Chick reported that last week the Board:

- Voted that the Board will be the entity making the appointment of a Township representative to Huron River Watershed Council.
- Approved a dog leash and barking ordinance.

7B. ZBA

Dignan reported that on August 18th variances to allow a garage to be rebuilt at Beech and Lakeshore Drive were approved.

7C. Staff Report

Nothing to report.

7D. Planning Consultant

Nothing to report.

8. PUBLIC HEARINGS

8A. Case #JPC140003; Nowatzke Truck & Trailer; Location: 6900 Whitmore Lake Road; Request for Conditional Use Permit for a convenience store and gasoline/diesel fueling station. Parcel 02-20-300-036; zoned GC.

- ▶ **Motion:** Iaquinto moved, Roman supported, that the public hearing be opened.
Motion carried 6—0 on a voice vote.

Tom Nowatzke referred to letters of support he had submitted to the Commission and noted that the Township engineer and planner submitted positive reports about the project.

Doug Lewan, Planning Consultant, noted that the Commission has discretion in attaching conditions to a Conditional Use Permit (CUP), the Township Board makes the final disposition on CUPs, and if the CUP is approved a complete site plan will have to be approved by the Commission.

Regarding this proposal he said:

- This is a request for creation of a 285 sq. ft. convenience store within the existing building, six gasoline pumps, three diesel pumps, and a canopy over the pumps. He suggested including a condition to make it clear that truck stops are not allowed in this district, so semis cannot be parked here overnight.

- The proposed use is compatible with the surrounding uses and fits in with the “service” and “commercial” uses in the new Master Plan area known as Mixed Use South.
- The applicant submitted a traffic impact study which indicates passable, but undesirable, E and F ratings at peak hours in this area, but that this operation will not have a significant effect on those ratings. He added that the Township Engineer has indicated he will provide a full review of this study at the time of site plan review, and said if the Commission is concerned about traffic related to this request the Commission can delay action until the engineer’s report is received, or a satisfactory review can be made a condition of approval.
- Tractor Supply has indicated they will provide easements for traffic related to this site, and details can be worked out at site plan review.
- His report includes a list of items to be addressed at the site plan review stage.
- Kurt Weiland, Zoning Administrator, inspected the site and found that:
 - Signage for the CUP request was properly posted on the site.
 - Vehicles for sale are in the required setback.
 - Materials stored outside need to be stored inside.
 - Non-roadworthy trailers appear to have been stored on the site for some time. He recommended a limit of 30 days for these.

Dale Brewer referred to the list of objections he had provided to Commissioners, and said, signs, banners, and stored salvage materials are in violation of ordinances, there is improper and dangerous propane storage on the site, there are traffic concerns, US-23 ramps are failing and the North Territorial bridge has weight limits on it with no plans for improvements until 2017, payment of personal property taxes are or have been delinquent for this site, a past fuel discharge has not been cleaned up, the property is not a good reflection on the neighboring businesses, and the owner of the property is not a good steward of the property for the Township.

Craig Warburton, 450 W. Joy Road, said this operation is not incompatible with the commercial and industrial uses surrounding it.

A representative for Mr. Nowatzke noted that a recommendation in the traffic study—a left turn lane into the site—has been added to their site plan. Nowatzke said this will be a good-looking facility, no new signs will be added, and it will be a first class operation the Township will be proud of. He said he

takes materials from his site to the junkyard once a month.

- **Motion:** Dignan moved, chick supported, that the public hearing be closed.
Motion carried 6—0 on a voice vote.

9. OLD BUSINESS

9A. Case #JPC140003; Nowatzke Truck & Trailer; Location: 6900 Whitmore Lake Road; Request for Conditional Use Permit for a convenience store and gasoline/diesel fueling station. Parcel 02-20-300-036; zoned GC.

In answer to a question from Iaquinto, Lewan said he researched state law about the issue of Conditional Use Permits (CUPs) and found nothing to indicate there is a time limit on CUPs granted. He said the statement by Mr. Brewer during the public hearing involved recitation of case law and he cannot comment on that, but everything he found indicates that CUPs run with the property, even with change of ownership. He said the one exception might be if the zoning of the property was changed to a designation that does not allow the approved use. He said he teaches a zoning class and has never found any information to the contrary. In answer to a question from Chick, Lewan said if a CUP is granted but not implemented the approval would lapse at some point.

Dignan asked whether the CUP previously approved for this site has been reviewed and whether any conditions of that CUP would apply in light of this application. Lewan said when Nowatzke originally approached the Township about this expansion he brought the minutes of the meeting when the existing CUP was approved, but that approval was for a very limited sale of fuel and this is clearly an expansion of that. In answer to a question from Iaquinto, Lewan said that original CUP was put into use and Nowatzke has been selling fuel.

Roman said some of the signage on the site still needs to be looked at. He also asked if the existing LP tank was covered by the original CUP and whether continued sale of LP is indicated on the new plans. Regarding traffic, Roman said he attended the recent MDOT meeting about the US-23 project and the MDOT planner he spoke to said the intersection of North Territorial and Whitmore Lake Road is not addressed in their plan. He noted that despite recent upgrades to that intersection there are no right turn lanes and said the County should look at that situation again. He said he does not think Nowatzke's proposal will contribute much to the problems there, but this would be the right time for the County to look at this intersection again.

Dignan agreed with Roman, and he said he takes Nowatzke at his word that he intends to improve the site, but he would like to see some steps toward that taken now as a good will gesture. He asked Lewan how much the clean-up of that site plays in the approval of this request. Lewan said it would be a perfectly acceptable condition for the applicant to address the citations listed by the zoning administrator.

Chick agreed that there should be a limit on how long trailers are stored on this site. Nowatzke said he buys and sells used trailers, but does not generally fix them up. He said he might be able to live with a 90 day limit on trailer storage. Dignan asked Lewan if unlicensed trailers can be stored on the site legally. He said he understands that a used vehicle can remain on a lot for a very long time, and it seems to him that a limit on the storage time might not be reasonable. Nowatzke said he scraps trailers that are not sold after a certain period of time.

Iaquinto said the Township has not aggressively enforced zoning violations for many years, but that is changing, especially when a property owner seeks additional approvals for use of the site.

In answer to a question from Cousino, Nowatzke said the above ground tank contains material used in asphalt paving, belongs to someone renting space from him, and will be moved within the month. In answer to another question from Cousino, Nowatzke said the site just went through a Phase I environmental assessment and it was found to be clean.

In answer to a question from Roman, Nowatzke said he sells LP gas, and the existing tank is shown on the plan as being moved to a new location. Chick said there are delinquent sewer charges for this site. Nowatzke said he was made aware of this 60 days ago and he has not received a bill. In answer to a question from Dignan, Nowatzke said the personal property taxes that were discharged were related to a past marriage. Iaquinto asked whether current personal property taxes have been paid. Nowatzke said they have been paid as far as he knows. In answer to a question from Chick, Lewan said payment of taxes would not be an appropriate condition of CUP approval.

In answer to a question from Iaquinto, Lewan said a CUP approval would not expire unless the applicant had not implemented the approved plan within one year of the subsequent site plan approval. He added that if an applicant is making steps toward concluding their project the Township will make allowances for that. Dignan asked how far the Commission and Township Board can go in attaching conditions to a CUP request. Lewan said conditions can be anything related to the Standards for approval recited in the zoning ordinance.

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Chockley said sale of used vehicles is listed as a conditional use in the GC district, and she asked whether a CUP for that use exists. Nowatzke said there is not a CUP for that use, but trailers have been sold on the site since before 1978. Cousino noted Nowatzke sells new trailers, and sale of used trailers are allowed with that permitted use.

In answer to a question from Cousino, Nowatzke said there are no public showers or restaurant on the site as would be found with a typical truck stop. Dignan said he has no reservations about this request, but it is important that review of the traffic study be a condition of approval.

The Commission discussed appropriate conditions for approval of the request CUP. Iaquinto said he is always in favor of business development, but he would like to see the property cleaned up. He said there are many attractive businesses surrounding this site, and request for approval of additional uses opens the door to enforcement of ordinances.

► **Motion:** Chockley moved, Roman supported, that Based upon the information received from the applicant, Nowatzke Truck & Trailer, Inc., 6900 Whitmore Lake Road, Whitmore Lake, MI 48189 concerning Parcel Number B-02-20-300-036, and reflected in the minutes of this meeting, the Planning Commission finds the preliminary site plan and related information received by the Township on August 20, 2014, meets the required standards and findings for Conditional Uses and recommends approval with conditions. Specifically, it is found that the following required standards and findings found in Section 63.07 of the Zoning Ordinance have been demonstrated by the applicant:

- A. Will be harmonious with and in accordance with the general objectives, intent, and purposes of this Ordinance;
- B. Will be designed, constructed, operated, maintained and managed so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity;
- C. Will be compatible with the natural environment and existing and future land uses in the vicinity;
- D. Will be compatible with the Northfield Township Land Use Development Plan;
- E. Will be served adequately by essential public facilities and services, such as highways, streets, police, and fire protection, drainage structures, refuse disposal or that the persons or agencies

responsible for the establishment of the proposed use shall be able to provide adequately any such service;

- F. Will not be hazardous or disturbing to existing or future neighboring uses; and
- G. Will not create excessive additional requirements at public cost for public facilities and services.

Further, the Planning Commission recommends the following conditions be placed on the subject Conditional Land Use:

- 1. that the traffic impacts be satisfactory to and/or remediated to the satisfaction of the Washtenaw County Road Commission
- 2. that the concerns enumerated in the township planner's memo of August 7, 2014 be addressed
- 3. that the concerns enumerated in the township engineer's letter of August 13, 2014 be addressed
- 4. and that any non-conformities on the existing site be remediated according to the zoning ordinance

Motion carried 6—0 on a roll call vote.

8B. Whitmore Lake North Territorial (aka Mixed Use South) Overlay District.

Lewan said this is a more fleshed-out ordinance for the area at North Territorial and US-23 per the discussion at the last meeting. He made comments, including:

- Key design standards including having shared driveways, bringing buildings closer to roads, limiting parking in front of buildings, and allowing parking in front yard setbacks if certain design features are provided (e.g. screening kneewalls, fencing).
- Community Design features would be required along frontage roads.
- Standards intended to prevent large, unbroken facades are included, although exemptions from some regulations are provided for "Big Box" retailers.
- Permitted and conditional uses are intended to expand the uses allowed in any single zoning district currently covered by the overlay district.

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Lewan said this is a very important document and there is no rush to get it to the public hearing stage. In answer to a question from Cousino, Lewan confirmed that none of these regulations or standards can be implemented unless the property owner asks for approval from the Township of new development plans. He elaborated that governments can use these mechanisms to get the public improvements it would like, such as sidewalk, bike paths, and benches; or governments can install them with public funds, but most do not have those resources so they rely on ordinances of this type to get them piecemeal as they can.

Iaquinto asked if sales of RVs and trailers would be allowed. Dignan said he does not see those as being compatible in this district.

Cousino questioned whether it is necessary to restrict non-single-family dwellings to second floors of buildings. In answer to a question from Chick, Lewan said he listed schools as conditional uses, but medical facilities as permitted uses, because schools could have more traffic impacts. Chockley questioned the purpose of including golf courses in the list of uses; Lewan said that can be removed.

Chockley noted that open air displays (e.g. woodchip sales) are allowed in some of the underlying zoning districts, but are excluded from the overlay. Lewan said the intent is for any of those existing uses to become legal, non-conformities. He said Commissioners can decide otherwise, but the question is what the Township wants the area to look like. Dignan said that means an existing landscape supply business in this area could not expand without Zoning Board of Appeals approval, so that could be an encouragement for them to leave the Township because there are no other areas with the proper zoning and easy access to the Township. He said he has a problem with that. Iaquinto agreed. Dignan suggested making this a conditional use.

Roman said any large institutional uses, boat sales, and car sales should be conditional due to their size and potential impacts.

In answer to questions from Cousino about open air sales, Lewan said if a landscape supply business went out of business and restarted a year later, or if it were sold to another owner, it would be allowed to continue operating; however, if the site were taken over by another type of open air sales (e.g. brickyard), the zoning administrator would have to make a determination as to whether the intensity of the use had increased.

Dignan said this is creating a situation in which an existing business decades from now would not be able to expand. Lewan said even now any business of that

type would at a minimum be required to get site plan approval to expand.

10A. Article 34.0 Residential Office; Review of ordinance language.

10B. Article 40.0 Limited Industrial; Review of ordinance language.

10C. Article 41.0 General Industrial; Review of ordinance language.

10D. Article 42.0 Enterprise Services; Review of ordinance language.

Lewan explained that some extraneous language in these sections was removed, such as references to conditional use permits, signs, and height regulations that are now included in other parts of the ordinance. He said at a future meeting he would like to bring a map showing where these zoning districts exist in the Township.

11. MINUTES

August 6, 2014, Regular Meeting

Chockley made three minor changes.

- **Motion:** Dignan moved, Iaquinto supported, that the minutes of the August 16, 2014, regular meeting be approved as corrected, and to dispense with the reading.
Motion carried 5—0 on a voice vote.

12. POLICY REVIEW & DISCUSSION

None.

13. SECOND CALL TO THE PUBLIC

Whitmore Lake North Territorial Overlay District.

Dale Brewer said the landscaping businesses developed in this area because that was the only non-agricultural use allowed in AR zoning, so this will need to be addressed. He said Regal Recycling is in this district and nothing in the overlay language addresses this use or most of the uses on the Nowatzke property.

Nowatzke Application for CUP. Dale Brewer asked the Commission to reconsider its motion regarding this because it does not ask the Washtenaw County Road Commission to review the traffic study and determine whether it adequately addresses the proposal.

Chockley read the motion's statement about the traffic study. Lewan said while it perhaps could have been worded better, it will be sufficient for the Road Commission to do what they need to do.

14. COMMENTS FROM THE COMMISSIONERS

Biltmore Development Request for Master Plan Amendment. Cousino asked what the status of this request is. Lewan said the Commission chose the smaller of the two proposed study areas as the subject of the review, and it also listed studies to be done at the developer's expense to allow further consideration by the Commission. Lewan reported that consulting firms are being chosen to prepare those studies.

North Territorial/Whitmore Lake Road Intersection. Dignan said from his discussion with a Michigan Department of Transportation (MDOT) representative at their presentation on proposed US-23 changes MDOT will not consider changes to the North Territorial and Whitmore Lake intersection until some development comes in that a traffic study indicates puts it past its current capacity.

Updated Zoning Ordinance Copies. Dignan asked when these can be provided to Zoning Board of Appeals members. Lewan said many updated sections were awaiting approval by the Township Board and he will provide these as soon as possible.

Conditional Use Permit Approval Authority. Iaquinto reported that Township Board Trustee Dockett asked at the Board's last meeting that the responsibility for approving Conditional Use Permits be returned to the Planning Commission. Chick said she will bring that up with the Township Board.

15. ANNOUNCEMENT OF NEXT MEETING

September 3, 2014, at 7:00 P.M. at the Public Safety Building was announced as the next regular Commission meeting time and location.

Chockley and Iaquinto said they will be out of town on September 17th, and Dignan said he may also be gone. Chockley said she may cancel that meeting.

16. ADJOURNMENT

- ▶ **Motion:** Dignan moved, Iaquinto supported, that the meeting be adjourned.
Motion carried 5—0 on a voice vote.

The meeting was adjourned at 9:55 P.M.

Prepared by Lisa Lemble.

Corrections to the originally issued minutes are indicated as follows:

Wording removed is ~~stricken through~~;

Wording added is underlined.

Adopted on September 3, 2014.

Marlene Chockley, Chair

Kenneth Dignan, Secretary

Official minutes of all meetings are available on the Township's website at <http://www.twp-northfield.org/government/>