

**NORTHFIELD TOWNSHIP
PLANNING COMMISSION
Minutes of Regular Meeting
November 6, 2013**

1. CALL TO ORDER

The meeting was called to order by Chair Marlene Chockley at 7:00 P.M. at 8350 Main Street.

2. PLEDGE OF ALLEGIANCE

**3. ROLL CALL
AND DETERMINATION OF QUORUM**

Roll call:

Janet Chick	Absent with notice
Marlene Chockley	Present
Brad Cousino	Present
Kenneth Dignan	Present
Glen Ewald	Absent with notice
Sam Iaquinto	Present
Larry Roman	Present

Also present:

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

4. APPROVAL OF AGENDA

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

5. FIRST CALL TO THE PUBLIC

No comments.

6. CORRESPONDENCE

Chockley reported that Green Oak Township has given notice that they will be starting their master plan process soon.

7. REPORTS

7A. Board of Trustees

No report.

7B. ZBA

No meeting has been held since the last Planning Commission meeting.

7C. Staff Report

Nothing to report.

7D. Planning Consultant

Nothing to report.

8. PUBLIC HEARINGS

- 8A. Case JPC130006; D&G Nature's Way, 9380 Earhart Road; Request for Conditional Use Permit to expand business under Section 12.03(P) of the zoning ordinance; Parcel 02-01-300-018; zoned AR.**

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

George and Jim Jackson appeared as applicants. George Jackson provided MSDS sheets for the products they store on their site and said answers to most questions about the project were supplied at the last Planning Commission meeting. Township planning consultant Doug Lewan briefly reviewed the application for an addition to the existing building to house equipment for their landscape operation and the office for the operation.

Lewan also referred to his November memo which addressed questions asked at the last meeting, including (a) the number of vehicles to be stored on-site, (b) the type of fertilizer used, how it is stored, and how a spill would be handled, (c) business hours, and (d) the number of employees.

Lewan noted that this entire area is zoned AR and the master plan calls the land use to be agricultural. He explained that the Planning Commission makes recommendations on Conditional Use Permits (CUPs)

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to the Township Board which makes the final decisions.

Lewan also said:

- the subject site is wooded, screening most of the existing building.
- information about any trees that will be removed to make room for the addition must be specified.
- There will be no significant increase in traffic flow due to the proposed expansion.
- Some stormwater detention will probably be required related to the building addition.
- It is not clear whether a CUP was required for this type of business when it was first established, so it is considered a non-conforming use. The purpose of his letter of April 8, 2013, to the applicant's representative was to confirm that this operation was eligible to request a CUP.
- The property is considered a non-conforming lot of record because it is smaller than the 10 acres currently required.
- All conditional land uses are supposed to show that they will not be harmful or disruptive to the surrounding area, and one of the big issues raised during the review and by the public is chemicals stored on-site, so additional information has been requested about types and quantities. Specifying that information as part of a CUP approval will be a method of limiting the growth of the operation.
- If a CUP is granted, site plan review will be required, and that requires submission of a large amount of detail about the project.

Lewan said he recommends approval of the request with conditions as discussed.

Kathy Keinath, Perimeter Engineering, appeared for the applicants. She presented a plan of the site and pointed out the driveway location, the existing building and proposed addition locations, and the location for the stormwater detention.

Jacob Rushlow, township engineer, said:

- A new well and septic system will be part of the project.
- An on-site retention/infiltration pond will keep all runoff on site.
- He recommends approval of the CUP.

George Jackson said there will be a maximum of 350 pallets of fertilizer and 8 drums of liquid weed control on the site at any one time. He said he met on-site with Tom Winebrenner with the Washtenaw County Pollution Prevention Program and filled out information about these materials.

David Perry, 9411 Earhart Road, said this is a chemical warehouse and commercial garage to house a large fleet of trucks in the middle of a rural residential area. He said there is a lot of truck traffic on the road, and

contrary to statements made by George Jackson, there are deliveries of fertilizer throughout the year, not just once in the spring. He said the Washtenaw County Road Commission told him that the weight of vehicles and rate of acceleration are big factors in creating potholes. He also said this proposal is a threat to groundwater, and said there has been evidence of fertilizer trucks being washed out on this site without containment.

Kathy Nieman, 9355 Earhart, suggested that the applicants be required to provide financial statements for the last three and next three years to monitor the amount of chemicals being stored on the site. She said it is clear from the applicants' statements that they are unaware of how to safely handle chemicals so there should be a Phase I environmental study now.

Nieman said a huge hazardous waste cleanup was necessary in Northfield Township in the last decade and she and her neighbors do not want to see that in their neighborhood. She said that would lower the value of their properties.

Judy Johnson, 9381 Earhart Road, said she lives directly across the road from the Jacksons. She said the Jacksons have enjoyed the acquiescence of the neighbors for decades, and a Realtor advised her that she would have to disclose the presence of this operation if she were to try to sell her home. She said the Realtor also said the value of her home would be lowered by the presence of this business in the area.

Andy Duvall said he and his wife own a tree and shrub nursery at Earhart and 8 Mile Road, and while he been neighbors with the Jacksons for years, he is opposed to expansion of a commercial operation in the area. He said he has repeatedly rejected offers for commercial development of his site. He said if this proposal is approved, however, a precedent would be set for further commercial development on Earhart Road.

David Barry, 9581 Earhart Road, said while he believes the Jacksons try to be good neighbors, their interests are at odds with the rest of the property owners in the area. He said the number of vehicles on the site has increased by at least 400% since he moved to the area and that is unfair to the neighbors. He said it looks like they plan to triple the size of their building, so it is an insult to the neighbors to say they do not plan to increase their operation. He said the site does not meet the basic requirements for a landscape business in this zoning district, it is in conflict with the master plan, and the lack of prior approval indicates the business should be reviewed as a new proposal. He said the condition of the road is much worse than other roads in the area.

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Liz Hinkle, 9390 Earhart, said there is a strong chemical smell from this site, it creates a lot of traffic, and her family is concerned about having this business next door to them.

Steven Johnson, 9381 Earhart Road, said he would like to ~~given~~ give his time to David Perry so he can continue his comments. Perry referred to the improper, uncontained washing of fertilizer trucks cited earlier and said the neighbors are very concerned about groundwater contamination. In answer to a question from Perry, Iaquinto said there is nothing the Township can do about the operation as it currently exists. Perry said he and his neighbors do not want to shut anyone's business down, but they feel the business should relocate to an appropriate site where it can grow.

Regarding property values, Perry said he understands it is economically most advantageous for the Jacksons to remain where they are, but the neighbors do not want to subsidize the Jacksons' business with their property values.

Laurie Ratering, 9813 Earhart Road, said she and her husband have lived in their home for 23 years. She said the Jacksons are asking to expand their business at the expense of the other property owners in the area, and she asked why the Township would grant this request.

Jon Messner, 9623 Earhart, said he is in the process of trying to sell his house and horse farm, and he is concerned about having to disclose the location of this business to potential buyers.

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

9. OLD BUSINESS

9A. Case JPC130006; D&G Nature's Way, 9380 Earhart Road; Request for Conditional Use Permit to expand business under Section 12.03(P) of the zoning ordinance; Parcel 02-01-300-018; zoned AR.

Chockley asked what trainings have been held and what kinds of certifications the Jackson hold regarding handling of fertilizers. George Jackson said each employee is certified by the State of Michigan in the handling of fertilizers and insecticides and monthly meetings are held regarding this. Iaquinto asked how this is policed. Jim Jackson said the Department of Agriculture does site inspections and vehicle stops. Chockley asked if D&G has ever been cited for violations or had accidents involving their fertilizer trucks. Jim Jackson said they have not.

In answer to a question from Iaquinto, George Jackson confirmed that the purpose for the building addition is to allow all vehicles to be stored indoors. In answer to a question from Dignan, George Jackson said Tom Winebrenner with the Washtenaw County Pollution Prevention Program had asked last Monday why D&G washes their fertilizer spreaders, and he explained that any excess fertilizer is scraped off the spreaders indoors, then they are lightly sprayed off outside. He said Winebrenner did say there is a State law prohibiting washing commercial vehicles outdoors unless the water is contained, but Winebrenner added he was not sure whether that applied here and said he would get back to the Jacksons with more information. Lewan said compliance with State regulations about this could be a condition of approval of the CUP.

Dignan noted that a building of the size proposed could be put up in the AR district for an agricultural operation without a CUP. In answer to a question from Dignan, Lewan said Section 12.03Q of the zoning ordinance allows landscape businesses and greenhouses, and he read a letter from March of 2013 from D&G's attorney citing ordinance definitions of these types of businesses which the attorney said supports the ~~legality~~ legal use of this site for those purposes.

Regarding the issue of a disclosure statement being required for sale of homes in the area, Dignan said it is likely that any homeowner in that area would have to disclose the existence of some other kind of nearby agricultural operation even if this operation were not present.

In answer to questions from Chockley, George Jackson said they have their own well and there is electrical service to the barn.

Dignan referred to documents from the October 17, 1990, Planning Commission meeting concerning this property. George Jackson said that was related to an addition on the back of the house for an office, the addition of a garage, and paving of the driveway.

Lewan said the washing of vehicles outdoors is a very valid concern. George Jackson said if the State informs them they cannot do this anymore they will have no problem stopping that.

Lewan said the applicant could continue this non-conforming operation at its current size indefinitely, and if the Township approves this CUP it would make it a legal conditional use. He said a primary concern is secondary containment of hazardous materials and assurance of that will be required if this proposal is approved. Regarding stormwater detention, he said the new detention basin that will be required will only be addressing runoff from new roof area or pavement.

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He stressed that these two issues are completely separate.

Lewan said the applicant is not asking the Township to waive the rules of the Township, rather they are asking to go through a rather lengthy approval process. In answer to a question from Lewan, George Jackson said 350 pallets of dry fertilizer and 8 drums of liquid weed control is the maximum they will store at one time, and that amount will not increase if this proposal is approved. In answer to a question from Chockley, George Jackson said only one of their suppliers uses a semi-trailer; their main supplier uses smaller trucks. In answer to a question from Cousino, Jim Jackson said the 350 pallets are delivered early in the season with six semi-trailers during one week, and the rest of their product is delivered on 30-40 foot flatbeds.

In answer to a question from Cousino, George Jackson said the excess fertilizer that is scraped off trucks is swept up and reused, with smaller amounts placed in plastic bags and put in their dumpster. Lewan described the type of containment facilities required where hazardous materials are stored.

In answer to a question from Cousino, George Jackson said they do not have a snowplowing operation.

Possible conditions of a motion for approval as outlined in Lewan's November 1, 2013, memo were discussed. Regarding hours, Iaquinto said when the Commission approved a CUP for another landscape business the limit on hours was not as restrictive as the estimate of hours of operation provided by the Jacksons. There was discussion about what would be realistic.

In answer to a question from Roman, George Jackson said their trucks go out once each day; they do not return mid-day for supplies.

Township Supervisor Fink noted that while there will not be a public hearing when this is considered by the Township Board, the item will be listed on an agenda and the public may speak during the Call to the Public.

Roman asked if any applicant has ever been required to perform maintenance on a County Road. Lewan said that would be considered an off-site impact, and if there were a direct link to their operations a requirement could be added, but he does not recall that having been done before. Lewan said he can make sure the Road Commission gets a copy of the site plan, and they may make some recommendations.

In answer to a question from Cousino, Lewan said a majority of Commissioners present is required for a motion to pass.

► **Motion:** Chockley moved, Iaquinto supported, that based upon the information received from the applicant, D&G Nature's Way, represented by George Jackson, Case JPC130006, and reflected in the minutes of this meeting, the Planning Commission finds the site plan and related information received by the Township on November 6, 2013, meets the required standards and findings for Conditional Uses and recommends approval with conditions of a Conditional Use Permit to operate the business at 9380 Earhart Rd, South Lyon, MI 48178, Parcel number B-02-01-300-018. Specifically it is determined 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 Master 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 a maximum of 17 pick-up truck type vehicles be permitted at this site with up to five (5) single axle trailers. All trucks and trailers must be stored indoors year-round.
2. That all granular and liquid products have appropriate secondary containment as required by Township ordinances and state law. This item is to be verified during detailed site plan review.
3. That the business be operated seasonally as described by the applicant and within the hours of 6:30 AM to 6:30 PM unless there are extenuating circumstances.

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4. That semi-truck deliveries be limited to six (6) per year.
5. That there are no more than 17 employees for this business at this site.
6. That hazardous and disturbing materials be stored according to best practices as regulated by the Michigan Department of Environmental Quality, the Michigan Department of Agriculture, and Northfield Township zoning standards.
7. That the applicant apply for a full site plan review.
8. That vehicles be washed in accordance with proper procedures to contain hazardous materials as required by state and county rules.
9. That maximum storage of fertilizers be 350 pallets and 8 drums containing 440 gallons.

Motion carried 3—2 on a roll call vote, Cousino and Roman opposed.

In answer to a question from Iaquinto, Fink said this proposal is likely to appear on a Township Board agenda in about a month.

Some members of the public asked how the Planning Commission could approve this request given the opposition stated by neighbors. Supervisor Fink said Commissioners were appointed by elected officials, and in his experience they are conscientious individuals who are among some of the best Commissioners he has ever seen. He said they must vote in whatever way they think is best for the community although people in the room may not agree with them.

10. NEW BUSINESS

10A. US-23/North Territorial Interchange Study Area.

Lewan referred to his memo of October 31st and noted that he had drawn the outline of the proposed study area on maps showing natural features, existing land use, future land use, and zoning districts. He said some of the things discussed at the last Commission meeting fit quite well with the master plan which was adopted just last year. He said that is very encouraging and means that very few changes may be needed to the master plan.

He noted specifically that the “selected development strategies of the Central Sub-area” listed in the master plan all relate well to what was discussed:

- Clustered residential where appropriate/compatible,
- Preserve ~~naturally sensate~~ sensitive natural areas,
- Maintain suburban transition by preserving greenbelt,
- Corporate high-tech jobs made,

- Actively promote business growth, job creation, tax base development, knowledge and growth industries,
- Improvements to existing intersections as new developments occur.

He said the keys will include refining the mixed use areas and defining implementation strategies, perhaps using a Planned Unit Development (PUD) or an overlay district, and verifying the sewer service area depicted in the Master Plan. He added he would like to have the capacity of the sewage treatment plant confirmed again, even though that was done at the time the master plan was written.

He said his recommendation at this point is to amend the master plan, probably with an expansion of the Mixed Use (MU) district. He said consideration should be given to:

- Main access to the district being from North Territorial and Whitmore Lake Road, with only limited access to 5 Mile Road properties.
- Protecting areas of natural features including woodlands and wetlands by leaving them in their current, less dense, zoning designations.
- Access to the sewer service area.
- Maintaining the existing industrial planned and zoned area to the east of the study area.

Dignan said he understands this issue came up because of the request for sewer service to property along Whitmore Lake Road south of Territorial, but he asked whether a purpose of this is to encourage development. Lewan said it is. Dignan questioned whether it would be appropriate to consider including the properties on the east side of Whitmore Lake Road to US-23 from 5 Mile to 6 Mile should be included in the Mixed Use area.

Iaquinto said when the Township Board discussed with Grand Sakwa their dropping its lawsuit against the Township the Board said it would look at multiple use concepts from Whitmore Lake Road west for commercial development with residential behind it. Dignan said he is talking about the property the high school is on and the property east and north of it, not the Grand Sakwa property. He said he is just raising the question and it can be discussed more at a later time. Lewan said there is time to discuss that, but the area is already designated as Medium Density Residential (MDR) and there is no development pressure in that area. He added that the issue of the bridge over US-23 must be addressed as part of any development consideration. Chockley said she would be concerned about expanding the area where development is desired too far. Lewan said again that he envisions only a small change to the master plan to address what is desired at this point.

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In answer to a question from Cousino, Lewan said he is not suggesting that this area be rezoned PUD, rather if someone proposes a mixed use development he would recommend that the proposal be developed using the PUD mechanism. Chockley asked if that would be an attractive option for developers. Lewan said for a mixed use development there would not be much of another option short of creating another zoning district. In answer to a question from Iaquinto, Lewan said the PUD ordinance was recently revised to make it easier to use.

Dignan said developers will consider sewer tap fees when choosing where to develop, and he questioned how Northfield Township's fees compare to other communities. Iaquinto said the Township Board reviewed those fees two years ago.

11. MINUTES

October 16, 2013, Regular Meeting
Chockley made one change.

- ▶ **Motion:** Iaquinto moved, Dignan supported, that the minutes of the October 13, 2013, regular meeting be approved as amended, and to dispense with the reading.
Motion carried 5—0 on a voice vote.

12. POLICY REVIEW & DISCUSSION

None.

13. COMMENTS FROM THE COMMISSIONERS

Iaquinto thanked Fink for his statement to the public about the consideration that Commissioners give to all requests. He said he is concerned about the issues brought up by the residents, and it was not an easy decision to vote in favor of the Conditional Use request. Chockley said she was grateful to the residents who came to the meeting. She said she thinks the conditions included in the recommendation will make a difference when the final site plan is developed. She said it is not possible to make everyone happy all the time.

14. SECOND CALL TO THE PUBLIC

None present.

15. ANNOUNCEMENT OF NEXT MEETING

November 20, 2013, at 7:00 P.M. at the Public Safety Building was announced as the next regular Commission meeting time and location.

16. ADJOURNMENT

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

The meeting was adjourned at 9:41 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 December 4, 2013.

Marlene Chockley, Chair

Kenneth Dignan, Secretary

Official minutes of all meetings are available on the Township's website at http://twp-northfield.org/boards/planning_commission/Minutes