

ZONING BOARD MINUTES OF MEETING HELD FEBRUARY 22, 2000

A regular meeting of the Charter Township of Texas Zoning Board was held on Tuesday, February 22, 2000 commencing at 7:00 p.m. at the Texas Township Hall.

Members present: George Sprau
Barbara Huber
Bryan Lewis
Suzzette Deaux
Tom Hamming
Steve Woollam

Member absent: Steve Bosch

Supervisor Ron Commissaris, Trustee Richard Craven, Zoning Administrator Jeff Mais, Planning Consultant Jay Kilpatrick, Township Attorney Lynda E. Thomsen, and approximately 30 interested persons were also present.

1. CALL TO ORDER and ROLL CALL

Vice-Chairman Sprau called the meeting to order at approximately 7:00 p.m. Roll was called with the results shown above.

2. SET AGENDA

The agenda was not changed.

3. APPROVAL OF MINUTES and MISCELLANEOUS

Ms. Huber **moved** to approve the minutes of the January 25, 2000 meeting. . Ms. Deaux **supported** the motion, and it carried.

4. Pubic Hearing Texas Corners Land Use Plan

Mr. Sprau opened the public hearing on the Texas Corners subarea of the Land Use Plan. Mr. Kilpatrick addressed those present to explain the proposal. Work began about 1 1/2 years ago to update the Land Use Plan. Looking ahead 20 to 30 years, a population increase of about 9,000 is

expected. The concept in the proposed plan is to concentrate the growth north of R Avenue and east of the lakes, where public water and sewer will be available.

Texas Corners is already of node of commercial in the Township, and there is a likelihood of additional commercial development in the corners area. For several reasons, work was done to develop a future land use map limited to this area. There will be an opportunity in the corners to create a little "village" area that is walkable without fostering sprawl. The plan shows a "ring road" system that (if developed) would enable some additional development of uses that do not require a high level of exposure to traffic. The streets that are shown on the map are long-term proposals, which will only happen if property owners decide to pursue them. There are some traffic issues in the corners that had already been discussed with the Road Commission. Drainage at the corners is also an issue, so a new stormwater detention facility is part of the proposal. Streetscape improvements and pedestrian-scale streetlighting, along with the possibility of sidewalks, are all part of this sub-area plan.

Mr. Sprau then explained that the Land Use Plan is a guideline for long-term development in the Township. It is not a law like the zoning ordinance. This hearing is on the plan for the direction of growth in the Texas Corners area.

Tony Badalamente, 9251 West "R" Avenue, commented that in his opinion, additional roads would cause more commercial development, and hence more traffic problems. Wouldn't widening existing roads be sufficient? Mr. Sprau responded that the Road Commission controls the roads, and they have plans to widen Q Avenue and 8th Street. The Road Commission seems to be willing to make some adjustments at the intersection, to add left turn lanes and other features, but not a traffic light.

Mr. Badalamente said it seems like adding roads in a commercial area will lead to more traffic and additional lighting. Those concern him. Aesthetically, the Township looks good now, but he can already see some deterioration. Mr. Kilpatrick responded by saying that the traffic counts show 9,200 cars per day on "Q" Avenue, west of 12th Street. Normally, according to the county, a 2-lane road can handle 20,000 cars per day, but no residents agree with that. Promoting a compact, livable commercial area with a village feel does not add to that problem. The plan has barriers to through traffic. However, "O", "Q", and "R" have the potential to be major through roads. The Township is trying to avoid that for "O" and "R" by designating them as natural beauty roads. A Road Commission representative said recently that "Q" Avenue would become a 5-lane road. That is not what people in the Township want, and the hope is that the streets shown on the plan will help take some of the pressure off "Q" Avenue. For north and south traffic, 8th Street will, by necessity, be very important. The hope is to limit the uses in the Texas Corners area to neighborhood commercial, not regional commercial, so that they do not cause increases in through traffic.

Mr. Badalamente asked what is to be done to preserve green areas? Mr. Kilpatrick responded that the plan recommends that the site plan review standards of the ordinance should be improved, and that landscaping standards should be added. He also recommends that provisions for shared parking should be added, so that the parking can be appropriate without requiring more than is necessary.

Michelle Beuse of 6745 Texas Drive said that she is concerned because the plan shows a road atop her house. That would kill her property's value. How will that be addressed? Mr. Sprau said that the plan is a guideline, and if the government were to take her property for a road, she would receive compensation. Attorney Thomsen asked that Mr. Kilpatrick address that significant issue. Mr. Kilpatrick said that whether the proposed roads are ever built is an issue for the private sector. This plan does not suggest that the government will take any house to build a road. To the contrary, new roads will only be built if property owners agree to it. Ms. Beuse asked whether that issue will go to a vote. Mr. Kilpatrick said that her house would only become a road if she were willing to sell it. There is not public acquisition of property proposed for roads in this plan.

Frank Ryan said that he served on the Zoning Board for a number of years and attended many educational programs. He was always told that it is important to have a buffer between commercial and residential uses. This plan shows areas commercial right next to single family residential. If adopted, and if an application for rezoning is received, the Board would be hard pressed to deny the applicant. We will end up with commercial right next to vacant residential, and no developer will develop the residential land. This should not be adopted until there has been more study.

Karen Brown of 7170 Texas Heights, agreed with Mr. Ryan. She sent a letter to the township about the need for buffers. She has 2 questions: Where did all multi-family residential property come from that is shown in the plan? There was no clamor for that in the survey of township residents. Mr. Kilpatrick responded that it is intended as a buffer, much as Mr. Ryan suggested. Second, Ms. Brown complained about the lack of notice of the hearing and that she called the hall and was told that no public comment was permitted. Mr. Mais said he was the one who said that, and he said it because he misunderstood her question. Attorney Thomsen said that state law required 2 published notices, which were in the Kalamazoo Gazette. Ms. Brown suggested that the notices should be in the stories the Gazette publishes every day about Texas Township. It was noted that the Gazette editorial staff decides what to publish in those stories.

Mr. Sprau commented that much of the land in the corners area is already zoned commercial and multi-family, and the zoning ordinance requires large setbacks which act as buffers between commercial and residential uses. Mr. Kilpatrick showed an overlay of the existing zoning. Buffers would be built into new landscaping standards, but typically, owners do not make large areas of property available for use as buffers.

An unidentified person asked how far from the "Q" and 8th intersection the new road to Texas Drive would be located. Mr. Kilpatrick said the plan shows that road about 1000 feet from the intersection. Mr. Sprau mentioned that the land in that area is zoned C-3.

Frank Ryan commented that when he suggested that there should be further study before a new plan is adopted, he meant that R-3 and R-4 should be considered between R-2 and Commercial. He said again that this plan would almost require rezoning land to commercial. The buffers required in the existing ordinance are only 6-foot tall trees. This plan will not appeal to residents of the Applegate plat or the plat south of "Q".

Chris Kirk of Percheron Street said that he is concerned about the impact on property values of the new roads. Mr. Kilpatrick said that there has not been a study of that, but the site of the proposed road 1000 feet east of the intersection is along an existing easement. Office uses are proposed on the west side of that new road, as a buffer. In the southwest part of the corners, there is already commercial use next to single family residential, so it was not possible to propose buffers there. Mr. Sprau noted that the survey of township residents indicated that people want the corners to be commercial. This plan is an attempt to limit sprawling commercial development.

Mr. Badalamente said that he is hearing that residents are unhappy. Is there any way this issue can be put on the ballot? Attorney Thomsen responded in the negative.

Michael Reeder of 7793 Percheron asked when the survey was taken. It was taken 2 or 3 years ago. He asked whether another one is planned, because he just moved in. Mr. Sprau responded that plans like this are prepared once every 20 or 25 years, and are reviewed and updated within that time. There is no plan for another survey very soon. Mr. Reeder commented that in his opinion, it would be a nightmare if access roads were not built for development. What if a road is needed, but no one wants it? Mr. Kilpatrick responded that the idea is to concentrate development near the corners. This particular layout for roads is not the best, but there is an existing easement, which was used as the proposed site. That is a concept, not a definite plan. Attorney Thomsen commented that the Road Commission has authority to create and approve new public roads, so the Township does not have complete control over that issue.

Ron Verleger commented that the cost of extending Texas Drive would be very high. Mr. Sprau responded that the developer could negotiate that with the Road Commission. Supervisor Commissaris commented that the mall driveway on the south side of "Q" was constructed to public road standards so that it could be used as part of a future public road, even though it is not a public road now. Those matters are part of development costs, particularly because the Township requires frontage on a public road as a prerequisite to development. (Supervisor Commissaris also mentioned that public comment is always permitted at a public meeting).

There were no further comments and the hearing was closed at 8:10 p.m.

Mr. Woollam said he likes the proposed plan. It concentrates commercial development near the intersection of "Q" and 8th. His only real concern about buffers is west of the Township Hall, but the plan shows broad brush strokes, not specific parcels.

Ms. Huber said she attended most of the meetings where this plan was developed. The text of the plan explains the intention and goals behind the map. The committee tried to deal with the plans it saw, including traffic at the intersection; drainage at Zeb's and concerns about the whole length of "Q" becoming commercial. This is an attempt to concentrate development and to reduce the number of driveways. She supports the plan. It is not dramatically different from the existing zoning, except for the proposed roads. It would be nice to be able to walk or to ride a bicycle in the corners area. Commercial development is necessary to support that.

Ms. Deaux commented that as a new member, she was not a part of the process that led to this plan. She is pleased with what she sees.

Mr. Lewis had minor concerns that the landscape and site plan amendments should be adopted soon. He also has concerns about the lack of buffers at the northwest corner of the plan area. Mr. Kilpatrick said that the Consumers Power Right of Way is not shown, but it provides a buffer in that area. Mr. Lewis said that in the Texas Corners area, the development that has occurred is not aesthetically compatible, and it doesn't look nice. He compared it to Woodbridge Hills, where everything matches. Attorney Thomsen noted that there, only one developer was involved. Under Michigan law, the authority of government to control aesthetics is very limited.

Mr. Hamming said that he likes the attempt to consolidate the development. He is concerned that the Township may have to work to control sprawl to the west.

Mr. Sprau mentioned that the Township will need to work on a new commercial zoning classification for property in the corners area.

Thereupon, Mr. Woollam **moved** to recommend to the Township Board that the Texas Corners subarea Land Use Plan should be adopted as proposed. Ms. Huber **supported** the motion, and it **carried**, unanimously.

5. **Fiskars, Inc.**
Item No. ZB99-09-121
Property: 6805 Beatrice Dr. (02-155-015)
Request: Site Plan Review - Addition.

Nothing new has been received. This matter was left on the table.

6. **Tamara Ricketts**
Item ZB00-106
Property: 5030 South 9th Street
Request: Special Exception Use Permit

Ms. Ricketts explained that she is requesting a permit to lease U-Haul trucks from the property where auto sales already occur. The operation will occur in a 30 x 30 foot area. Three trucks will be parked there, with the longest not more than 24-feet in length.

Mr. Sprau commented that he understands that the leasing operation would occur on the whole property, but the parking will be limited to an area of 900 square feet. He noted that the parcel is less than the minimum 40,000 square feet required by the ordinance. He has difficulty reading the plan. There were no public comments.

Mr. Woollam was concerned about the parking issue. Parking spaces are 20 feet long, and that may not be appropriate for a 24-foot long truck. Ms. Ricketts noted that most of the trucks are shorter than 24 feet, and she can limit the number to a maximum of three. The Zoning Board

reviewed the standards of the ordinance. Mr. Sprau commented that the ordinance requires a 500-foot setback from residential, and this plan does not show that. Attorney Thomsen noted that the Board could grant conditional approval, requiring variances. Another option is to table the matter.

No one saw adverse impacts on the neighborhood. The applicant reiterated that she can live with a three-truck limit, and that she does not have to accept more than 3 trucks at a time on the site. She also said that no signage is required by the franchise agreement.

The Zoning Board members then discussed the problems with the plan, including the parcel size, the setbacks required, and the parking issues. Ms. Huber was concerned that after many months, this matter still cannot be resolved. Attorney Thomsen noted that the issue arose because of ordinance violations and site plan compliance problems, and that the applicant is on notice of the requirements of the ordinance. Mr. Woollam asked Mr. Sprau if he knew of any more issues that would need to be addressed, so that they could be included in the information being provided to the applicant. Mr. Sprau said he knew of none. Thereupon, Ms. Huber **moved** to table this matter until the applicant has been before the ZBA for a decision on 3 issues: increased use of a legal nonconforming parcel; use of 3 existing parking spaces for a new use; and the setback from residential uses. Mr. Woollam **supported** the motion, and it **carried** unanimously.

7. **Tamara Ricketts**
Item: ZB99-10-121
Property: 5030 S. 9th Street
Request: Site plan amendment

This matter was left on the table.

8. **Mark Boven**
Item: 00-105
Property: not relevant
Request: Text amendment for cluster development in Ag district

John T. McNeil, attorney from Paw Paw, addressed the Zoning Board on behalf of the applicant. He explained the proposal. Mr. Sprau commented that the Township already has a PUD provision in the ordinance that provides for clustering, but it does not apply in the Ag district. He stated that in his opinion, an amendment to the PUD would be a simple way to address this issue. Mr. McNeil disagreed. His clients are not asking for a PUD. Mark Boven then displayed a drawing of platted lots in a layout permitted under the existing ordinance. He also displayed an alternative, which showed more lots, smaller in size, with a large open area. He informed the Zoning Board that Antwerp Township and Oshtemo Township both approved amendments at his request that permit the sort of development he is requesting in the Charter Township of Texas.

The public hearing was opened. Erwin Wolff of 10800 West "P" Avenue asked about lot widths. Mr. Boven said that he is proposing lots 100 feet wide. Mr. Wolff asked how big a house could be on such a lot. Mr. McNeil said his house has 1800 square feet on the main floor, and 1200

square feet in a fully finished downstairs. Mr. Wolff said that the Bovens' property is near his home, and he has very personal interests. He purchased in the area because he wanted a country feel. He has a 66-foot well, and is concerned about new septic systems and new wells as they may affect him.

Mr. Boven said that they have new septic systems that spread the effluent much better than the old drywell systems. Only 1.5% of nitrates in wells come from septic. Most nitrates come from farming and other operations. In Van Buren County, the Health Department requires wells to be 90 feet deep.

Tom Rogers of 7175 Eagle Heights Drive said he is the current owner of the land show on the Bovens' drawings. He likes the concept. The old railroad right of way on the southeast side of the property will be a buffer. Open space will preserve wildlife. He wants bonus construction to be permitted where open space is preserved.

Mr. Sprau said that if they use the PUD text, the same approach is allowed. Mr. McNeil said again that they do not want a PUD. After additional discussion, Mr. McNeil said they used language from the new Land Use Plan.

Mr. Wolff asked about access roads. Mr. Boven said the roads shown on his plans are being discussed. There were no other comments, and the public hearing was closed.

Mr. Lewis said that he likes the open space. However, the Land Use Plan only contemplates a 10% bonus. Attorney Thomsen said that the Zoning Board may recommend something less than the applicant requests. Mr. Woollam asked what setbacks would be required. Mr. Sprau said that the amendment does not address setbacks. Mr. McNeil and Mr. Boven said that they could work with the setbacks that are required. Ms. Huber commented that the PUD has never been used. She thinks the concept of clustering is great. However, she feels that we could not change this ordinance to suit this land in an area without sewer and water. The Township is not ready to move forward on that. She doesn't think it will work here, politically. Jim Boven said it took months to get this approved in Antwerp Township.

Mr. Woollam said he hates to see the door shut on these people. Mr. Sprau commented that people agree with the concept of bonuses for open space, but this proposal leaves too many issues open. There are not provisions for review of the plans, nor are there any standards for approval. Mr. Boven said again that they used language on the Land Use Plan as a guide. Mr. Sprau said that he is concerned about the relationship of the open space to the lots, and requirements for submittal and review of plans. None of that is even addressed in the proposed amendment. The PUD ordinance provision addresses all of that. He would prefer a text amendment to the PUD.

Mr. Kilpatrick said that the notion in the Plan was to maintain growth east of the lakes and north of "Q". Maybe if some agriculturally zoned land is rezoned to RR, part of the hurdle barring PUD's will be eliminated. Maybe this is not yet the time for the clustering concept in the Township. He also commented that conservation clustering is generally a use by right, whereas the sort of PUD in the Township's ordinance requires rezoning. He agreed with Ms. Huber that this may be a giant

leap when what the Township wants is a series of baby steps. Normally, we do not see conservation clustering in the agriculture district as a use by right. Normally, a Township requires a detailed site analysis so there can be a process for preservation of important areas for conservation. Attorney Thomsen asked Mr. Kilpatrick whether he agrees with Mr. Sprau that more substance in the form of standards is needed in this sort of ordinance. Mr. Kilpatrick responded that the one he is drafting now is 20 pages long.

Mr. Sprau then commented that connection to the Mattawan sewer might be possible. The applicants have not investigated that option.

Mr. Lewis said that this proposal heads in the direction mentioned in the comprehensive plan. Mr. Kilpatrick said that the proposal has more open space than the Township's PUD ordinance requires. Mr. McNeil said that his clients do not want a PUD. He said that PUD's are for gas stations and other uses. Attorney Thomsen disagreed. Someone asked whether they have read the Texas Township PUD provisions. Mr. McNeil said they have not.

After further discussion about what should be done, Mr. Sprau made a **motion** to table this matter for 60 days, pending a preliminary review by the Zoning Board of conservation clustering and PUD's as they may apply in the context presented by this applicant. Mr. Mais is to obtain copies of the Antwerp Township and Oshtemo Charter Township clustering provisions for Zoning Board review.

Mr. Woollam **supported** the motion, and it **carried** unanimously.

The Zoning Board then asked that the minutes include a statement that the Zoning Board would welcome comments on this concept from members of the Township Board.

9. Miscellaneous

Next, the Zoning Board reviewed the draft Rural Residential text that Mr. Kilpatrick has prepared. It is set for public hearing on March 14. There was a brief discussion of the Right to Farm Act amendments. Mr. Sprau stated concerns he has about the proposed text. Members of the Zoning Board will familiarize themselves with the proposed ordinance before the public hearing on March 14. There was no further business, and the meeting was adjourned at about 10:25 p.m.

Respectfully submitted,

Bryan Lewis, Secretary

Date minutes prepared: February 23, 2000

Date minutes approved: