

REGULAR MEETING OF THE EAST BAY CHARTER TOWNSHIP
PLANNING COMMISSION

Tuesday, November 10, 2009 6:30 p.m.

East Bay Charter Township Hall

1965 N. Three Mile Road

Traverse City, MI 49686

Present: Planning Commission Members Judy Nemitz, Ted Hentschel, Jim McDowell, Robert Tubbs, Tracey Bartlett, Rob Larrea and Mindy Walters

Also Present: Township Attorney Peter Wendling; Township Planner Jay Kilpatrick; Zoning Administrator Leslie Couturier; Recording Secretary, Anne Wendling;

Fifteen (15) guests were in attendance.

1. **Call to Order:** Chairman Tubbs called the meeting to order at 6:30p.m.
2. **Roll Call:** Roll was called by the Recording Secretary.
3. **Review for Conflict of Interest:** There were no conflicts of interest reported.
4. **Approval of the Agenda:** A motion was made by Hentschel to approve the agenda with changes in order of new business items. The motion was seconded by Nemitz and the motion carried unanimously.
5. **Approval of the Minutes:** Hentschel made a motion to approve the minutes of October 6, 2009. Walters seconded the motion and the motion carried unanimously.
6. **Public Input:** None given
7. **Reports:**
 - A. *Township Board:* Bartlett stated that the board meeting took place just last night and the 2010 budget was passed as well as the meeting dates for all 2010 board meetings. Bartlett added that Ross Childs was present at the board meeting to give septage plant information to the board and the public.
 - B. *Appeals Board:* Hentschel had no report at this time.

- C. *Planners Report:* Kilpatrick said he is working on minor adjustments to the zoning ordinance and small housekeeping items. He also said that a site plan amendment would be forthcoming for the TBA Credit Union.
- D. *ZA Report:* Couturier handed out a permit report to commissioners and had nothing else to add.
- E. *Attorneys Report:* Township Attorney Wendling had no report at this time. McDowell asked about the Rascho Road dump site and Bartlett said that a certified survey was filed with the county.
- F. *Correspondence:* Included in packets. Tubbs added that there was a letter containing comments on the Blair Township master plan included in this packet from Doug Mansfield.

8. **New Business**

A. **Zoning Amendment 11-09; Rabish/Prevo/Schmuckal: Limited Retail in Industrial District; Public Hearing and Recommendation to Township Board.**

Tubbs gave background on the proposed amendment and read the proposed amendment to the public and other commissioners. Township Planner Kilpatrick commented on hours of operation and suggested that commissioners modify sub section two to read “not earlier than 10am and not later than 7pm” in order to alleviate confusion. Tubbs opened the Public Hearing at 6:42pm and seeing none, closed it.

Nemitz moved to approve Zoning Amendment 11-09 with the amendment to section 2F and recommend it to the township board for approval. Bartlett seconded the motion. Upon a voice vote, the motion carried unanimously.

B. **Amendment to Special Land Use 3-01/Site Plan Review 7-09: Auto Owners PUD Amendment; Public Hearing and Recommendation to the Township Board**

Tubbs gave background on the project and reviewed the PUD as well as a memo dated October 28, 2009 written by Planner Kilpatrick. Dan Rooney, a representative from Auto Owner’s Insurance, spoke regarding the project. He stated that this building would be a Disaster Recovery Data Center with

policy storage and other back-up information. He stressed the importance of this data and further explained the project to commissioners. Phil Leader spoke regarding the buried diesel tanks which combined will hold 80,000 gallons of diesel fuel, have a filtration system and monitor for leaks. Leader said it was a state of the art system. Commissioner Walters asked about day tanks and inquired about soil borings. Leader said that the two large tanks are only for back-up generators and will be buried in seven feet of ground and monitored in Traverse City as well as in Lansing. McDowell commented on the tanks proximity to a major water. Planner Kilpatrick clarified where the fence and tanks would be located. Tanks themselves are to be located inside the fence, however, the fill points will be located outside the fence. Larrea commented on the proposed fencing and wants it to be aesthetically pleasing.

Chair Tubbs opened the Public Hearing at 7:30pm. One gentleman spoke regarding the proposed PUD and said it was a quality building and a quality project. He stated that the project could bring employment to the area. Another woman, who lived in the vicinity of the proposed amended PUD, spoke regarding the project and had questions about tree removal. She was also concerned about where construction traffic would go and also had concerns about the proposed barbed wire fence and the possible smell of diesel. Mr. Krieger from Kahn said that the engines are certified and do have pollution control and that any possible odor could be detected. The woman also gave a suggestion to put a streetlight on the intersection where the private road intersects with Hammond Road at the development entrance. A third person commented on the construction traffic flow. Another woman commented negatively on the project and wanted the filling area for the diesel tanks enclosed by fencing. Tubbs closed the Public hearing at 7:56pm and turned the discussion over to the commissioners.

McDowell commented on the proposed fencing and asked if it could be broken up a bit with other materials. Walters asked about the wooded area around the building and how it would relate to any other phases of development. Walters also expressed her concern with the wellhead protection zone and any negative impact on drinking water. Township Engineer Brian Sousa addressed the groundwater problem and feels it may not be an issue since the material would float if it leaked. Walters wanted to make sure due diligence was done and wants soil borings done on the property. Sousa said that monitor wells could be installed. Chairman Tubbs then read through the Findings of Fact written by Planner Jay Kilpatrick as well as the conditions of approval. Changes were made to proposed condition 6. Township Attorney Wendling commented that part of the conditions exceed state standards, which, absent permission from the State,

cannot be imposed and cited the applicable State statute. Township Attorney Wendling explained requirements pertaining to the tanks and discussed the conditions which could be imposed under the ordinance given state law. Adjustments and suggestions for potential condition number 6 was discussed. There was further discussion of fencing requirements and regarding the possibility of a streetlight at an intersection which was not feasible under the current PUD amendment and the jurisdiction of the road commission being involved. Requiring more in the way of landscaping and having the zoning administrator, Jay Kilpatrick and Township Engineer Sousa ensure compliance with conditions, if approved, was discussed. Review of potential conditions was completed.

Hentschel made a motion to approve SLU 3-01 and SPR 7-09 pursuant to the attached Findings of Fact as adopted the Planning Commission and the conditions of approval as set forth and revised by Township Planner Jay Kilpatrick and recommend the SLU and SPR to the township board for approval. Larrea supported the motion and the motion carried unanimously.

Chairman Tubbs called for a break in the meeting at 9:35pm and reconvened the meeting at 9:45pm.

C. Zoning Amendment 9-09; Regarding Minor Accessory Buildings; Public Hearing and Recommendation to Township Board

Tubbs explained that this proposed zoning amendment had come back to the planning commission from the township board and it was subsequently made simpler and the maximum square footage is now a simple 100 square feet. Tubbs opened the public hearing at 9:50pm and seeing none, closed the public hearing.

Hentschel moved to recommend Zoning Amendment 9-09 to the township board and Walters seconded the motion. Upon a voice vote, the motion carried unanimously.

D. Zoning Amendment 12-09; Section 303 and Section 421: Public Hearing and Recommendation to Township Board.

Tubbs explained that this amendment was a housekeeping amendment redefining essential services. Tubbs opened the Public Hearing at 9:53 pm and seeing none, closed the public hearing.

Nemitz moved to recommend the adoption of Zoning Amendment 12-09 to the township board. McDowell supported the motion and the motion carried

unanimously

9. Old Business:

10. Adjournment: Chairman Tubbs adjourned the meeting at 9:50 pm.

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