

**Springfield Township
Planning Commission -- Business Meeting
Minutes of July 21, 2008**

Call to Order: Chair Roger Lamont called the July 21, 2008 Business Meeting of the Springfield Township Planning Commission to order at 7:30 p.m. at the Springfield Township Civic Center, 12000 Davisburg Rd., Davisburg, MI 48350

Attendance:

Commissioners Present

Frank Aiello
Roger Lamont
Dean Baker
Bill Leddy
Laura Moreau
John Steckling (*arrived at 7:40 p.m.*)

Commissioners Absent

Ruth Ann Hines

Staff Present

Collin Walls
Nancy Strole

Consultants Present

Brian Oppmann

Approval of Agenda:

No changes were made to the agenda.

Public Comment:

None.

Consent Agenda:

- **Commissioner Moreau moved to approve the Consent Agenda as published. Support by Commissioner Leddy. Vote on the motion: Yes: Aiello, Baker, Lamont, Leddy, and Moreau. No: none. Absent: Hines, Steckling. Motion carried.**
 - a) Approval of Minutes: May 19, 2008
 - b) Communications: Oakland County letter dated 7-8-08 Re: Groveland Township Master Plan meeting 7-22-08.

Old Business:

1. Conversion Condominium Review Process

Brian Oppmann stated this section of the Ordinance was worked on by Supervisor Walls and Dick Carlisle. A few revisions have been made and it is in front of the Planning Commission tonight for comments.

Supervisor Walls suggested references to 'Supervisor/designee' be changed to 'Township' throughout the amendment.

Commissioner Aiello stated he does not feel item c (4) flows with items 1 – 3 and thinks it should be included in the introduction paragraph of section c. Chairperson Lamont agreed.

Commissioner Baker noted the amendment is to Section 18.10.8, not 18.10 a. He suggested striking the word 'maintenance' in the last line of section c (1).

Commissioner Steckling arrived at 7:40 p.m.

Commissioner Steckling stated he likes the concept of this amendment and asked if it could be used in other areas.

Supervisor Walls responded it is used in other areas such as site plans and PUDs.

Commissioner Steckling stated he thinks this concept can be used for site plans that have lost their currency.

- **Chairperson Lamont moved to authorize the Clerk to set proposed amendment 18.10 8 for Public Hearing at the earliest possible date, taking into consideration the changes discussed tonight. Supported by Commissioner Steckling. Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau and Steckling; No: none; Absent: Hines; Motion Carried.**

New Business:

1. Wind Energy Conversion Systems – Section 16.26

Brian Oppmann stated this is an extensive amendment that creates two different types of wind energy conversion systems, private and commercial.

Commissioner Aiello stated it is his understanding that at non-peak times the turbine might feed back into the grid and asked if the definitions in the ordinance accurately capture that concept. If someone has a turbine at their house and at a non peak time, energy is being generated and fed back into this, are multiple dwellings being served.

Brian Oppmann responded that is a valid point. A private system, in theory, if backfilling the grid, is almost like a commercial enterprise. He stated there should be some distinction, which this draft does not include. He further stated that, at the State level, electrical companies are fighting with the state whether to allow a net metering system which is backfilling the grid.

Commissioner Leddy suggested the definition for a Private Wind Energy Conversion system be changed to say it is built to *primarily* serve the needs of the principal use. This would show the main purpose is to serve the needs of the local dwelling but, if it happens to back feed, that would be a secondary service, and to clarify it was not primarily built to service more than one dwelling.

Brian Oppmann suggested modifying the definition of a Commercial Wind Energy System to read "*...shall mean any WECS that is designed and built to serve more than one (1) dwelling or use as an ongoing commercial enterprise*"

Brian Oppmann stating approval of any system, whether private or commercial, requires a special use approval with the Township. The amendment includes general design standards and, later on in the amendment, more specific standards for commercial structures.

Commissioner Baker asked if the setbacks were designed to ensure that, if the structure fell, it would not fall onto neighboring properties. Brian Oppmann stated this is correct, and the setbacks are similar to a cell tower.

Referring to section 3 d. Commissioner Aiello asked how the Planning Commission would make a decision in a situation where an applicant wanted to build a structure very intrusive to the skyline, because it could maximize their profit, versus an applicant wanting to build a structure only moderately intrusive to the skyline and only make a minimal profit.

Brian Oppmann stated the Planning Commission has discretion under the Special Land Use and there may be applicable federal guidelines that restrict the height of the structure.

Referring to section 3.g., Commissioner Aiello stated the Noise Ordinance is in decibel levels, but wind turbines are a constant operation at a level that in instances might not necessarily meet the ordinance, but may be an annoyance to neighboring properties.

Brian Oppmann stated he does not think these structures make too much noise and are similar to road noise. He suggested some investigating should be done to make sure the Township's noise standards properly address wind energy conversion systems.

Commissioner Aiello stated section 3.h. indicates a security bond is required for both commercial and residential facilities and is surprised it would be required for residential facilities.

Supervisor Walls stated section 3.h. echoes the provisions required of cell towers.

Commissioner Steckling stated section 3.h. also requires homeowner's insurance with specific coverage for wind energy structures. He asked if this coverage is able to be obtained.

Brian Oppmann responded he is not aware if specific coverage exists. He stated one of the concerns is if a community should get involved with an insurance policy on private property, and he has seen other communities have strong objections to this provision.

Consensus was to strike the last sentence of section 3.h.

Referring to section 5.e. Migratory Birds, Brian Oppmann stated this is one of the major concerns of opponents of these types of systems. In working with other communities, they have wanted to strike this provision but he feels it doesn't hurt to have this provision in the amendment.

Commissioner Leddy stated he does not like that the provision states that the Township *may* require an avian study to determine impact of commercial structures to migratory birds. He thinks this indicates the Township can pick and choose who would be required to submit a study.

Commissioner Steckling asked, if the study is required, would there be conclusive results as to what the effect on birds would be and would a request be granted/denied based on those results.

Brian Oppmann stated whatever the study results are, he is not sure the Township has anyone qualified to review the study and come up with the same conclusion, similar to a traffic study. When a traffic study is done by a developer, the Township Engineer reviews it to determine if it is true or not. He understands the concern, but he is not sure if denial could be based on the results of an avian study.

Commissioner Steckling asked if denial is not based on the study results, then why is the study necessary.

Commissioner Aiello stated he could foresee a situation where someone wants to establish a wind farm and the Township decides to hire a consultant to evaluate information provided by the applicant.

Supervisor Walls stated Dick Carlisle indicated in the research he has done, one of the biggest issues with wind farms and commercial facilities is the impact on the bird population.

Commissioner Steckling stated if the results of a study are going to be a basis to deny a request, he thinks it should be required and there should be standards. He agreed with Commissioner Leddy's earlier comments and does not like the language that indicates the Township *may* require a study.

Commissioner Baker thinks having a study is worthy of being considered, but also feels the word *may* is arbitrary.

Commissioner Aiello stated he thinks the ability to determine when the study is appropriate is good. He feels this would lessen the overall administrative burden and allow the Commission to consider the study when they feel it's material and not to consider it when they do not. The Commission may not require a study for one structure, but might for twenty.

Commissioner Moreau asked when it would be known if a study is necessary.

Clerk Strole suggested some expertise be done at the front end of this process so when an application comes in, the Commission would have a much better idea of where the sensitive areas would be. She suggested checking with MNFI, DNR, etc. to see if any information on bird patterns and flight paths already exist within the Township. This would help determine when a study would be appropriate.

Commissioner Steckling asked if under section 5.c. the special use permit is intended to be an annual renewable permit. If so, what is the length, and conditions of, ongoing approval. He also stated migratory patterns change and questioned if someone built a structure, would it have to be moved if patterns changed.

Commissioner Steckling echoed Commissioner Aiello's earlier comments; he feels criteria is needed to know when or when not a study is necessary.

Commissioner Aiello suggested making the study a requirement, but to establish criteria that could make the requirement waiveable.

Commissioner Baker feels the definition of a commercial structure is too broad. He stated commercial structures could be considered the windmills up by the Straits that are 125 foot high, or could be a resident who constructs one to service their property and sell the extra output, and that he would look at these two structures differently. He stated zoning and MNFI considerations would also need to be looked at.

Commissioner Steckling concurred with Commissioner Baker's comments.

Consensus was to tighten the definitions of commercial and residential structures.

Janet Demonaco, 6813 Deer Hill Drive (Independence Township) stated the Township's Future Land Use Plan indicates there is no commercial land available for a large scale wind system.

Commissioner Moreau stated these structures would be addressed as a Special Land Use, and even if there is not a wide tract of commercial land available, this could be looked at as a Special Land Use and could be in front of the Planning Commission.

Chairperson Lamont stated this could still impact the Township.

Commissioner Steckling asked if a structure is placed on residential property as a Special Land Use and, at a later date, the resident would like to put a garage on their property, would the Special Land Use have to be amended.

Supervisor Walls stated the Wind Energy Conversion Device is the Special Land Use, so the property would only be affected if the device had to be moved in order to build the garage.

Commissioner Aiello stated items f (3) & (4) do not flow with the rest of the section and that item f (2) could be integrated into item f (1).

Commissioner Baker suggested the definition for 'Manual and Automatic Controls' be amended, replacing the word 'below' with 'not to exceed'.

Chairperson Lamont noted the numbering is off in the amendment to Article XVI – General Provisions and asked that it be corrected.

Chairperson Lamont recapped what the Commission would like to see in the next draft of the amendment: Specifically, language adjustments regarding migratory birds and to see if information is available regarding their patterns, modify definitions to private and commercial structures, and to consider the size of structure in relation to output.

Commissioner Steckling asked if these amendments are intended to cover windmills that pump water. If not, he thinks those should be specifically excluded.

2. Outdoor Café Provisions – Section(s) 16.27 & 9.05 (1)

Supervisor Walls stated the ordinance defines carry-outs differently than bar/lounges and sit-down restaurants. This provision would allow outdoor seating and dining for bar/lounges and sit-down restaurants. He stated there are currently provisions in C-1 that state all activities have to take place inside, unless otherwise specified, and this is an attempt to deal with the 'otherwise specified' instances.

Supervisor Walls stated parking requirements must be met and the outdoor seating is added to the indoor seating to establish the parking requirements.

Commissioner Aiello suggested the second sentence in item (3) and the last sentence in item (4) be made their own items, with subsequent items renumbered accordingly. He asked if item (5) is necessary if it is stated earlier in the amendment that all ordinance requirements must be met.

Commissioner Leddy suggested language be added to the first sentence of item (3) indicating an outdoor café be located adjacent to the same property as the principal establishment.

Commissioner Steckling stated there are only four or five months a year when an outdoor café is an option for any business. He likes this concept but would like to see it expanded and suggested creating an overlay district, similar to the one on Dixie Highway, that would apply to this specific use or zoning classification.

Commissioner Leddy suggested clarifying items (3) and (4) as they could be viewed as contradictory.

Chairperson Lamont stated item (6) indicates that all food preparation shall be inside the premises and asked if this would prohibit a golf course from cooking outside. He feels this item is too restrictive.

Supervisor Walls stated if an establishment has a liquor license and is serving alcohol outside, there are boundaries that have to be maintained and believes the fencing requirements take care of that.

Brian Oppmann will make changes to the draft based on comments tonight.

3. Temporary Structures and Uses – Section(s) 16.21 & 19.01

Chairperson Lamont noted the agenda states 'Temporary Structures and Uses', but the amendment reads 'Temporary Dwellings and Buildings'.

Brian Oppmann stated this amendment comes from the Zoning Board of Appeals. The amendment addresses provisions for temporary buildings and dwellings, making this an administrative function instead of going through the Zoning Board of Appeals.

Commissioner Aiello asked why temporary dwellings and buildings need to be addressed in two different sections. He does not see any material differences between the two and thinks they could be addressed in one section.

Commissioner Steckling stated one reason to keep the two items separate is that a temporary dwelling might not be held to the same applicable setback but rather look at the site and place the dwelling where it is least offensive to adjacent parcels. He would hold a temporary building in a business use to a higher standard.

Commissioner Baker noted the word 'emergency' needs to be removed from the first sentence in section 1b(1). He feels this amendment addresses a lot of items the Zoning Board of Appeals was looking for.

Commissioner Steckling suggested in item 1b(1) the words 'plot plan' be replaced with 'scaled drawing'.

Commissioner Leddy referred to item 1(b)4 that states a cash bond is required for the removal of the building or structure and asked if items should be added to show the Township can enforce this better than what has been done.

Supervisor Walls stated the amendment is suppose to refer to the agreement that Greg Need has prepared that is recordable at the Register of Deeds which allows that enforceability of using a cash bond or irrevocable line of credit and giving the Township the authority to go in and make the removal.

Clerk Strole stated the agreement, which has been required in the past, is pretty stringent and covers the Township very well.

Brian Oppmann will modify the amendment and return to the Planning Commission.

4. Sign Provisions – Section 16.07.3

Brian Oppmann stated this item is also a recommendation from the Zoning Board of Appeals. This is an amendment to create business center signs so any development that has two or more stores would be termed a business center in the sign ordinance. This allows for sites less than five acres, height and area requirements can be exceeded by 25%. If the site is more than five acres, it can be 50% greater. This allows for more signage on a development with multiple tenants.

Chairperson Lamont asked if two parcels combined for development would be defined as a site, or does that situation need to be specifically defined.

Brian Oppmann thinks the definition as stated is sufficient.

Chairperson Lamont stated the Kroger development was done in two phases and asked if this amendment allows Phase II to get a separate sign and if the intention was to have one sign that would encompass both phases.

Brian Oppmann responded it would be one sign that encompasses both phases.

Commissioner Steckling asked if a site is separately owned, would more than one sign be allowed.

Chairperson Lamont stated he likes the intent of this amendment, but it raises a lot of questions that need to be answered. In the case of the Kroger development, ten acres are undeveloped and for sale, and he does not feel there is room to add to the existing signage once that portion of the site is developed.

Commissioner Moreau stated the proposed amendment to subsection c to 16.07.3 refers to two business signs being requested, and stated the Kroger development could have two separate signs but the total allowable square footage could not be exceeded. She asked if this means that two separate signs could be done for Phase I and Phase II, but they would have to be smaller than what they currently have.

Supervisor Walls stated the Zoning Board of Appeals originally looked at the amount of frontage and space between signs.

Supervisor Walls asked if increased height is needed or just area.

Consensus was to not allow increased height.

Janet Demonaco stated she thinks sign height is better than size. She stated she never looks at the ground sign at Kroger's for fuel prices because there are too many signs. She feels it is less hazardous to see a sign that's higher and more visible. Otherwise you would have to slow down to read a ground sign more closely.

Brian Oppmann will make changes to the amendment and bring back to the Planning Commission.

Supervisor Walls suggested something be presented to the Planning Commission allowing some flexibility in Site Plan Review regarding signage. This would encourage applicants to make signage an active part of the Site Plan process.

5. Site Plan & PUD Extensions – Section 18.07.4 (b) (6) 14.06 2

Supervisor Walls stated language currently in the ordinance is unclear. What should have been identical provisions for site plans and PUDs are slightly different. The Township Board asked Greg Need to draft language that makes it clear that a one year extension is allowed, but multiple extensions are permitted, and to make the language the same for both site plans and PUDs.

Commissioner Steckling stated he would like to know the planning reason behind a time limit on a commercial site plan. He stated a residential site plan, site condo, cluster development, etc. is granted and become done deals.

Supervisor Walls stated they are not done deals. Commissioner Steckling responded the Township does not require developers to come back to get an extension. Supervisor Walls stated the Township does require developers to come back unless the plans have been recorded.

Commissioner Steckling stated he likes the idea of the amendment but sees no difference when dealing with a commercial, phased development and would like this concept expanded further.

Clerk Strole asked Commissioner Steckling what time limit he had in mind.

Commissioner Steckling stated if someone starts building a phased development, and starts building in the first phase, what sense does it make for them to come back to the Planning Commission for approval if the project is interrupted for a few years, unless there were major changes to the zoning, ordinance, etc. and feels these situations can be addressed administratively.

Supervisor Walls stated he agrees that if there are no changes that affect a site plan, the Township should not take an applicant's money and have them go through the process

again. He stated this applies to residential as well as commercial or industrial plans, as long as they have not been recorded and there have been no changes to the ordinance.

Commissioner Aiello expressed concerns that a pre-existing non-conforming use could be created for a building that has not been built yet.

- **Commissioner Aiello moved that proposed amendments to Section 18.07.4(b) (6) and Section 14.06.2 be set for Public Hearing. Supported by Commissioner Moreau. Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau and Steckling; No: none; Absent: Hines; Motion Carried.**

6. Transient Sales – Section 16.24

Brian Oppmann stated this is a simple amendment that removes references to the Building Department or Building Department Director, and replacing them with 'Township'.

- **Commissioner Steckling moved to request the Clerk to publish for Public Hearing amendments to Section 16.24 – Transient and Seasonal Display of Products or Materials Intended for Sale, at the earliest convenient date. Supported by Commissioner Aiello. Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau and Steckling; No: none; Absent: Hines; Motion Carried.**

7. Site Plan – Set back deviation – Section 18.07 (2) & 18.07.4

Brian Oppmann stated this amendment came at the request of Commissioner Steckling. The proposed amendment allows the Planning Commission some discretion with setbacks.

Commissioner Aiello asked if the intent of this amendment applies to existing structures or replacement and expansion of structures.

Brian Oppmann replied it is referring to pre-existing non-conforming structures or uses.

Supervisor Walls stated, in the overlay district, it does not make a lot of sense to send a pre-existing building to the Zoning Board of Appeals for variance when the building is already in the setback. He stated it falls in line with the intent of the overlay district. This amendment allows the Planning Commission to deal with these issues instead of sending them the Zoning Board of Appeals for a variance.

Minor language changes were made to items 1 and 3 of the amendment.

- **Chairperson Lamont moved to authorize the Clerk to publish at the earliest convenience, amendments to Section 18.07 (2) and 18.07 (4) as presented tonight. Supported by Commissioner Steckling.**

Commissioner Aiello stated he would like it clearly articulated that this amendment does not apply to any new or replacement structures or expansions.

Supervisor Walls stated he thinks that is clearly stated in the amendment language that states '*Deviations from the minimum setbacks found in Article XVIII may be allowed for preexisting legal nonconforming structures...*' He stated this is the only time a deviation would be allowed.

Commissioner Aiello stated he thinks the language could be more explicit and feels that this process is taking away the power of the Zoning Board of Appeals and thinks the Planning Commission would, in essence, be granting variances and is concerned there may be legal implications in doing so. He asked that, before this is published for Public Hearing, it be returned to Greg Need to answer questions raised tonight.

Commissioner Baker stated there should be enough time before this is sent to Public Hearing for Greg Need to review and make any necessary changes.

Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau and Steckling; No: none; Absent: Hines; Motion Carried.

8. Amendment to Article II – Definition

Chairperson Lamont stated the amendment is to revise the definition of TOWNSHIP to read:

“TOWNSHIP means the Charter Township of Springfield, Oakland County, Michigan. Where Township approval is required by this Ordinance, it shall be granted by the Township Supervisor or his/her designee, unless the language specifically requires action by the Township Board or some other individual, board, commission or committee.

- **Commissioner Aiello moved that the proposed amendment to Article II be set for Public Hearing at the earliest convenience of the Township Clerk. Supported by Commissioner Baker. Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau and Steckling; No: none; Absent: Hines; Motion Carried.**

Other Business:

1. Priority List

Commissioners reviewed the priority list and moved the following items to future meeting agendas:

Ordinance amendments set for Public Hearing:

- Section 16.06 Greenbelts

- Section 18.07 4 b Amendments to Site Plan
- PA 12 of 2008
- Section 4.02 & 5.02
- Conversion Condominium Review Process

Ordinance amendments sent back to Carlisle/Wortman for modifications:

- Wind Energy Conversion Systems
- Outdoor Café Provisions
- Temporary Structures and Uses
- Sign Provisions

Brian Oppmann indicated the changes will be made and be brought back to the Planning Commission at the August meeting.

New ordinance amendments to be reviewed at August 18, 2008 meeting:

- Consolidated Planning Act
- Landscaping Provisions
- Adult Uses
- Extractive

Chairperson Lamont stated the Master Plan Update was submitted to the Township Board and approved for distribution to adjacent communities. A public hearing will be held in October.

Chairperson Lamont stated one meeting was held regarding the Dixie Corridor Study Update.

Supervisor Walls stated he talked with Brian Oppmann and the Capital Improvement Plan Update will probably be on next month's agenda.

Commissioner Steckling stated one meeting has been held regarding the Downtown Davisburg Plan.

Public Comment: None

Adjournment:

- **Commissioner Aiello moved to adjourn the meeting at 10:07 p.m. Support by Commissioner Steckling. Vote on the motion: Yes: Aiello, Baker, Leddy, Lamont, Moreau, Steckling; No: none; Absent: Hines. Motion Carried.**

Renee Wilson, Recording Secretary