

VEVAY TOWNSHIP PLANNING COMMISSION
Regular Meeting/Public Hearing
Wednesday, June 8, 2016
Vevay Township Hall – 7:00 p.m.

MINUTES

Members present: Richard Lacasse, John Lazet, Pattie McNeilly, Ilene Thayer, Wayne Uzzle, and Bruce Walker.

Members absent: Jack Cady.

Other Persons present: Supervisor Jesse Ramey, and Legal Counsel David Revore.

I. Call to Order: The meeting was called to order at 7:00 p.m. by Chair Thayer.

II. Pledge of Allegiance

The audience joined the Commission in reciting the Pledge of Allegiance.

III. Set/Amend Agenda

The agenda was accepted as submitted.

IV. Approval of Minutes: Regular Meeting May 4, 2016 & Special Meeting May 11, 2016

Regular Meeting May 4, 2016 – amend page 7, third paragraph, second line: “SSES” should be “MSES”. Amend page 7, the second paragraph from the bottom, change “access highways” to “driveways” so as to read “...that there are two driveways within 100’...”

Special Meeting May 11, 2016 – No amendments were offered.

MOTION Walker, seconded by Lacasse, to approve the May 4, 2016, regular meeting minutes as amended,

MOTION Lacasse, seconded by Walker, to approve the May 11, 2016 special meeting minutes as submitted.

CARRIED 6-0.

V. Brief Public Comment

Dennis Marvin of Consumers Energy (CE) – informed the Commission that the project manager, Mauricio Pinchiero, has left employment with CE to take a position with GM. The new project manager for the Vevay Solar Garden project is Emily Warners.

VI. Recess to Public Hearing

Rezoning request to change from B2 to M1, from J&J Properties, John Fischer
2377 Kipp Road, Mason

Mr. Fischer – had submitted a petition, received April 1, 2016, to rezone his parcel from B-2 (Highway Service) to M-1 (Industrial). His goal is to expand maintenance operations for his fleet of vehicles, while B-2 is more for commercial use. The M-1 zoning designation better fits those uses. The parcel to the west of his is zoned M-1, as are others. He is planning on new buildings, and he will be back if the re-zoning is approved.

VII. Adjournment of Public Hearing and Recommencement of Regular Meeting

There being no further public comment, the public hearing was ended at 7:09 pm, and the regular meeting recommenced.

VIII. Reports

A. May, 2016 AGS Building/Zoning Report

The written report indicated that there were six building/zoning permit actions, involving a warehouse, a re-inspection, a deck, and construction of three pole barns. Seven authorizations to enforce the Zoning Ordinance are pending: a blight violation, remediation of which Service Master is almost finished; a dangerous building remains in violation though an agreement has been reached to demolish the building; a blight violation where cleaning up is progressing; a blight violation that has been remediated; a blight violation for which the Township had sent a letter on May 17, 2016, and to which there has so far been no response; a sign and trash violation, which the resident has agreed to clean-up; and a barking dog complaint to which the resident has agreed to address the problem.

IX. Pending Business

A. Rezoning request to change from B2 to M1, from J&J Properties, John Fischer 2377 Kipp Road, Mason

Commission – had discussion on the history of the rezoning of the parcels with frontage on Kipp Road and adjacent to the Fischer property. If the re-zoning is approved, Mr. Fischer may be erecting new structures to handle the increased vehicle maintenance operations.

Pursuant to Section 19.05(B) (2) of the Zoning Ordinance, the Commission made the following findings:

- a. Whether or not the proposed rezoning is consistent with the goals, policies and future land use map of the Vevay Township Master Plan; or, if conditions have changed significantly since the Master Plan was adopted, the consistency with recent development trends in the area.

The Master Plan Future Land Use map envisions primarily industrial uses for this parcel. The parcel was used for highway service purposes for years and has recently been used for vehicle maintenance operations. Many of the surrounding uses are industrial, and vehicle maintenance uses are consistent with the history of the parcel and the uses noted in the Master Plan. As no commercial uses are proposed, the M-1 zoning is more appropriate for the current and anticipated uses. The trend for development in the surrounding area has been major retail (Meijer), automotive parts manufacturing, and highway service. Non-commercial vehicle

maintenance uses are compatible with these operations. Re-zoning the parcel to M-1 fits the industrial use as envisioned by the Ordinance.

- b. Whether the proposed district and the uses allowed are compatible with the site's physical, geological, hydrological and other environmental features. The potential uses allowed in the proposed zoning district shall also be compatible with surrounding uses in terms of land suitability, impacts on the community, density, potential influence on property values and traffic impacts.

The parcel's existing structures will continue to be used. No new construction is proposed at this time, and the entire parcel is already either paved or has grass, with no drainage issues. The proposed increase in vehicle maintenance uses would not affect drainage. The proposed re-zoning would not affect the physical, geological, hydrological, or other environmental features of the parcel. Re-zoning to Industrial is a reasonable request based on its existing uses and close location to other industrial-type uses. There would be no additional traffic or other impacts on the community. As no residences are planned, density is unaffected. The potential influence on property values is likely negligible.

- c. Whether, if rezoned, the site is capable of accommodating the uses allowed, considering existing or planned infrastructure including roads, sanitary sewers, storm sewer, water, sidewalks, and road lighting.

The existing use will be maintained and expanded. Based on testimony and discussion during the public hearing and this meeting of the Commission, no additional demand on public services is envisioned. The proposed uses would not require new roads, new sewer system, storm sewer, new water supply, sidewalks, or road lighting. Impacts of the re-zoning would likely be minimal.

- d. Other factors deemed appropriate by the Planning Commission.

During this meeting the Commission discussed that this parcel was in that portion of the Township designated by the Master Plan for future uses to include primarily industrial operations. The Commission noted the close proximity of the parcel to the highway and to other parcels having industrial uses. This would be a preferred location for vehicle maintenance operations for this type of business. Traffic, sound, and other impacts to the Township would be minimally affected by re-zoning this parcel to M-1. Mr. Fischer announced that if he plans any major modifications, such as new buildings, he will be back before the Township.

Subsection 19.05(C) (2) of the Zoning Ordinance has five requirements for submitted written materials. The report by AGS on the proposal and the review by the Commission indicate the following three requirements were met, as the submitted materials included:

- a) The petitioner's name, address and interest in the petition as well as the name, address and interest of every person, firm or corporation having a legal or equitable interest in the land.
- b) The nature and effect of the proposed amendment.
- c) If an individual property or several adjacent properties are proposed for rezoning, a location map, showing the location of the properties generally in the township, a legal description of the land(s) proposed for rezoning, the present zoning classification(s), the zoning classification of all abutting districts, and all public and private rights-of-way and easements bounding and intersecting the land under consideration.

The Commission further found that as there is no proposed change in uses on the parcel, these requirements are not applicable and do not need to be addressed in the submitted materials:

- d) Any changed or changing conditions in the area or in the municipality which make the proposed amendment reasonable and necessary to the promotion of the public health, safety and general welfare.
- e) All other circumstances, factors and reasons which the applicant offers in support of the proposed amendment.

A public hearing having been conducted, and following Commission review of the petition and submitted materials:

MOTION McNeilly, seconded by Walker, to recommend approval of the Zoning Ordinance amendment to re-zone parcel 33-10-10-16-100-009, address 2377 E. Kipp Road, from B-2 Highway Service to M-1 Industrial, based on the Commission findings as noted in these minutes, and as the proposed uses meet the intent of the Master Plan as envisioned in its map of future intended land uses.

CARRIED 6-0.

- B. ZO Amendment for Sign Ordinance (set possible public hearing) (revised materials to be distributed at meeting)**

Mr. Revore – based on the 2015 decision of the Supreme Court of the United States in *Reed v. Town of Gilbert*, the amendment proposes to repeal Subsection 20.04 (A)(6) – “political or philosophical signs” – and reserve the subsection for future use. He also indicated that pursuant to Commission discussion, he had added language on addressing removal of signs once they are abandoned or no longer to be used, or the SLU permit is revoked.

Commission – discussed the proposed amendment pursuant to Section 19.05 (B) of the Zoning Ordinance (Text Amendments):

- a. The proposed text amendment would clarify the intent of the Ordinance. – The proposed amendment would clarify the current phrase “frontage along US-127”.
- b. The proposed text amendment would correct an error in the Ordinance. – Not applicable.
- c. The proposed text amendment would address changes to the State legislation, recent case law or opinions from the Attorney General of the State of Michigan. – The repeal of Subsection 20.04 (A) (6) would bring the Ordinance into compliance with recent federal case law addressing signs and free speech.
- d. The proposed text amendment would promote compliance with changes in other County, State or Federal regulations. - Not applicable.
- e. In the event the amendment will add a use to a district, that use shall be fully consistent with the character of the range of uses provided for within the district. – The proposed addition of allowing on-premises billboard-type signs on parcels that are adjacent to US-127 would mirror the current allowable use of off-premises signs on these same parcels. Any signs permitted under this amendment would be consistent with the current allowable uses on these parcels.

f. The amendment shall not create incompatible land uses within a zoning district, or between adjacent districts. - Not applicable.

g. The proposed text amendment is supported by the findings of reports, studies, or other documentation on functional requirements, contemporary building practices, environmental requirements and similar technical items. - Not applicable.

h. As applicable, the proposed change shall be consistent with the Township's ability to provide adequate public facilities and services. - Not applicable.

i. The proposed change shall be consistent with the Township's desire to protect the public health, safety, and welfare of the community. – There was not deemed to be any impact on health, safety, or welfare as signs must meet requirements for lighting, setbacks, and size, etc.

MOTION McNeilly, seconded by Walker, to schedule a public hearing to be held July 6, 2016, during the regular Commission meeting, for the consideration of the Zoning Ordinance amendment to Chapter 20, to refine and update the regulation of signs. CARRIED 6-0.

C. Allen S. Frederick Farm LLC/Consumers Energy SLU application for a Large Solar Energy System – 780 Jewett Road, Mason

Chair Thayer – led the Commission on discussion of possible SLU permit conditions based upon the specifics of the proposed use of a Large Solar Energy System (LSES). The issue of birds dying as a direct result of solar arrays was briefly discussed. Mr. Marvin of CE stated that they have looked into the issue, and if it occurs, it generally is at much larger arrays, which can appear to migrating birds as a body of water. It's called the "lake effect", and birds attempting to land on "water" can impact panels at lethal speeds. CE research indicates this happens only for larger arrays, and primarily in the southwestern portion of the country, where bodies of water are far less common than in Michigan.

Commission – recommended the Board of Trustees consider adding the following items as conditions to the SLU permit requested for construction of a LSES:

- reclamation bond – once the use is ended or abandoned, consider requirements and financial guarantees to restore the parcel above ground to its pre-construction condition or to allow for a new proposed use;
- no storage of materials, vehicles, trailers, or equipment on site.
- List the parties of interest who are responsible for compliance with all conditions of the permit, with those names and contact information to be provided to the Township. This condition would clarify who is responsible to the Township for communication and enforcement of operations and uses on the easement;
- Specify that all uses be in compliance with all applicable federal, state, and local law. This would give the Township a clear rationale for addressing certain potential SLU permit violations. The Ordinance already requires such compliance in Sec. 3.02 for all enterprises, land use, and activities in the Township, and adding this condition to the SLU permit would be for purposes of enforcement, if needed.

Section 16.03 – Basis of Determination: While this is the responsibility of the Board of Trustees, the Commission opted to incorporate their site plan findings and other testimony into a

format to assist the Board in making these determinations. Some of the following comments are taken from the overview prepared by the Township Planning Consultant, Mark Eidelson.

A (1) - The Special Land Use shall be designed, constructed, operated and maintained in a manner harmonious with the character of adjacent property and the surrounding area.

The proposal meets this condition. The parcel is zoned A-1 and would remain so. It is primarily an open field that has been farmed for many years, and that use would continue on the non-easement portion of the parcel, on the western side. The design places the solar array adjacent to US-127, and partially concealed to the west by the rolling topography. All solar panels are to be a minimum distance of 200' from the golf course to the south and more than 1,000' from the dwellings along Jewett Road. The residences and golf course will be partially screened from the facility due to existing topographic and/or vegetative conditions. The panels will be screened from the farm field to the north as required by Sec. 3.27. The solar facility's location adjacent to a highway corridor (US-127) is a common practice and is not unreasonably out of character with the highway corridor and strip business corridor (Hull Road) further east of the highway corridor.

Surrounding uses on the west side of US-127 include a Michigan Department of Transportation storage/staging facility, oil wells and a battery of crude oil storage tanks, farming, and some residences on the west side of Jewett Road. The proposed solar array is designed to have no impacts apart from visual considerations. Once constructed, there will be no noise, almost no traffic, no vibrations, no smoke, no fumes, no dust, no outdoor lighting, and no need for any expanded or new public service. The parcel is in an area designated by the Master Plan as appropriate for industrial uses.

A (2) – The Special Land Use shall not change the essential character of the surrounding area.

The proposal meets this condition. The essential character of the surrounding area includes: US-127 traffic of heavy and light vehicles; industrial uses; commercial uses; farming; oil wells and storage tanks; and residences. The only new structures will be the solar panels. No parking areas are proposed to be open to the public or used by CE except for maintenance of the ground cover, panels, and equipment. No current structures are proposed to be modified or torn down. The only disruption of trees and significant vegetation may be on the southwest corner of the easement, where re-grading is proposed. No other natural features would be changed or affected by the proposed use.

The solar facility will not be out of character with the more urban character of the US-127 corridor with its commercial and light industrial uses, and will not generate noise, odors, vibrations, or traffic on a daily basis. As farming will continue on the western portion of the parcel, the proposed LSES will not change the essential character of the surrounding area.

A (3) – The Special Land Use shall not be hazardous to adjacent property, or involve uses, activities, materials or equipment which will be detrimental to the health, safety or welfare of persons or property through the creation of hazardous or potentially hazardous situations or the excessive production of traffic, noise, odor, smoke, dust, fumes, glare or site drainage.

The proposal meets this condition. While there will be disruption of the parcel and the surface during construction of the drive and the fencing, the re-grading of up to 4 acres in the SW corner, and construction of the array, the proposed solar array itself would not involve uses hazardous to adjacent property with the possible exception of glare off of the panels. The study submitted by CE with the SLU application, and the discussions with CE during the public hearing on May 4, 2016 and in previous Commission meetings all indicate that glare is not a concern to those who would be most affected (airport), to those traveling on US-127, or to those golfing at Eagle View Golf Course. The business relationship CE has with the government requires them to be in compliance with all applicable federal and state law as it relates to hazardous materials, and they are audited to ensure compliance. The proposal does not include any outside storage, burning, additional noises, odors, smoke, dust, or fumes. No public traffic or new traffic on Jewett Road is anticipated. No lighting of the easement area is proposed. No pedestrian traffic will be generated or permitted. Site drainage has been adequate to date, and should continue to be so. Apart from maintenance of ground cover vegetation and infrequent possible cleaning of the panels, there will be no people on site. No public access is planned. There should be no new impacts beyond the easement boundaries, and no new negative impacts on the parcel itself. While there are residential properties across the street from the parcel, the easement area will be about 1,000 feet away and partly shielded from view by the existing topography.

A (4) – The Special Land Use shall not place demands on public services and facilities in excess of current capacity.

The proposal meets this condition. No public road work is needed for the solar array to be built. No increased traffic is expected to be generated. No public storm water drainage system or public water supply will be needed. No activities are planned that would increase the potential need for enhanced law enforcement oversight or presence, fire services, or emergency medical services. No new residential uses are proposed. As the solar array may be built in stages, the Township assessor may have to re-visit the property as construction concludes at various stages of the overall development.

A (5) – The Special Land Use shall be in general agreement with the Township Master Plan.

As the Master Plan is currently written, the proposed use fits the anticipated development of ‘mixed use’. The parcel is currently farmed, and the western half would continue to be farmed. The proposed solar array is a low impact use that fits well with the Long Term Interests laid out by the Master Plan, as well as the various specific goals specified in the Plan. No Commissioner expressed any possible conflict with the Master Plan.

A (6) – The Special Land Use shall comply with all site plan review standards.

The required site plan review process was completed by the Commission in May, and the site plan conditionally approved on May 11, 2016.

MOTION Lacasse, seconded by Walker, to recommend the Board of Trustees issue the Special Land Use Permit for 801 Jewett Road, Mason, MI, as requested by the Allen S. Frederick Trust LLC. Recommended approval is based on compliance with the Vevay Township Zoning Ordinance, Site Plan Review, Sections 14.03, 14.04, and 14.06, and Basis of Determination, Section 16.03(A) (1 – 6) with draft findings of fact and conclusions as

included in these meeting minutes, June 8, 2016. The Commission further recommends the Board consider the additional SLU permit conditions of:

- 1) Appropriate bond requirements for above ground site reclamation should the LSES use ever be ended or abandoned;**
- 2) Prohibition of on-site storage of materials, vehicles, trailers, or equipment;**
- 3) Requiring a list of parties of interest and their contact information, for purposes of communication and any needed enforcement of applicable state, federal and local law;**
- 4) Pursuant to Section 3.02 of the Zoning Ordinance, requiring that all uses and activities be in compliance with applicable federal, state, and local law and ordinances.**

CARRIED 6-0.

X. Any Other Business

Chair Thayer – noted that Mr. Eidelson had sent an email to the Township relative to minor possible changes to the draft Master Plan. A copy of the email was distributed to Commissioners at the meeting.

XI. Additional Public Comment

Greg Shaw – commented that it was 10 years ago yesterday that he moved his barn into the Township. He will be hosting an anniversary open house on June 25, starting at noon.

XII. Adjournment

There being no further business, the meeting was adjourned at 8:32 p.m.

John Lazet, Secretary