

Minutes of the Gaines Charter Township Planning Commission

Regular Meeting held February 22, 2024, at 7 pm

8555 Kalamazoo Ave., SE, Caledonia, MI 49316

MEMBERS PRESENT: Billips, Rober, Waayenberg, Wiersema, Giarmo

MEMBERS ABSENT: Thomas, Haagsma

STAFF PRESENT: Dan Wells, Community Development Director; Dakota Swan, Assistant Planner

I. CALL TO ORDER AND ROLL CALL

Chair Giarmo called the meeting to order at 7:02 PM.

II. CONSIDERATION OF MEETING AGENDA

Chair Giarmo stated that agenda item VI.1.c. had been withdrawn from the February Planning Commission meeting; after opening the floor to public comments, VI.1.c was struck from the agenda.

III. CONSIDERATION OF MEETING MINUTES

Consideration of the January 25th, regular Planning Commission meeting minutes.

Chair Giarmo expressed the need for some edits to be made to the January 25th meeting minutes. Member Wiersema echoed similar concerns and highlighted that he spoke with Assistant Planner Swan regarding corrections earlier that week.

Motion: Motion by Rober, supported by Waayeneberg to approve the minutes of January 25th, 2023, with corrections.

DISCUSSION: None.

AYES: ALL

NAYS: None

ABSTAIN: None

DECISION: Motion Carried (5-0)

IV. INQUIRY OF CONFLICT OF INTEREST

None.

V. PUBLIC COMMENT

Chair Giarmo invited anyone to speak who might've been in attendance for agenda item VI.1.c; ultimately, no public comments were made on behalf of that item.

VI. NEW BUSINESS

1. Public Hearings

a) 7610 Division – Rezone Heavy Industrial to Neighborhood Commercial Request

Chair Giarmo inquired about whether the applicant or a representative for the project was present and had any interest in speaking on behalf of the request. No individuals were in attendance on behalf of this project; subsequently, Giarmo invited Planner Wells to offer an introduction and speak on behalf of this item.

Wells stated that the applicant, Brian DeSmit is representing the landowner for this project. The goal is to rezone half of the industrial parcel in question to neighborhood commercial. Wells mentioned a staff-recommended condition that upon rezoning, the parcel gets split to prevent the parcel from having split zoning. Wells states that while we don't know exactly what type of commercial business is set to go in here, there is confidence that it will be a good use for such a busy corner within the township. Staff found that this request is contingent with the future land use plan for this area, and that it will likely be used for some type of residential neighborhood retail and services opportunity.

Planner Wells went on to state that this rezone wouldn't inflict any conflict with surrounding land uses, and that there would be no public services or facilities adversely affected by this decision. Overall staff found this proposal to be reasonable, especially considering that this parcel has been sitting vacant since the 60's. Wells states that we'd love to see investment into the Division corridor, and that this project is a good development and a step in the right direction. Wells also mentioned that attempting to instill an industrial use on this parcel would be quite challenging given the size, and that standards would be better met under the rezoning rather than the current zoning. Wells stated that staff recommends approval on this rezoning with the condition of a land division occurring at least 60 days after board approval and invited the planning commissioners to ask any necessary questions.

Chair Giarmo opened the Public Hearing for comments; there were no comments to be made, and shortly after it was closed. Chair Giarmo then invited the Planning Commissioners to discuss this proposal.

Commissioner Rober inquired about the history of the parcels zoning categorization and if it has always been industrial, to which Planner Wells responded that it was rezoned at some point and there may have been a bakery in the area, however it has been industrially zoned for upwards of 50 years.

Chair Giarmo inquired about how long the property has been vacant, and Planner Wells confirmed that it has sat vacant since approximately the 1960's.

Motion: Motion by Waayenberg, supported by Billips to make a positive recommendation to the Board of Trustees to approve the rezoning of this parcel from heavy industrial to neighborhood commercial, with a condition that the parcel must undergo a land division within 60 days after board consideration.

DISCUSSION: None.

AYES: Giarmo, Billips, Rober, Waayenberg, Wiersema

NAYS:	None
ABSTAIN:	None
DECISION:	Motion Carried (5-0)

b) 2096 76th Street – Jack’s Landscaping Special Use Permit/ Site Plan Review

Chair Giarmo introduced the request and specified that the Planning Commission has reviewed this application in meetings that took place in years prior. Giarmo then invited the applicant or a representative on behalf of the applicant to go over the highlights of the request.

Seth Arthur, a legal representative on behalf of the applicant, took to the podium and highlighted the applicant’s position on this request. Jack’s Lawncare is requesting two Special Use Permits to construct a 12,012 square foot commercial building, and to operate a lawncare business in an Agricultural/ Rural-Residential zoning district. Arthur went on to say that there are three key reasons why the applicant believes the Planning Commission should feel compelled to approve the request, which are as follows:

First, the Planning Commission (PC) has already granted approval to this project in the past. In June 2015, this application was approved, and subsequently was granted an extension in 2016 and 2017 to account for the time between PC approval and construction being ready to begin. In 2018, the applicant was invited to return for Planning Commission consideration rather than being granted another extension. Arthur emphasized that no details pertaining to the applicant’s request have changed, thus, the Planning Commission should feel compelled to grant the same approval they previously had.

Second, other properties within the A-R zoning distinction had been previously granted approval for the same type of accessory buildings and similar special uses. Arthur used D&N Landscaping, located at 3540 76th Street, and Outdoor Logistics, located at 8757 Hanna Lake Avenue, as examples. He stated that they were both granted Special Use Permits approval for oversized accessory buildings and their associated uses, and to deny Jack’s Lawncare the same approval would be to treat them differently than other similar applicants. He stated that denying this Special Use Permit request would potentially violate the applicants’ rights under the Equal Protection Act, since there is “no rational basis” on which to deny this request. Arthur used McDonald Plumbing, located at 7791 Eastern Avenue, as an example to justify their position as well.

Third, many neighbors and adjacent property owners approve of the request and speak highly of Jack’s Landscaping as a neighbor. Letters from neighbors in support of the request were provided to the Planning Commission by Arthur. Arthur went on to say that these reasons alone should compel the Planning Commission to grant the applicant approval; he then referenced several concerns related to the standards of review within the Staff Memo.

Most notably, standard of review 19.8 B was addressed on the basis that this request is not consistent with the Future Land Use Plan; this parcel is designated as Suburban Residential, but this request is for commercial use. Arthur argued that the proposed Special Use is consistent with the Future Land Use Plan and the Master Plan and that approving this request wouldn’t detract from future development. He argued that this Special Use would service the residential developments the Master Plan seeks to bring into fruition within the area, therefore this request is reasonably related and supplemental to the master plan.

Additionally, item 19.8 E was referenced and pertains to whether a bad precedent would be set by approving this request – Arthur argued that granting approval to this request would not be setting a bad precedent on the basis that two similar requests have already been granted approval in the A-R zoning district, therefore the precedent has already been set. Arthur encouraged the Planning Commission to follow the precedent that they’ve already set by approving the two other similar requests, and this request itself in years prior.

Arthur closed by highlighting that within the Staff Memo, denial was not recommended, but rather a recommendation was made to the Planning Commission to make an informed decision given the supporting documents for this application and the examples used. He encouraged the Planning Commissioners to “consider the competent material and substantial evidence on the record” and grant the applicant approval for the two Special Use Permits.

Chair Giarmo invited Planner Wells to address the townships’ point of view on this application. Wells stated that Arthur did a good job providing an overview of the standards addressed in the staff review, however, using D&N Landscaping as a reference was not entirely applicable. D&N Landscaping is far smaller of an operation, only 5-10 employees are running equipment as opposed to 20. Additionally, the accessory building in question is being repurposed for lawn care capabilities; it was originally built for agricultural use rather than commercial use.

Wells went on to say that McDonald Plumbing was similarly not a great example because it is not a permitted operation under the current Zoning Ordinance, however, the use of Outdoor Logistics as reference for the applicant’s argument was an appropriate and applicable example.

Planner Wells provided clarification on the previous denial of this application and how it pertains to the township’s stance on this most recent request for a Special Use Permit; ultimately, the Planning Commission denied this request because it was “out of scale” and would serve as a commercial operation. He also responded to Arthurs concerns regarding whether this is a subordinate use to the single-family dwelling on the parcel. Wells stated that if one were to hypothetically evaluate the scale of the proposed operation and receive evaluation from an assessor, it would be likely that the single-family dwelling would be found to be a subordinate use.

Under the current Zoning Ordinance, there are no standards by which to determine subordinate uses, and Wells stated that this leaves room for interpretation. In terms of setting precedent for future requests that might be similar, Wells mentioned that an influx of development is headed this way, and encouraged the Planning Commission to debate where this issue might fall.

Chair Giarmo proceeded to open the Public Hearing for agenda item VI.1.b.

Reverend Shelly Duncan of 2105 76th Street took to the podium to voice her disdain for the approval of this Special Use Permit. She stated that most neighbors are accepting of this project, however she is not; she stated that the dwelling unit on the property is rented out by the applicant, so it’s reasonable to assume the occupants wouldn’t stand in opposition to their landlord’s project. Duncan went on to state that there is significant noise in the area from the business already, and that she would like to see the applicant stop attempting to bring a commercial use into their community.

David Duncan, Reverend Shelly Duncan’s husband, also located at 2105 76th Street, took to the podium to express his concerns. He stated that he believes this is no longer a family business but a commercial

business, and he believes they need to relocate to an industrially zoned area given that their operation does not function as a residential use or look residential. He voiced displeasure with the uptick in equipment being stored on the property, and the number of “irresponsible” incidents, such as burn piles being left out and seemingly unmonitored. Duncan also mentioned that increases in traffic and noise are due to not only employees coming in and out, but also contractors and trucks with trailers frequently visiting the operation. Duncan expressed that the total square footage between the new proposed building in addition to the two other accessory buildings is concerning, and that he’d like to see them relocate to an industrial area where businesses of this nature can be adequately accommodated.

Dave Offringa of 2244 76th Street approached the podium next to speak in favor of Planning Commission approval for these two Special Use Permits. He stated that he has been a neighbor to this property since 1987, and that if this was approved, he would be aware of and affected by any future implications. Offringa mentioned that during Planning Commission consideration two years ago, he spoke in opposition of this request, however, his mind has changed because he’d rather see a local business expand in this area than a housing development. On the topic of noise, Offringa argued that 150 houses would generate more noise than this operation, and that over time it is expected that a family-owned business would evolve and change.

After speaking with his client, Arthur returned to the podium to contribute to the public hearing and stated that if the biggest concern for the community and the Planning Commission is the sheer size of the building, the applicant would be willing to work with the townships Planning and Zoning Department to make this request palatable for the adjacent property owners and reduce the footprint of the building.

Giarmo closed the public hearing and subsequently opened deliberation amongst the Planning Commissioners; to begin, she sought clarification about the provided Site Plan and if there were any additional materials depicting the aesthetic appearance of the building. There were not any additional materials, so the Planning Commission used the additional Site Plan materials from March 2022 as reference. Commissioner Wiersema confirmed that the materials from 2022 were applicable and could be used to accurately depict the most recent project.

Commissioner Rober began discussion by stating that prior denial was likely for good and well-informed reason. She also stated that since previous denial, there has been significant rezoning within the township, and she’s confused as to why the applicant is so interested in expanding within this parcel as opposed to another area within the township. Rober followed this up by saying that she considers a landscape business to be a use that you bring into the area for services rather than keep in the area alongside residential developments.

Commissioner Billips echoed Robers’ position and added that while its excellent that a local business has grown to this capacity, perhaps it has outgrown this specific area. She highlighted the distinction and difference between a small family-owned business being in the neighborhood as opposed to a commercial operation. In reference to the public comments submitted by Arthur and the applicant on behalf of neighbors in the area, Billips stated that she isn’t convinced four endorsements for approval are enough to provide an accurate representation of neighbors’ thoughts on this matter.

Commissioner Wiersema added to the discussion by mentioning that when this request came to the Planning Commission in 2022, he supported the denial of this request based on changes made within

the Master Plan, and how this parcel is designated as suburban within that. Wiersema also mentioned that he had concerns with the proposed vegetative buffer on the west side of the property back in 2022. He stated that his other concern with this request is the primary use on this property being commercial rather than residential; regarding standard 19.9 K, this commercial use wouldn't necessarily be considered subordinate to the single-family dwelling on the property. Wiersema spoke highly of the business that the applicant conducts, however, there may be a different location better suited for this.

Commissioner Waayenberg expressed that he struggles with this decision because while a precedent may have been set with the example of Outdoor Logistics, although there is no dwelling on that property, one would be foolish to *not* consider this application as being intended for commercial use. Waayenberg mentioned his concerns pertaining to the number of employees and parking spaces that were proposed in this application and emphasized that he believes commercial businesses belong in industrially zoned areas. He also expressed that he doesn't believe he had enough evidence to justify fully denying this request.

Chair Giarmo inquired about the number of employees frequenting the premises in the summer months; President of Jack's Lawncare, Bruce Vandervennen responded and said that there are about 20. Chair Giarmo then asked about arrival times; Vandervennen said that they begin operations around 7:30-8am, but changed their start time to accommodate traffic generated by the school nearby, and their day typically ends around 5 or 6pm. Giarmo sought clarity on arrival times in winter months due to the unpredictability that comes with snow, and Vandervennen stated that employees will arrive at the premises during the night and leave after about 7 or 8 hours.

Chair Giarmo expressed concerns regarding the scale of the building, and the associated commercial use rather than it being used for residential recreational storage, and echoed Commissioner Wiersema's concerns about the proposed landscape buffer. She voiced that implementing a condition to scale the building back may be doing the applicant and their business a disservice, because it is likely that their business will only continue to grow. Giarmo explained the conflict between wanting local businesses to thrive while simultaneously attempting to yield other pressures on the township.

Waayenberg addressed the ambiguity associated with attempting to define the difference between a family business and a commercial operation; under the current Zoning Ordinance, there is no clear answer and much room for interpretation.

Giarmo went on to voice that while there are options to mitigate the impact of the use, again, it could be doing the applicant a disservice in case they feel inclined to expand further as time goes on; if the applicant cannot grow further on this site, perhaps relocation would be a better option. Vandervennen states that no more expansion is anticipated within this parcel beyond the proposed accessory building.

Chair Giarmo also expressed hesitancy towards the size of the proposed building because it would arguably be a subordinate use to the single-family dwelling on the property. While she understands and wants to support a vibrant local business, Giarmo is concerned that the area has changed and may not be appropriate for this use at this proposed scale.

Chair Giarmo invited the Planning Commission to make a decision to either approve, deny, or table the applications for two Special Use Permits. Planner Wells reminded the applicant and the Planning

Commission that denial would prevent the applicant from reapplying with the same plan for one year, however, if substantial changes were made the Planning Commission could reconsider sooner.

Commissioner Rober added that if substantial changes were made and the impact of the building was mitigated, there would still be the same number of vehicles and employees just operating out of a smaller space.

Wiersema explained that while he's enthused to see a local business growing, he is concerned about the commercial nature of this request and the intended intensity of the use within this parcel.

Commissioner Waayenberg and Planner Wells took some time to discuss how Outdoor Logistics wouldn't be considered as intense of a commercial use due to the scale of their operation, and how the proposed use in conjunction with the scale of this application is the cause for concern. Wells also addressed the matter of precedence, and how if this application is granted approval, there would be probable cause to grant approval to landscaping businesses of similar scale that may come to the Planning Commission and request similar uses in the future.

Giarmo, Rober, and Waayenberg all agreed that the scale alone isn't cause for concern, it's the intensity and use of the accessory building given the location. Additionally, Giarmo mentioned the relevancy of recent changes within the Master Plan and how they impact the plan for Future Land Use categorization of this parcel.

On the topic of traffic, Waayenberg added that this stretch of 76th Street is already quite dreadful, and any additional increases in traffic would be less than desirable.

VanderVennen returned to the podium to offer a closing statement and mention that all the closest adjacent property owners approve of this request and would rather see this type of development instead of a housing development.

Wiersema stated that overall, his biggest concerns pertain to maintaining consistent with the intent of the Master Plan, and how granting approval to this commercial operation would set a precedent for future applications.

Motion: Motion by Wiersema, supported by Billips to deny the applicant's two Special Use Permits and Site Plan Review.

DISCUSSION: Motion based on the nature of the commercial business, changes made to the Master Plan/ what is anticipated for the future of the township, and the issue of setting precedence that the single-family dwelling could be subordinate to the commercial use on the property.

AYES: Giarmo, Billips, Rober, Wiersema

NAYS: Waayenberg

ABSTAIN: None

DECISION: Motion Carried (4-1)

VII. GENERAL DISCUSSION

- a) Wells said that in sifting through last year's minutes, Staff found inconsistencies with how votes were documented. He invited the Planning Commission to deliberate and decide whether the Chair of the Commission gets to vote and how votes should be documented for the record.

Chair Giarmo inquired about if the Chair of the Board of Trustees votes, to which Wells confirmed that they do. Giarmo stated that she would assume the Board of Trustees would want her to cast a vote in Planning Commission motions. She stated that she views her vote as a way of maintaining accountability and transparency with the township regarding her thoughts and beliefs on issues that come to the Planning Commission.

Ultimately, the Planning Commission agreed that inconsistencies in how votes were recorded must've been an error, because as far as they can recall, every member of the Commission has always voted.

Giarmo inquired about how the township's Zoning Ordinance (ZO) Steering Committee is doing. Planner Wells explained that he's spent time collaborating with the township's Planning Consultant, David Jirousek, on finely sifting through the revisions. Wells also said that agenda item VI.1.b was an excellent example of something that the ZO Steering Committee should deliberate, define, and clearly establish in the revisions being made to the Zoning Ordinance. Wiersema commented that defining solid criteria around what defines a commercial use would be beneficial in guiding future development in the township, and Giarmo added that it would provide clarity for residents seeking Special Use Permits in the future.

Chair Giarmo inquired about the Annual Stoneco Review, and Planner Wells reassured her that it will be on the agenda for next month's meeting. Wells went on to mention that in March the Planning Commission will be addressing a site plan review at 6141 East Paris, and that staff anticipates the Thornapple Village PUD from January will resubmit materials and return for Planning Commission consideration in March.

VIII. ADJOURNMENT

The meeting adjourned at 8:22 PM.

CERTIFICATION:

I hereby certify that the above is a true copy of the minutes from the February 22nd, 2024, Planning Commission Meeting of the Gaines Charter Township Planning Commission held at the time and place mentioned above pursuant to the required statutory procedures.

Respectfully submitted,



Lani Thomas,

Secretary

Gaines Charter Township Planning Commission

Date: February 22nd, 2024