

Minutes of the Gaines Charter Township Planning Commission

Regular Meeting held September 26th, 2024, at 7 pm

8555 Kalamazoo Ave., SE, Caledonia, MI 49316

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

MEMBERS ABSENT: None

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 7:00 PM.

II. CONSIDERATION OF MEETING AGENDA

III. CONSIDERATION OF MEETING MINUTES

Consideration of the August 22nd, regular Planning Commission meeting minutes.

Motion: Motion by Waayenberg, supported by Rober to approve the minutes of August 22nd, 2024, with corrections.

DISCUSSION: None

AYES: ALL

NAYS: None

ABSTAIN: None

DECISION: Motion Carried (7-0)

IV. INQUIRY OF CONFLICT OF INTEREST

Commissioner Wiersema stated that he had a conflict of interest with agenda item VI.1.c and would abstain from voting on that agenda item.

Commissioner Waayenberg stated that his company, through a secondary source, obtains material from the applicant for agenda item VI.1.e, however, he has no personal interest in the matter and doesn't believe that it is a conflict of interest. Commissioner Haagsma echoed the same idea and stated that the entity he works for purchases materials from the applicant, however, he has no authority over said purchases. Planner Wells stated that he doesn't believe either of those instances constitute conflicts of interest.

V. PUBLIC COMMENT

Chair Giarmo opened the public hearing at 7:04 PM and subsequently closed it as nobody approached the podium to speak.

VI. NEW BUSINESS

1. Public Hearings

a. 6844 Rosecrest Drive – Special Use Permit – Accessory Dwelling Unit

Vinton Hubbard, the homeowner and applicant for this project, explained that they are seeking a Special Use Permit to allow for an attached accessory dwelling unit to accommodate his wife, Sheryl's, mother. They want to be able to provide her with a living area that offers her independence, but still provides room for them to care for her. Hubbard added that the addition is set to go on the opposite side of the house from the garage, and that they intend to match the addition to the house.

Community Development Director Dan Wells explained that attached accessory dwelling units are permitted in the RL-10 zoning district so long as the applicant obtains a Special Use Permit. Wells added that the addition is planned to share a common wall and interior door with the primary dwelling, which is a requirement for accessory dwelling units. Wells concluded by stating that staff recommends a condition in which the applicant would be required to register their deed with the county and ensure it states that the primary structure and accessory dwelling unit must remain in the same ownership.

Chair Giarmo opened the public hearing and subsequently closed it as nobody approached the podium to speak.

Commissioner Haagsma inquired about if there is currently a shed in the location where the ADU is planned to go; Hubbard responded that he already relocated it to the other side of the house.

Chair Giarmo inquired about the staff recommended condition, and sought clarification on a potential timeframe in which the applicant would have to register their updated deed with the county; Planner Wells stated that there is nothing in the ordinance regulating the timeframe in which this must be completed.

Commissioner Wiersema added that he noticed the shed was gone and he thinks it looks nice.

Motion:	Motion by Waayenberg, supported by Billips to approve the Special Use Permit for an attached accessory dwelling unit with the condition that an updated deed reflecting that the ownership of the primary and accessory dwelling units must remain in the same name.
DISCUSSION:	None
AYES:	ALL
NAYS:	None
ABSTAIN:	None
DECISION:	Motion Carried (7-0)

b. 7174 Martin Avenue – Special Use Permit – Adult Foster Care Small Group Home

Stephen V. Forkpah, the applicant for this project, approached the podium to explain that he is seeking a Special Use Permit to increase the capacity of his Adult Foster Care Small Group Home from 6 individuals to 12 individuals. Forkpah stated that the house has 8 bedrooms and was previously licensed to accommodate 10 individuals under different ownership.

Planner Wells offered the Township's perspective on this application and stated that state regulations ordain that the state is responsible for inspections of this property, and that the Township Fire Chief will be responsible for ensuring that fire safety in the building is adequate. Wells added that standards from Section 19.8 and 19.19 S of the Zoning Ordinance are applicable for this request.

Planner Wells explained that the general standards for Special Uses are undetermined at this point in time; the Township's Building Inspector stated that numerous permits for interior renovations have not been finalized and that he is unsure of the status of the work inside the home at this time. Wells added that he is unsure if the state will be carrying out those specific inspections at this time.

Fire Chief Ken Van Hall stated that he is unsure of the status of the sprinkler system at this time and cannot determine the status of fire protection in the home until he is granted permission from the state to inspect and ensure that fire protection measures are up to code. Van Hall added that when the number of residents exceeds 5 individuals, a certain sprinkler system is required. Van Hall concluded by stating that he wants to ensure that the proper fire protection measures are in place before the Special Use Permit is granted approval.

Planner Wells continued by stating that there are federal laws that apply to this request in terms of fair housing, and that there are protections in place to ensure that individuals with disabilities have access to adequate housing. The Township's Zoning Ordinance states that standards of proof for nuisance must be verified with factual evidence; although neighbors verbalize issues or nuisances they have observed, the Township must consider standards of fact and what can be recorded and proven as substantial evidence. Wells added that the Township likely needs an attorney's opinion on what would be considered substantial evidence and to what degree the Township needs to present facts about care facilities as such. Adverse impacts are undetermined at this point due to the previously noted uncertainty regarding what would be considered substantial evidence. Wells added that the increase in capacity could be a point of nuisance even with a fence.

Wells continued and stated that electrical and mechanical permits have been applied for, however, no inspections have been completed, and the Township is recommending that inspections be completed through the Building Department, LARA, and the Fire Chief prior to approval. Wells added that staff is recommending that the Planning Commission table this request until the owner can demonstrate and confirm that the building is up to code, and to allow for time to obtain an opinion from the Township Attorney outlining the extent of legal ramifications from both state and federal laws related to these uses.

Wells reiterated that the Township's current ordinance language doesn't specify what constitutes as findings of fact, and that it will be tricky to determine what constitutes as substantial evidence without

an opinion from an attorney. He added that the gaps in the current ordinance language will be addressed and remedied in the updated Zoning Ordinance that is nearing completion.

Chair Giarmo opened the public hearing.

Lilalee Mumper of 7175 Martin stated that she has lived in the house across the street since 1979 and has seen the house in all of its stages since, and that at the moment it is quiet in comparison to previous years. She said that she would prefer it if the increase in capacity didn't entail additional cars and traffic on the street.

Melissa Maxon of 785 72nd Street stated that her backyard abuts the backyard at 7174 Martin, and that she has been a resident there for 14 years. Maxon stated that there are frequently several foster adults outside, however, now there is an individual who screams all times of the day. She added that there are parking issues in the area, and that she is concerned the increased number of pickups and drop offs will only exacerbate that problem. Maxon also added that she has seen semi-trucks parked there, which worsens the parking issue, and that she often hears swearing and vulgar music coming from the property.

Vern and Debra Johnson of 761 72nd Street live directly south of the property in question, and they expressed that they are concerned about the noise coming from the property. They added that they are concerned about the safety of residents, and that they speculate they may need additional care. Debra specifically stated that even with a fence between the two properties, she is made to feel uncomfortable by hysterical laughter and vulgar language. Vern added that although the residence is permitted to accommodate 6 residents, he doesn't believe the square footage of the home is appropriate to accommodate 6 residents.

Planner Wells responded that state regulations determine the amount of square footage that is necessary and appropriate to accommodate residents.

Vern inquired about routine inspections at the state level and added that there has been furniture on the curb for an extended period of time, and that there is garbage strewn about the property; Planner Wells responded that junk violations are a separate issue that the Township addresses as it occurs rather than waiting on the state to inspect violations as such. Wells added that staff did inspect the property and found violations, and assured Vern that staff intends to work with the applicant to address and remedy the junk violations prior to approval.

Planner Wells added that there is a staff person on site 24/7, as it is a requirement at the state level.

Dale Vandermolen of 7147 Eastern Avenue stated that he is concerned for children in the neighborhood and added that he speculates they must be scared. Vandermolen added that he is concerned about the increase in capacity, and that he is concerned about selling his house in the future as prospective buyers may be uninterested if they observe loud and vulgar conduct from residents of the facility.

Lois Elzinga of 686 72nd Street stated that she was "disturbed" that she knew nothing of this until a few days prior to the meeting and that she did not receive notice in the mail; additionally, she expressed frustration that a neighbor of hers didn't receive legal notice either. Staff followed up on this concern and confirmed that the neighbor she had mentioned indeed did receive a public notice in the mail, however, Elzinga herself lives outside of the legally required 300-foot buffer for public notices and did

not receive one. She also expressed that she is worried about cumulative traffic issues related to this project due to both staff and deliveries.

Chair Giarmo closed the public hearing and stated that due to technical issues related to fire and building inspections, in addition to discrepancies between state jurisdiction ends and Township jurisdiction begins, it is unlikely that the Planning Commission will be able to make an informed decision on this application at this time.

Motion: Motion by Thomas, supported by Rober to table this application until proper fire and mechanical inspections are completed.

DISCUSSION: Commissioner Wiersema expressed that he is concerned about the health and safety of residents in the home due to incomplete inspections. He also expressed concerns regarding ingress and egress points in the home, to which Fire Chief Ken Van Hall responded that there are 3-4 of them and several are located at the back of the home which aren't visible from the right of way.

Commissioner Haagsma asked that in the interim while the Planning Commission waits for inspections to be conducted to close permits, if the Township attorney can offer insight as to what authority the Planning Commission has over this decision and what tools they might be permitted to use and exercise.

Commissioner Wiersema echoed Haagsmas concerns, and elaborated further, questioning what the Planning Commission is able to do retroactively since the facility already exists.

Chair Giarmo clarified and added that this request is for an expansion of the current use rather than a change in use.

Commissioner Waayenberg echoed earlier analyses and added that the Planning Commission needs to seek legal counsel to determine what statute would grant the Planning Commission the ability to deny the application based on adverse impacts to the neighborhood.

Commissioner Billips inquired about whether or not the regulations differ due to disabilities the residents may have; Planner Wells responded that every individual is entitled to the right to safe secure housing under the law, which is embedded in the Fair Housing Act. Wells elaborated further and explained that oftentimes facilities as such are housing of last resort for residents, and the state undertakes a vetting process via psychological evaluations to ensure that no residents are deemed a threat by LARA, even if they yell or are a point of nuisance in the neighborhood. Wells added that if there was a basis for denial based on obnoxious behavior, there would be nowhere for these individuals to live.

Chair Giarmo added that although tabling is likely, it may take more than a month for this application to return for Planning Commission consideration, depending on the amount of time it takes to get an opinion from legal counsel.

AYES:	ALL
NAYS:	None
ABSTAIN:	None
DECISION:	7-0

c. 7514 Melinda Court – Special Use Permit – Group Child Day Care Home

Heather Duff of 7514 Melinda Court, the applicant and homeowner, explained that she is requesting a Special Use Permit to allow for a Group Child Day Care Home with the capacity to care for up to 12 children. Duff explained that she intends to care for 6 children during the school year and increase her capacity to 12 during the summer months when children aren't in school. Duff went on to state that her driveway is anticipated to provide adequate parking for parents during staggered pick up and drop off times, and that the previous owner of the home also ran a daycare and had licensing to care for 12 children; she added that the interior of the home is built and equipped to accommodate 12 children.

Planner Wells offered the Townships perspective on this request and began by stating that there is an increased need for childcare facilities in the area as the Township grows. He continued and added that there is a fence in the backyard to minimize any point of nuisance, and that this request is consistent with the intent of both the Zoning Ordinance and Master Plan, since uses as such are permitted so long as the applicant obtains a Special Use Permit. Wells stated that Duff has applied for the necessary licensing at the state level, and that the only issue staff recognized with this request is the cul-de-sac, which could potentially concentrate the traffic flow despite pick ups and drop offs being staggered. There will certainly be more cars coming and going from the area with the increase in capacity, however, staff did not recognize this as a major concern, and there is no anticipated impact on public welfare or safety. Additionally, the Township has no record indicating prior complaints or concerns about the Special Use or existing daycare operations at this property.

Chair Giarmo opened the public hearing and subsequently closed it as nobody approached the podium to speak.

Chair Giarmo began discussion by stating that although the biggest concern from staff regarding this proposal was traffic, there was no comment from the public indicating that anyone had an issue with it.

Vice Chair Rober added that she was anticipating traffic concerns from the public, and that she never observed anything out of the ordinary at the property.

Motion: Motion by Waayenberg, supported by Rober to approve the Special Use Permit.

DISCUSSION: Planner Wells stated that is has been determined that traffic will not become a substantial hazard in the area, and he asked for confirmation that the Planning Commission would not consider this special use to be a potential point of nuisance for neighbors; Commissioner Waayenberg responded that no public comment was made and that it doesn't appear to be a point of nuisance.

AYES: Giarmo, Rober, Haagsma, Thomas, Billips, Waayenberg

NAYS:	None
ABSTAIN:	Wiersema
DECISION:	6-0

d. 7114 Cornerstone Drive – Special Use Permit – Accessory Building

As the applicant was not present, Planner Wells proceeded to explain that the applicant and homeowner, Michael Resma, is requesting a Special Use Permit to allow for 500 square feet in accessory buildings. Wells stated that the shed the applicant intends to install totals 384 square feet, however, he is requesting 500 square feet to account for future expansions to the shed. Wells continued and stated that the applicant intends to remove the existing shed and use the remaining concrete pad for recreation; staff is recommending a condition in which the applicant must remove the existing shed within 30 days of completion of the new shed. He added that there is a discrepancy between the calculated square footage and the listed square footage of the shed on the product sheet provided by the applicant; the product sheet lists the shed as being 384 square feet, however, when using the provided length and width of the shed to calculate the total area, it yields 412 square feet. He concluded by stating that this building would be slightly larger than other accessory buildings in the immediate area, however, the request isn't anything outrageous. Overall, staff is recommending approval of this application.

Chair Giarmo opened and closed the public hearing as nobody approached the podium to speak.

Commissioner Wiersema began discussion by stating that he is concerned about the size of the building and added that he was surprised no neighbors attended the meeting to state their opinions. Wiersema added that typically accessory buildings in this area are around 100 square feet, and he is concerned due to the lack of vegetation in the area that would screen the view of the shed from neighboring properties.

Commissioner Thomas echoed Wiersema's concerns and added that despite this being private property, it would still be visible to neighbors.

Vice Chair Rober agreed that screening in the immediate area did not seem to be adequate to accommodate a building of this scale.

Chair Giarmo raised concerns about this request setting a negative precedent for development in the area.

Commissioner Waayenberg said that he doesn't have an issue with the size of the building, and that he'd rather have items stored in a structure as such rather than strewn about the yard; Vice Chair Rober agreed with that sentiment.

Chair Giarmo inquired about imposing a condition in which additional screening is required

Commissioner Haagsma expressed that the discrepancy between the actual square footage of the building and what is being requested in the Special Use Permit is a cause for concern, and he is worried about future expansion without approval from the Planning Commission.

Chair Giarmo echoed Haagsma's concerns and expressed uncertainty about the potential for future expansion occurring without discretion from the Planning Commission. She added that she would feel more comfortable with the request if the square footage being requested was consistent with the

proposed size of the building. Additionally, Giarmo stated that she would be more comfortable with a request for a 400 square foot building.

Motion:	Motion by Haagsma, supported by Rober to table this application until more information and a clearer request is provided by the applicant.
DISCUSSION:	The Planning Commissioners expressed that they want to see exactly what the applicant intends to construct.
AYES:	ALL
NAYS:	None
ABSTAIN:	None
DECISION:	7-0

e. 10287 Kalamazoo Avenue – Stoneco Annual Review – Jeplawy Parcel

Austin Fischer, a representative from Stoneco gave a brief introduction to the Stoneco Annual Review of the Jeplawy parcel. Fischer stated that reclamation is continuing on the Barnaby east parcel; it is going quite well, and they intend to continue work as the season progresses. Fischer stated that the Jeplawy parcel is on track and well within the anticipated 2024-time range, and that they intend to continue removal during the winter season so that more reclamation areas open up along Kalamazoo Avenue.

Planner Wells offered the Township’s perspective on this request; he began by stating that this parcel was approved as a Planned Unit Development – Mineral Removal two years ago, and annual reviews of the mining operations were included as a condition of approval. The annual reviews give the Planning Commission an opportunity to oversee and review how the operation is going. Wells stated that Stoneco has provided operating plans, and they have remained in accord with all necessary conditions of approval. The only complaints received about the mining operation were in the beginning when the property was being cleared for mining and prescribed stump burning was taking place, however, nearby residents have not had any complaints since. The Sand and Gravel Subcommittee met to review the application for an annual review and voted to make a positive recommendation to the Planning Commission; Wells added that staff agrees with the subcommittee’s recommendation.

Chair Giarmo opened the public hearing.

Bill Johnson of 1307 100th Street explained that he lives approximately 200 yards from Pease Avenue, and the traffic from heavy trucks is a point of nuisance for him. Johnson stated that the issue isn’t necessarily with Stoneco; he believes they are doing a good job with reclamation and can hardly hear them, however, the trucks that haul material down Pease Avenue are extremely loud and bothersome. He added that he was told trucks would not be permitted to haul materials down Pease Avenue, however, they are, and also mentioned that he has measured the noise from the trucks with a device that indicated the noise was over 100 decibels.

Commissioner Haagsma responded that there are multiple other uses on Pease Avenue that are unrelated to Stoneco's operations. Commissioner Waayenberg added that there are several older gravel pits on Pease Avenue, and it is likely that the traffic is flowing that way to avoid construction in the area. Waayenberg also mentioned that there is a disposal company near Pease Avenue which tends to have loud trucks, although its not something the Township has much control over.

Johnson also mentioned it sounds as though the trucks are engine braking which is another point of nuisance; Commissioner Haagsma and Chair Giarmo recommended reaching out to the Michigan State Police to see if they would be able to assist in remedying this issue.

Dennis Daniels of 1320 100th Street explained that he moved to the area two years ago, and if he would've known about the truck traffic, he likely wouldn't have moved in. Daniels expressed that he speculates they are taking too much gravel from the mines.

Planner Wells interjected to clarify that the Planning Commission and Township Board granted approval of the mining operation, and that denials for mineral removal projects are heavily litigated across various court systems.

Daniels inquired about the truck traffic on Pease Avenue, and how any of it got approved; Chair Giarmo added that both the Planning Commission and the Kent County Road Commission have some jurisdiction in the matter, but inquiries regarding noise and engine braking should be taken up with the Michigan State Police.

Daniels inquired about the state of the Stoneco pit at the corner of 100th Street and Kalamazoo Avenue, commonly referred to as the Barnaby parcel. He explained that it appears as though reclamation is unfinished; there is water in the pit, and they haven't taken down the berms that are in place, which he believes to be an eyesore.

Fischer returned to the podium to explain that reclamation at the Barnaby parcel is ongoing, and contractors had to shift their focus to roadwork during the summer months, hence the slowdown in work at that location. He added that Stoneco spoke with Planner Wells regarding the use of bulldozers outside of the approved stripping timeframe to remain on track. Ultimately, Stoneco plans on hitting their seeding windows, and Fischer stated that the operation is 85-90% complete, with a final completion date anticipated to be in 2025. Regarding the Jeplawy parcel, however, Fischer stated that they are right on track with the 3 phases approved for the operation and anticipate reclamation efforts will extend into 2026.

Planner Wells elaborated further and stated that original estimation of the amount of gravel is not entirely accurate as conditions on the ground have varied slightly from what was anticipated.

Fischer added that there was a little over a million and a half tons of material in the mine to be extracted, but it could vary and end up being 2 million tons of material. He stated that

Stoneco intends to extract all they are able to, and if they don't meet MDOT standards, it will be used as part of the reclamation process.

Planner Wells clarified that materials from the mine are moved via conveyor belt, and relocation of the mining materials is not contributing to the truck traffic on Pease Avenue.

Commissioner Haagsma said a lot of the truck traffic in the area comes from other places; Commissioner Waayenberg added that it is a fairly standard truck route.

Jackie Jonker of 1347 100th Street explained that she believes the truck traffic to be from individual contractors, and she speculates they are hauling material from US-131. She added that Stoneco has been wonderful to work with.

Randy Harkema of 10687 Kalamazoo Avenue stated that he has resided there for 33 years, and the area has had fairly low traffic over the years, though recently traffic has been increasing on 100th Street. Harkema asked if there is any end in sight, as he is holding off on making property investments in lieu of this nuisance.

Chair Giarmo encouraged Harkema to consult staff for more information regarding what is happening in the Township.

Chair Giarmo then closed the public hearing.

Motion: Motion by Waayenberg, supported by Haagsma to approve the Annual Operation, Restoration, and End Use plan for 2024 based on compliance with requirements and resolution 2023-10.

DISCUSSION: None

AYES: ALL

NAYS: None

ABSTAIN: None

DECISION: 7-0

2. Site Plan Review

a. None

3. Items Not Requiring a Public Hearing

a. 3316 68th Street – Resolution – Dutton Center

Planner Wells explained that this resolution is confirmation of the Planning Commission's findings regarding this project, which was approved at the previous meeting. Wells added that staff resolved any standards that were found to be undetermined in the initial briefing memo; now they read as "standard met". Furthermore, Wells stated that the resolution is an indication that the Planning Commission is ready to make a formal recommendation to the Township Board on this project. To clarify, Wells added

that although there may be minor adjustments and changes when this project is seeking site plan approval, the overall framework is approved here.

Motion: Motion by Waayenberg, supported by Haagsma to approve the rezoning to PUD, approve the Phase 1 Site Plan Review, and make a positive recommendation to the Township Board for a rezoning with the following conditions:

1. Site plan approval for Phase 1 is contingent on receiving approval for the PUD rezoning by the Township Board of Trustees.
2. Phases 2 (plat), 3, 4, and 5 shall be subject to the final site plan review process by the Planning Commission.
3. Secure all Township department and outside agency approvals.

DISCUSSION: None

AYES: ALL

NAYS: None

ABSTAIN: None

DECISION: 7-0

b. 3495 68th Street – Resolution – Dutton Marathon

Planner Wells once again clarified that the language in the resolution has been altered to indicate that all standards have been met.

Motion: Motion by Rober, supported by Thomas to approve the PUD amendment with the following conditions:

1. The parking requirement is waived, and 12 parking spaces be permitted for the site.
2. Signage and lighting for the site will be regulated under General Commercial standards in the Zoning Ordinance.
3. Asphalt on the north side of the addition must be resurfaced as indicated on the site plan.

DISCUSSION: None

AYES: Giarmo, Rober, Waayenberg, Wiersema, Billips, Thomas

NAYS: Haagsma

ABSTAIN: None

DECISION: 6-1

VII. GENERAL DISCUSSION

VIII. ADJOURNMENT

The meeting adjourned at 9:09 PM.

CERTIFICATION:

I hereby certify that the above is a true copy of the minutes from the September 26th, 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,

A handwritten signature in cursive script that reads "Lani Thomas". The signature is written in dark ink and is positioned above the printed name.

Lani Thomas,

Secretary

Gaines Charter Township Planning Commission

Date: 11/21, 2024