

MINUTES BIG RAPIDS TOWNSHIP ZONING COMMISSION

Tuesday, June 15, 2010 – 7:30 p.m.

Big Rapids Township Hall, 14212 Northland Drive, Big Rapids, MI 49307

I. CALL TO ORDER: 7:30 p.m.

Chairman, Shane called the regular monthly meeting of the Big Rapids Charter Township Zoning Commission to order on Jun 15, 2010 at 7:30 p.m. at the Big Rapids Charter Township Hall.

II. ROLL CALL:

Present: Jim Shane, Philip Keating, Glen Patrick, Mike Hults, Linda Osborn, Shirley Fitzgerald and Lisa Davidson. The record shows a quorum with all members present. Also present at the meeting Maxine McClelland, Zoning Administrator and Mae Emerson, Recording Secretary.

III. APPROVAL OF MINUTES:

1. Minutes – May 18, 2010

M. Hults moved the minutes of May 18, 2010 be accepted as submitted and placed on record; seconded by P. Keating; Yeas: Jim Shane, Philip Keating, Glen Patrick, Mike Hults, Linda Osborn, Shirley Fitzgerald and Lisa Davidson, motion carried unanimously.

IV. PUBLIC COMMENT: None.

V. PUBLIC HEARINGS:

1. RZ 10-001 – Walz

A request to rezone property in Section 3 from Agriculture to Commercial was reviewed.

Board members received a copy of the application, packet prepared by Ken Walz, a review of how the rezoning fits into the township land use plan, a map identifying uses of the property in the immediate area with a listing of parcel numbers and property owners. A copy of the Township zoning map, a blowup of the area zoning map, future land use map, information on the Highway Advertising Act, etc.

K. Walz made a presentation of the request reviewing the past history of the parcel and how he came to acquire the property. K. Walz identified the owners as himself, wife Sueann; and Jensco LLC represented by Attorney Robert Stanton.

K. Walz informed board members the parcel itself is closer to two acres than three, with about .2 acres of useable land on high ground, and is in the Agriculture zone. The property historically had rentals that produced some income. Several years ago the cabins were removed. Over the years the property has been for sale and although inquiries have been made, they have had no success in selling the land.

K. Walz informed the board that the Agriculture classification in the township zoning ordinance was commercial in disguise and reviewed uses allowed by special permit. The people who have been interested in the purchase were not interested in going through the rezoning process themselves. Also it was K. Walz understanding that a special use permit was not as desirable for bank financing and not acceptable for an SBA loan, or for locating a billboard under the State Highway Act.

Copies of a packet prepared by K. Walz were distributed to the board members including a survey, two aerial photos showing existing uses of land, and his arguments for the rezoning. K. Walz argued that almost all surrounding uses were either industrial or commercial in nature, and explained why he felt the request was not spot zoning. K. Walz stated he understood the townships concern over traffic problems and loss of control. K. Walz argued the property was not appropriate for agricultural uses and not very desirable for residential use. In the last paragraph of his presentation, Mr. Walz covered his thoughts on spot zoning. The property is assessed with a valuation to sell at approximately \$55,200 and we have never received a bonafied offer for an agricultural use of the land.

Mr. Walz has had some contacts from billboard companies for use of the property, but there are no signed options. If lighting of a billboard is a concern restrictions can be placed on the use to require they be muted at night, this property is not in the flight path. The City of Big Rapids, at one time contacted us about a possible purchase, but a sale did not take place because the property is not in the flight pattern.

K Walz stated a billboard would be an appropriate use for the property. In order to place a billboard all state and local requirements would have to be satisfied. The Highway Billboard act requires the sign must be in a business area and zoned either commercial or industrial. K. Walz stated they are not requesting the zoning just for signage. If the property is specifically being rezoned for a billboard, the state will turn down any permit application for signage. The signage industry is a significant potential customer if the property is rezoned to commercial.

M. McClelland explained the township has a comprehensive zoning plan in place. The township is currently in the process of doing an update to their five year master plan. M. McClelland reviewed historical history on rezoning for the area and acknowledged that one of the township objectives is to protect the fragile river banks along the Muskegon River. There are concerns over a billboard in this area adding to the distraction and increasing accidents. If the property is rezoned to commercial you open a can of worms regarding all the uses that can take place. Any permitted use in the commercial district is allowed by right.

Chairman Shane called for additional comments in favor of the rezoning request. None heard.

Chairman Shane called for comments opposed to the rezoning request.

Doris Conrad explained she lives north of the property. She explained that this parcel is very unique, partly because it is part of the northern entrance to the community and also because it offers a first glimpse of the Muskegon River, which

is a natural wonder, as you enter the community from the north. Ms. Conrad suggested that this should be a major concern of the board, rather than highest and best use. Also she has a concern over adding to area traffic problems, what kind of billboard would be placed on the property and how much of a distraction that would be to traffic. If you open the parcel to commercial, you open a can of worms as to what type of development will take place on that site. No other place in Big Rapids has as unique of view of the river as this site.

Mike Lafferty, Roben Hood Airport Manager, also expressed concerns over the rezoning request to commercial. Any added lighting would be a distraction for the airport users. M. Lafferty indicated any additional lighting would be a problem; the current billboard to the north is a problem.

Chairman, Shane explained that under the township ordinance a billboard permit could be issued by special permit, the township under its ordinance does not require commercial zoning for a billboard.

Mike Lafferty from Roben Hood Airport reaffirmed any type of billboard lighting would be a problem for the airport.

Virginia Kenitz neighbor living on River Bluff Drive expressed her concern over spot zoning, stating she is opposed to this request and would prefer the billboard be approved as a special permit rather than spot zoning.

K. Walz explained he purchased the property in the 1970's and at that time the cost to bury the power was about \$8,000. At the time the property was zoned agriculture and there were two small cottages on the site that were rented out. The cottages are now removed.

Ken Walz explained the state won't approve a billboard under the Highway Advertising Act unless the property is zoned commercial or industrial.

Hearing no further comments, Chairman Shane closed the public hearing portion of the meeting referring the matter to the board for questions and comments.

M. Hults reviewed that the petitioner estimates the usable area of land as .2 acres, and is approximately 50' wide on the north end by 375' in length.

Chairman, Shane explained the township has never dealt with conditional zoning and does not currently have language to address this provision in their zoning ordinance. Most of the consultants recommend you do not become involved in conditional zoning unless the zoning ordinance has language addressing this provision. Most of the conditional zoning provisions that have been used in this surrounding area have very detailed with specific conditions for approving the request. Conditional zoning restrictions usually run with the land. There is a time frame for the developer to come into compliance with the conditions.

M. Hults explained if any conditional zoning was issued for this site it would need to be fairly detailed with specific restrictions. What the applicant appears to propose is commercial zoning by special permit. The application seems to be a

contradiction if the true purpose of the rezoning is to allow a use that is contrary to the highway sign act, the request should be disapproved. If the request for rezoning to commercial is not just to allow for billboards but for traditional commercial purposes, the fact that the unique and undersized parcel would likely prohibit most commercial uses argues against approval. Addressing the objectors, the Zoning commission does not have the power to convert private land to a park. If you want to use the land as a park maybe you should purchase the land. The property has historically been zoned agriculture to allow the Township to maintain control. If a special use permit is issued the Zoning Commission has specific standards to review and the ability to place specific restrictions on the parcel that run with the land. M. Hults indicated he is in opposition to the rezoning to commercial.

S. Fitzgerald agreed.

G. Patrick felt there were better uses of the property than for billboards and is in favor of recommending denial of the rezoning.

P. Keating looked at the property and did not see it as agriculture land. P. Keating did not see a problem with approving the zoning request change.

L. Davidson said the use of a billboard could be there as a special permit under the township ordinance and did not see a need to rezone.

S. Fitzgerald said she was not in favor of the request.

M. Hults moved to approve the request to rezone the land to commercial; seconded by P. Keating.

Discussion:

J. Shane – under present circumstances the township zoning ordinance has no provisions addressing conditional zoning and it would not be wise to use the conditional zoning provision without adopting language addressing conditional zoning in the ordinance. Use of the conditional zoning provisions without adopting applicable language might leave the township wide open for problems. The area is a two lane highway, with no passing zone; traffic is pretty continuous, commercial rezoning would leave the area wide open to any permitted commercial activity including adult uses including commercial uses that might produce high traffic volumes.

G. Patrick moved to table the request until the next regular meeting of the Zoning Commission; hearing no second the motion failed.

Roll call vote on the motion to recommend approval of the request to rezone to commercial: Yeas: Philip Keating; Nays: Mike Hults, Shirley Fitzgerald, Glen Patrick, Linda Osborn, Lisa Davidson and Jim Shane.

Motion fails to recommend the property be rezoned to commercial. It was noted that the Township Board is the one that takes final action on this request and the Zoning Commission will forward their recommendation to the Township Board on their findings from the public hearing.

VII. SITE PLAN REVIEW: None.

The Zoning Commission needs to schedule an additional meeting for review of two site plans: 1) the new city hanger including aero med and 2) Dave Engels site plan for an automotive sales business on the corner of 17 Mile Road and Northland Drive.

VII. CORRESPONDENCE: None.

VIII. OTHER ITEMS FOR DISCUSSION:

1. Update Land Use Plan

Meeting with Dave Bee West Michigan Regional Planning Commission

The Zoning Commission discussed having a meeting with Dave Bee from West Michigan Planning Commission at noon, July 6th at the township hall to discuss updates to the township master plan.

2. Approval of Park Plan

The Zoning Commission was provided with documentation that the DNRE has approved the County Park Plan including Big Rapids Charter Township's.

3. Engels/Legree Car Sales – No action.

Chairman Shane requested Mr. Engels be informed that the site plan is submitted is not acceptable, and that Mr. Engels be informed the site plan submitted must meet Class "B" site plan requirements of the ordinance. The applicant would not be required to have the print sealed and not be required to show grades.

IX. UNFINISHED BUSINESS:

1. Planning Enabling Act

Work on the Planning Enabling act will continue at the next meeting.

X. ADJOURNMENT:

Hearing no further business; Chairman Shane called for a motion to adjourn. Motion by L. Osborn; seconded by S. Fitzgerald. The meeting was adjourned at 9:00 p.m. The next regular meeting will be held on July 20, 2010 or at the call of the Chair. Meeting adjourned.

Motion to approve the minutes of June 15, 2010 by: seconded by:

Roll Call Vote:

Big Rapids Township will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials, to individuals with disabilities upon five-business days notice to the township. Individuals requiring auxiliary aids or services should contact Sherri Gilbert, Big Rapids Township Clerk. Big Rapids, MI 49307 at (231) 796-3603 or Fax: (231) 796-2533.