

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION
REGULAR MEETING HELD ON WEDNESDAY, FEBRUARY 28, 2001 AT
7:30 P.M. IN THE CLAY TOWNSHIP BOARD ROOM 4710 PTE
TREMBLE ROAD. CLAY TOWNSHIP

1. Meeting called to order by Chairperson Mark German at 7:30 p.m.
2. Roll Call: Diana Decker, Mark Getman, Sandra O'Conner, Louise Cooper, John, Makuch, Chuck Michel, Dorothy DeBoyer.
ABSENT: Don Kent, excused, Patricia Sharrow, excused
ALSO PRESENT: Linda Anderson, Wade-Trim Planner, Michael Kras & City Attorney, Lee A. Strickler
3. **COMMUNICATIONS:** Lengthy letter(s) sent to Township Board and will be distributed to Planning Commission. Basically letters are requesting the Township Board to consider enlarging the Downtown Development Authority to the farther end onto the boundary of Ira, along M-29 and the reasons why they would like that.
4. **APPROVAL OF FEBRUARY 14, 2001 MINUTES:**
Moved by Cooper, supported by Michel.
MOTION carried to approve February 14, 2001 minutes as stand.
AYES: All NAYS: None ABSENT: DON KENT, PATRICIA SHARROW
5. **OLD BUSINESS:**
Special Approval Land Use/Site Plan consideration: Sunoco Gas Station/Mini Mart - Taco Bell. 5460 Pte. Tremble Rd.

Board has copies of the latest site plan. Public hearing for this was held several months ago. Dave Ventura, Contractor, Owners Lanus Ford and Sam Choukier present. **Getman:** We have the traffic study and it does recommend a passing flare located through the entire stretch of both drives #1 & #2. We will allow eastbound traffic free flow passed the site hampered by that turn movement into the development. It also recommends, which Building Dept. would require anyway, that the striping of the parking lot show the traffic pattern from the drive-thru window. You have copies of this, right? **Mr. Ford:** Yes. **Mr. Makuch** confirms that this is not the original site plan that Board was provided. **Mr. Makuch** reiterates that the Plan calls for recessed lights into the canopy. This site plan does not show what is there on the canopy. **Mr. Ventura** asks can he make a statement, and Mr. Getman denies it at this time, because if the Board chooses to grant that, that certainly can be one of the conditions put in place. Mr. Getman introduces Township Attorney, Mr. Strickler. **Mr. Getman:** Mr. Strickler, what is your opinion about the requirement of shielding or reducing the lights, recessing them? The original site plan showed them to be recessed, and the motion in the original site plan approval, without the drive-thru, required that they be recessed. **MR. STRICKLER:** Just briefly, as I am sure you are all aware, Approval land use is a process for commercial zoning or residential zoning. There are things that a property owner can request for the "Special Approval use", that is something that is not a permitted use under the Ordinance, but it is something that the Planning Commission in its discretion can consider a use that is not a permitted use. The Michigan Law authorizes zoning ordinances to have a special approval land use process and that is, of course, what is going on here. The thing that is key to it, and I didn't reference it directly to the Statute or the Ordinance is, it is a matter of discretion and in the body of the Ordinance. Now, the fact that the lights are shown to be recessed on the site plan and as built they are not recessed; that might be, you know, the Township might have another way to require that separate from what the Board does and hereby put some enforcement action on that. So I will leave you

with that thought that you can absolutely require conditions that you determine to be reasonable and it's your discretion as to whether or not to grant this, grant this with conditions or deny it.

Makuch: Another concern I have after reading the traffic study, they recommend striping. When you really look at this plan, you look at that last set of pumps, the last westerly set of pumps, my concern is that if you have striping on the area leading away from the drive-in windows people are going to be cutting right through between those gas pumps. If the last set of pumps was not there, it would be a lot easier. **Getman:** They do have a curb lane next to this building, so traffic cannot go straight out, it is curbed to direct them. **O'Conner:** I have a concern whether there is enough room on the side of the road, with the 8-foot easement on each side. **Ventura:** I would like to address each issue. Whenever you take a dark zone that has been dark for years and you put any form of building in that area, it's going to illuminate light. We have looked at the store building, it is no different than the Marathon; it is no different than most gas stations. There is no additional wattage, there is just a lot of glass in front and because of that it protrudes a lot of light in all directions. Recessed lighting means to place the light up in the canopy as best as you can. The lights that were placed in that canopy are recessed lights. There were holes bored in the canopy, placing them up in the canopy. It is a flushed mount recessed light. We agreed to shield the lights because of the fact that Mike Kras mentioned that the neighbors were complaining, and as far as I know those lights have all been shielded. If you compare the lighting in the business to when we first opened, you cannot even tell the business is there until you get up close enough to see the lights in the windows so it is not illuminating across the road. I would also like to make a statement in regard to the Sunoco signage on the canopy, which is covered at present. I was at a previous Board meeting and the statement was made that when the Sunoco signage was put up that there was a shadow that reflected clear up the driveway. I think the Board was in error on that one. Because those lights, per Sid Brown, were never exposed since the day the station opened. I think that was an issue that was misrepresented and talked about.

The people cutting through the pumps, when the decision was made to put a drive-thru in there I talked to Sid Brown and we were in the process of blocking and bricking and I mentioned to Sid they requested a drive-thru here and I know it's not on the site plan, but I would like to go ahead and provide for it., We will block it until it is approved, but if we don't put it in now, I have to come back and re-tear out and rebrick and reblock and the building would look second rate. So Sid was well aware of that, and Mike Kras was out there, too. The purpose of that curb coming out on a 45-degree angle is to force the traffic flow. It's designed so that when a car pulls out he will have to turn and literally go back and turn. Certain cars cutting through pumps really is beyond anybody's control at any station, but we did try to remedy that.

The other issue that if you are taking up the present easement with a road by bypassing, is there enough room for a shoulder, which is required beyond the edge of the blacktop without getting onto the owners property; that is something that needs to be taken a look at. The other option is that you could put a right turn only, and put a no left-hand turn lane on the eastbound traffic side to prevent people from turning left. All of these things have been discussed and the owners are willing to look at anything you folks come up with. **Getman:** The Township has no jurisdiction, nor

do you, to put in traffic lights, no left turn, no right turn; that is a State issue. Expense is not our concern, safety of our citizens is. As far as the lights, I think the three of you have a good idea of what we expect. What was approved or not approved at the first site plan is not totally irrelevant, but that is not a question at this point. What is a question now is what is before us, that is the current site plan and our desire. If we grant your special approval, we can make certain stipulations, certain requirements and you cannot operate your drive-thru until you meet them. **Anderson:** with up to 25 parking spaces one barrier free space is required, they have two with the one in the back of the building. They only need one, so they can eliminate

that one in the back and that would be fine; they would be better off. **Ventura:** I hear you saying that you are going to grant certain things if certain conditions are met, one of them being a passing lane. If a passing lane cannot be put in according to the Mich. Department of Transportation, are you going to incorporate an alternative in your motion? **Getman:** I haven't heard one suggested by the Planning Commissioners. Any control of the traffic would be up to MDOT.

MOTION BY MAKUCH SUPPORTED BY MICHEL:

#1, That we require a passing flare located through the entire stretch of both drives, one and two, as recommended in the traffic study supplied to us by Wade-Trim.

#2, We require properly shielded and recessed lighting to be installed inside the canopy preventing any illumination of the residential properties across the street and any adjacent properties.

#3, Striping of the traffic flow on the property as indicated by the traffic study presented by Wade-Trim.

#4, \$15,000 cash bond or Letter of Credit put up with the Clay Twp. Treasurer prior to commencing any of the work.

#5, No Certificate of Occupancy can be issued until all of the work is completed. No exceptions.

DISCUSSION: Ms. **Decker:** The alternative - **Mr. Getman:** The attorney recommends that we not put that in there. **Mr. Makuch:** The way I worded this motion is because I want the passing flare in there. If the State says that absolutely can not be done, then the Applicant can come back before us, show us that the State said that we can not do it and then we might be able to consider an alternative. **Mr. Getman:** Does that look good to you, Linda? **Ms. Anderson:** Yes. **Mr. Getman:** Mr. Strickler, do you think anything we are considering here sounds unreasonable? **Mr. Strickler:** In my opinion, no.

MOTION PASSED UNANIMOUSLY.

MR. GETMAN: Now any questions? **Mr. Ventura:** The question I have is that it appeared to be in one of the previous board meetings that I was involved with, that the installation of the Taco Bell was not an issue. The signage had been approved and the signage size for the speaker box on the backside had been approved, and I was under the assumption from that meeting that they can put in a Taco Bell; they just can't use a drive-thru window, and that is what we were going to review today, just decide about the drive-thru window. I just want to make sure that I am clear. **Mr. Getman:** You are here to get approval for the drive-thru window whether

it is Taco Bell or anything else. **Mr. Ford:** We are fine as long as we do not use the window? **Mr. Getman:** You cannot do it as a drive-thru. **Mr. Ford:** We can do the rest of the Taco Bell? **Mr. Getman:** If you have an interior, and inside restaurant, that has been approved. **Mr. Michel:** I just want to make sure that if we approve the site plan, that it is approved as per the drawing? **Mr. Getman:** Basically, this is the original site plan. They have gone to the Zoning Board of Appeals, as you know, 11/16, on the signage. The Zoning Board of Appeals disallowed some of the signage that they intended; that has to be updated and the menu sign that is in the back for the drive-thru would not be relevant if there we no drive-thru. That motion was *To grant the variance for a 12-foot Sunoco sign, including canopy, and the 16 foot Taco Bell sign, that would exclude to goalposts. Total of 72 square feet, and such variance contingent upon complying with the shielding and the lighting.* The total variance is contingent upon the satisfactory completion of the shielding, so in essence, the signs aren't legal, either.

Mr. Ford: I had the guy come out and shield the lights on 3 sides, and then on all four, it cost \$2,700, so we did comply. **Mr. Getman:** I think we have made it clear that we wanted no light leaving your property. Our concern is taking care of the community as a whole. We want to be fair.

MOTION by Michel, No Support: To approve the site plan for the Sunoco Gas Station and an indoor eating facility as presented, and for clarification the lights are to be recessed, the ingress and egress driveways would be narrowed as indicated in the Plan. Approval of this site plan under those conditions in no way would allow a drive-thru until all conditions of Special Approval Land Use were completed. **Mr. Getman:** The site plan doesn't show the indoor, does it? **Mr. Makuch:** We only have page 2 of 8 here. **Ms. Anderson:** I would have a problem with the motion, just because the site plan does show the speaker and drive-thru window. If you are going to do that, I am not sure that we should approve that with those on there, and I think it's confusing. **MOTION DIED.**

MOTION BY MAKUCH, supported BY DECKER: MOTION that we postpone the site plan approval until a revised site plan can be submitted reflecting all of the conditions specified under the Special Approval Land Use and any issues brought up by ZBA with regard to signing.

Discussion: Ms. Anderson: Mr. Chairman, how will you make sure that all of the conditions are met before the site plan is approved? Will there be another review of that either by the Zoning Administrator or site Plan Review Committee, or is the Planning Commission comfortable with having those changes made just on that condition? **Mr. Getman:** They are going to have to bring in a revised plan and come back. **Mr. Makuch:** They have to, it is not approved.

AYES: All Nays: None Absent: Kent, Sharrow. **MOTION CARRIED.**

Mr. Getman: Do you understand that? **Mr. Ventura: No. Mr. Getman:** We need a site plan reflecting the conditions of the Special Approval at the road. The striping needs to be shown on the plan, the lights. **Mr. Ventura:** I think it's been approved

that the Sunoco site is okay the way it stands and that it can have fast food inside. I just want to make sure that this motion doesn't stop that from happening if the approval is not granted by MDOT, and everything else. **Ms. Anderson:** The other site plan still stands. **Mr. Strickler:** I think you have to be aware that, you know, what I have heard here tonight, that the lights you have in the canopy are inconsistent with the site plan that was approved. So with that said again on the record that we have made here, the answer to your question is you can still do what was approved on the original site plan, but there is at least that problem with the site plan that the canopy lights are inconsistent with what was approved. **Mr. Getman:** So in other words, they are really not able to open the restaurant until they are in full compliance with the original site plan, which would be the recessed lighting.

6. **NEW BUSINESS:** None.

7. **CHAIRMAN'S REPORT:** There will be a Public Hearing, there are 2 notices in the newspaper, for a meeting on March 14th, 2001, and it will be held at the Algonac High School in the Lecture Hall, for a Special Public Hearing, but not approval. Approval will not be on the agenda. The Public hearing will be for the proposed strip mall at

Nook Road and M-29 currently occupied by Ford Mercury and Lucas. I am expecting large turn out. There will be a police officer present.

8. **PLANNING CONSULTANT'S REPORT:** None.

9. **PLANNING COMMISSION COMMENTS:** ~~Ms. Decker~~ **D. DEBOYER** as amended 3/14/01 PKW comments that she went to Port Huron for the Basics for Planning Commissioners and sat in on the ZBA and found it very informative. One question, though, do we have by-laws? If so, I don't have a copy of them. **Mr. Getman:** Yes, we do and we will get you a copy. I did want to mention, I spoke to Marie the other day, she was in good spirits and is working on her health issues and will hopefully be back within the next month or so. Patti is doing a great job, and I am sure she can help you with the by-laws.

10. **PUBLIC COMMENTS:** Robert Butler, 5485 Pte. Tremble, I would like to commend the Committee this evening for a very fine presentation. I think you reflected what the public is looking for; the support that we need. The lighting is a big thing on my mind, of course, and the turning lane is an issue, but the Road Commission controls that. I don't want to belabor this, but one more thing real quickly, I was half expecting them to say that the lights were recessed. The holes were cut, they were recessed, but the lights itself and the bulb are not recessed. It is a technicality, and I hoped that they were not going to try to get by on that. The purpose of putting recessed lighting on the blueprint is clear, so that it would not show 360 degrees but rather show down, and if that premise is maintained, everybody is happy. So with that, thank you very much. **Citizen Baker:** One other thing, I asked the fellow if he had fire extinguishers, he said no. I think that would be a good thing to put on the Building Dept, because I think all gas stations should have self-contained fire extinguishers.

11. **ADJOURNMENT**

MOVED BY MICHEL SUPPORTED BY MAKUCH.

MOTION CARRIED. TO ADJOURN THE MEETING AT 8:49 P.M.

AYES: ALL NAYS: NONE

ABSENT: DON KENT, PATRICIA SHARROW

Kelley Nader Recording Secretary