

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION SPECIAL MEETING HELD ON NOVEMBER 25, 2003 AT 7:00 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP.

1. Meeting called to order by Chairperson Mark Getman at 7:00 p.m.
2. Roll Call: Present: Chairperson Mark Getman, Vice Chair Dorothy DeBoyer, Secretary John Makuch, Pat Sharrow, Tony Antkowiak, Sandra O'Conner, Chuck Michel. Absent: Edward Keller, Louise Cooper (Excused).

Chairman Getman: Special meeting requested by Attorney Carol Rosati representing the Township in the lawsuit.

Motion by Sharrow, supported by Michel, **MOTION CARRIED**, to proceed into an executive session at 7:03 p.m. for the purpose of discussing the pending litigation of Leonardo Algonac LLC vs. Township of Clay and the Planning Commission, St. Clair County Circuit Court Matter 03-0012-AB which is assigned to the Honorable Daniel Kelly, will be discussing this with the Township Attorney.

R/C VOTE: AYES: Sharrow, Antkowiak, O'Conner, Makuch, DeBoyer, Getman.

NAYS: None. ABSENT: Keller, Cooper.

Chairman Getman called the special meeting back to order at 7:39 p.m.

Moved by Sharrow, supported by DeBoyer, **MOTION CARRIED**, to adjourn the special meeting at 7:40 p.m.

Valerie J. Kulba
Recording Secretary

MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON NOVEMBER 25, 2003 AT 7:40 P.M. IN THE CLAY TOWNSHIP BOARD ROOM, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP.

1. Chairman Mark Getman called the regular meeting to order at 7:40 p.m.
2. Roll Call: Present Chairman Mark Getman, Vice-Chair Dorothy DeBoyer, Secretary John Makuch, Tony Antkowiak, Sandra O'Conner. ABSENT: Edward Keller, Louise Cooper (excused).
3. Communications: None.

4. **APPROVAL OF THE NOVEMBER 12, 2003 MINUTES:**

Moved by Antkowiak, supported DeBoyer, **MOTION CARRIED**, to approve the November 12, 2003 Minutes with the following amendments:

- Roll Call: Sandra O'Conner was present.
- Page 2, 1st paragraph, correct the word "scrape" to "scrap" three times.
- Page 2, 1st paragraph, 1st sentence to read: "Recently obtained in the last six years."
- Page 6, Planning Commission Comment by Tony Antkowiak: Suggested a brief synopsis of procedure be provided to the public.

All in favor of the amended minutes: Ayes: All. Nays: None. ABSENT: Cooper, Keller.

OLD BUSINESS: POSTPONED FROM JULY 23, 2003

5. **WENDY'S INTERNATIONAL** **NOOK RD./PTE.TREMBLE RD.**

- a. **EXTENSION OF SPECIAL APPROVAL LAND USE**
- b. **RE-VISED SITE PLAN**

Chairman Getman: Extension of the Special Approval Land Use.

Moved by Michel, supported by Sharrow, **MOTION CARRIED**, to extend the Special Approval Land Use for the Wendy's International for another year from the date of expiration. AYES: All. NAYS: None. ABSENT: Keller, Cooper.

Lawrence Scott, 12900 Hall Road, Sterling Hts. Attorney for the Petitioner: Explained the Township's Council, Consultant and the involved parties met after July, revise the site plan, withdrew the M-29 access, incorporate access through the utility road of the shopping center, access agreement was negotiated, resolved the access, storm drainage and the retention issues, agreement includes the entire parcel (five parcels), existing structures will be removed when the Wendy's site is developed.

Planning Commission Member Comments:

Pat Sharrow: Questioned ownership of the five lots has been obtained.
Lawrence Scott: Mr. Lavdas does own all five lots.

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John Makuch: If Site plan is approved will there be access to other properties if split.

Lawrence Scott: No problem cross easements part of the engineering plan.

Tony Antkowiak: Drainage and access will be available for the 2-3 lots next to Wendy.

Lawrence Scott: Access Agreement provides for storm drainage and retention pond for those lots and vehicle access.

Tony Antkowiak: Trees recently fell down will they be removed?

Lawrence Scott: Cleared at the same time the houses will be removed, plan approved here, Engineer will proceed to submit plans for the proper permits to start demo.

Dorothy DeBoyer: Questioned planting across the front towards M-29 for screening.

Scott Lawrence: Referred to 3rd page of the site plan for the landscape schedule.

Dorothy DeBoyer: Questioned if sufficient to block the car lights from M-29 and houses, trees decorative, not a good screen.

Engineer Bryan Mruzik for Wendy's: Revise the landscaping plan for more screening effect i.e. add shrubs, hedges.

Sandra O'Conner: What kind of a sign will there be?

Engineer Bryan Mruzik: Normally wait until plans are submitted, adhere to ordinance requirements.

Pat Sharrow: Pointed out on 2nd page of the site plan re: two legal descriptions, 1st one incorrect, 2nd one correct description, eliminate the 1st one.

Chairman Getman: Reminder to Plng. Commission members of conditions of the S.A.L.U.

Attorney John McNamee: Compliments to the parties involved Mr. Metz and Mr. Lavdas on the fine job of working out the agreement; term of the condition is the Agreement be in a record able form, provision in the agreement regarding letter of agreement from Block Buster and Farmer Jack subject to the final draft.

Eng. Bryon Mruzik: Questioned closing time of the restaurant per S.A.L.U. conditions.

Rod Arroyo, Consultant for planning and traffic consultants for the Twp.:

Clarify several key points: easements in place that would address vehicular access as well as use of the sidewalk, placed on private property, easement recorded to allow the public to cross the private property; cross access easement for vehicular movements should include all the adjacent properties (shopping center and vacant property); access to the vacant property could be specified as providing for two access points from the Wendy's site to that property to be determined based on a site plan review for that property by the Township; screening on M-29 consider the use of the ornamental grass rather than shrubs, explained why ornamental grass is more acceptable; placement of the trees line up with the parking stall paint lines; letter of 10/27/03 identified some traffic control signs that needs to be added to the site plan; clean-up items, consider to approve it subject to all these items being addressed administratively as part of the final engineering plan.

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Traffic control signs located “Do not enter sign” north end of the building, south end of the building facing east, referenced in the October 27, 2003 letter.

Carol Risota, MMRMA Attorney: Questioned a time frame to clean the area up.

Eng. Bryon Mruzik: Problems re: bldg.demolition and time required f/permits, utility kill.
John McNamee: Suggested 90 days from approval of the final engineering plans.

MOTION BY MICHEL, SUPPORTED BY DEBOYER, TO APPROVE THE SITE PLAN FOR WENDY’S INTERNATIONAL, NOOK ROAD/PTE. TREMBLE ROAD CONTINGENT UPON THE FOLLOWING REQUIREMENTS:

- Execution of all the cross access agreements and storm detention;
- Agreements with Block Buster and Farmer Jack on the other access;
- Agreement with Wendy’s covers the site plan proposed and include the entire corner of Pte. Tremble Road and Nook owned by Mr. Lavdas;
- Agreement executed will be finally approved by the Township Attorney John McNamee;
- Agreement will be recorded with the Register of Deeds prior to any permits issued;
- Demolition of the houses and the clearing of the property within 90 days from the final engineering plan approval.
- Amended site plan is based upon the continual obligation of Wendy’s to comply with the previous special approval land use requirements:
 1. Loading/unload shall take place during non-business hours.
 2. Wendy’s Restaurant will be closed from Midnight to 5:00 a.m.
 3. Paved sidewalk must be constructed and an easement recorded.
- Final Engineering plan reviewed by the Township Engineerings;
- Placement of ornamental grass between the trees as indicated on the plan to shield the lights from the parking.
- Installation of two traffic control signs “Do Not Enter” as referred in the October 27, 2003 letter from Rod Arroyo, Planning and Traffic Consultant for the Twp.
- Access to the adjacent property be provided and will be reviewed by the Planning Commission if and when the property is developed to access;
- All the Agreements should be on the final engineering plans.

Discussion:

Tony Antkowiak: Trees planted at the parking lines.

AMENDMENT TO THE MOTION BY MICHEL, SUPPORTED BY DEBOYER, TO INCLUDE THE PROVISION THE TREES ON THE PTE. TREMBLE ROADSIDE BE ALIGNED SO AS NOT OBSTRUCT THE VEHICLES PARKING THERE.

Discussion: None.

VOTE ON THE AMENDMENT: AYES: All. NAYS: None. ABSENT: Cooper, Keller.

MOTION CARRIED.

VOTE ON THE MOTION: AYES: All. NAYS: None. ABSENT: Cooper, Keller.

MOTION CARRIED.

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OLD BUSINESS: POSTPONED FROM NOVEMBER 12, 2003

6. **RE-ZONING:**

123-4 ERIC & HELEN STANCZAK 222 WILLIAMS (LOT 71 & 72) (R-1 to C-2)

Chairman Getman: Review received from Planning Consultant Patrick Meagher.

Tony Antkowiak: Planner recommends not approving, Master Plan indicates area commercial.

Chairman Getman: Planner's reasoning is at sometime when San Souci were to expand that is when to re-zone adjacent properties as a group.

Sandra O'Conner: Mixed area, people would like to see more commercial.

Tony Antkowiak: Applicant bought the property it was zoned Commercial.

Pat Sharrow: Residential a block from the S.Channel is as valuable as a commercial lot .

MOTION BY MICHEL, SUPPORTED BY SHARROW, TO DENY THE REQUEST TO RE-ZONE 222 WILLIAMS, LOT 71 & 72 FROM R-1 TO C-2 FOR THE FOLLOWING REASONS:

- NON-CONFORMING CAN STILL EXIST AND OPERATE
- THE LOTS ARE IN THE MIDDLE OF A RESIDENTIAL DISTRICT, COULD BE CONSIDERED A "SPOT ZONING".
- C-2 ZONING DISTRICT ALLOWS EVERYTHING IN THAT DISTRICT IF THE PROPERTY WERE TO BE SOLD
- BASED UPON THE PLANNER'S RECOMMENDATION TO DENY.

Discussion:

Dorothy DeBoyer: Comment explaining the reasons a C-2 zoning could affect the safety, health and welfare of the surrounding neighbors.

Pat Sharrow: Expansion in the future, area to consider would be behind the stores, Williams is a quiet residential street.

Sandra O'Conner: Particular area is different and unique.

Tony Antkowiak: C-2 allows which permitted use, property is small, limited use.

Dorothy DeBoyer: Cellular tower, laundry mat.

Sandra O'Conner: Island at one time had lots of businesses.

Tony Antkowiak: Master Plan a guide and not abiding by it.

VOTE ON THE MOTION: AYES: Sharrow, Makuch, Michel, Getman. NAYS: O'Conner, Antkowiak. ABSENT: Cooper, Keller.

MOTION CARRIED.

Comments from Mr. and Mrs. Eric Stanczak re: decision.

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123-5 ZHIVAGO SPASOVSKI 7301 DYKE ROAD (LOT 1062) (R-1 to C-2)

Chairman Getman: Review by Consultant Mr. Meagher.

Dorothy DeBoyer: Referred to Planner's review, map not accurate, property to the south is not R-1, it is C-2, restaurant to the south is not a nonconforming use, allowed use in C-2.

John Makuch: Reasons why the re-zoning of this area should be considered.

Pat Sharrow: Property owner does need the additional parking, complaints heard at public hearing cannot be taken care until owner has the property re-zoned; stated some issues the Petitioner would step forward and take care of for the residents in the area.

MOTION BY MAKUCH, SUPPORTED BY SHARROW, TO RECOMMEND APPROVAL OF THE RE-ZONING 123-05 FOR ZHIVAGO SPASOVSKI, 7301 DYKE ROAD (LOT 1062) FROM R-1 TO C-2 .

Discussion: None.

VOTE ON THE MOTION: AYES: Sharrow, O'Conner, Makuch, Michel, Getman.

NAYS: Antkowiak. ABSENT: Cooper, Keller.

MOTION CARRIED.

Pat Sharrow: Requesting Chairman Getman or Vice Chair Dorothy DeBoyer write a letter to accompany the Planning Consultant's recommendation to the County so they would understand the map error.

7. **PUBLIC HEARING:**

123-6 TEXT AMENDMENT (SIGNS) SECTION 23.09.1

Chairman Getman: Signs under the old Ord. were in compliance, with Ord. 123 signs cannot be painted, repaired, etc.

Open the Public Hearing: No public comment.

Close the Public Hearing.

MOTION BY MICHEL, SUPPORTED BY ANTKOWIAK, MOTION CARRIED, TO APPROVE THE ORDINANCE NO. 123-6 TEXT AMENDMENT (SIGNS) SECTION 23.09.1 AS FOLLOWS:

“1. Other than sign maintenance, no nonconforming sign shall be reconstructed, remodeled, relocated, or changed in size unless such action will make the sign conforming in all respects. A non conforming sign may be repainted, have sign panels replaced, and/or may replace the sign face content so long as no structural changes take place to the sign. Such changes shall be reviewed and approved by the Zoning Administrator, prior to the applicant making such changes.”

VOTE ON THE MOTION: AYES: All. NAYS: None. ABSENT: Keller, Cooper.

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8. **CHAIRMAN'S REPORT**

Chairman Getman: Appointment of the nominating committee for Planning Commission 2004 Officers, recommend Pat Sharrow and Chuck Michel to this committee due to the fact cannot hold any office. Pat Sharrow will chair the committee and Chuck Michel will be vice-chair. Recommendations from the committee will take place at the meeting in December.

9. **PLANNING CONSULTANT'S REPORT:** Representatives not present.

10. **ZONING ADMINISTRATOR COMMENTS:** No report.

11. **PLANNING COMMISSION COMMENTS:**

Pat Sharrow: Referred to the lot split for Joe Stephenson at last meeting, checked with both Planner and Assessor there is no such wording in the Land Division Act allowing 100' of frontage instead of 150', he has to go before the ZBA for the variance.

Pat Sharrow: MTA web site has a form available that should be notarized and presented to the Plng.Comm. Chair by the Zoning Dept. for every public hearing stating the letters have been mailed out, notices placed in the newspaper, etc.

County Planning Commission Representative Frank Schoonover would like to met with the Planning Commission and our Planner. Suggested an additional zoning designation to indicate St. John Marsh, game preserve, wetlands on the Mainland and Island, developers and County Planning Commission would be aware of the lands that cannot be developed.

Chairman Getman: Update regarding the maps from Linda Anderson, text and map is password protected, supposedly was mailed to the Township.

Tony Antkowiak: Master Plan issues regarding those land uses that are 12 years old, talk as a group would be beneficial to all of us.

Dorothy DeBoyer: Louise Cooper is on the mend in Faith Medical for a broken hip, we wish her a speedy recovery, site plan review committee is left with two members.

Chairman Getman: Asked Tony Antkowiak if he would be interested in serving on the site plan committee until Louise Cooper is back.

12. **PUBLIC COMMENT** None.

13. **ADJOURNMENT**

Moved by Michel, supported by DeBoyer, **MOTION CARRIED**, to adjourn the meeting at 9:19 p.m. AYES: All. NAYS: None. ABSENT: Cooper, Keller.

Valerie J. Kulba
Recording Secretary

