

**MINUTES OF THE CLAY TOWNSHIP PLANNING COMMISSION REGULAR MEETING HELD ON AUGUST 9, 2006 IN THE CLAY TOWNSHIP MEETING HALL, 4710 PTE. TREMBLE ROAD, CLAY TOWNSHIP, MICHIGAN 48001.**

1. Chairperson Dorothy DeBoyer called the meeting to order at 7:30 p.m.

2. **ROLL CALL:**

PRESENT: Chairperson Dorothy DeBoyer, Vice Chair Anthony Antkowiak, Edward Keller II, George Lyle, Earl Lines, Kathie Schweikart, Pat Sharrow, Whitey Simon

EXCUSED: Thomas Krueger

Also Present was Building Official Michael Kras and Community Planner Peter Briddick.

3. **AMENDMENTS TO THE AGENDA:** None

4. **APPROVAL OF MINUTES:**

Motion by Antkowiak, supported by Lines to approve July 26, 2006 Minutes.

Changes to minutes: Page 3, ZBA Representative's Report: Passed a Resolution to dissolve an approval on Russell Island as all parties of interest were not property notified and we will revisit the request next month after all parties are notified. Brisbay's variance request was postponed.

Minutes approved with the above corrections as stated.

AYES: All. NAYS: None. EXCUSED: Thomas Krueger

**MOTION CARRIED.**

5. **OLD BUSINESS:**

**LOT-SPLIT 06-06:**

**JOHN MAC EWAN 9555 LAKEPOINTE**

Chairperson DeBoyer: I believe all of you have received our attorney's opinion regarding this lot split.

MOTION BY SHARROW, SUPPORTED BY LYLE TO RECOMMEND TO THE TOWNSHIP BOARD THE LOT SPLIT 06-06 PRESENTED TO US BE DENIED BASED ON THE ATTORNEY'S OPINION THAT IT WOULD NOT BE A LEGAL LOT SPLIT.

R/C VOTE ON THE MOTION: AYES: ANTKOWIAK, KELLER II, LYLE, LINES, SCHWEIKART, SHARROW, SIMON, DEBOYER. NAYS: NONE.

EXCUSED: KRUEGER

**MOTION CARRIED.**

6. **PUBLIC HEARING:**

**PLANNED UNIT DEVELOPMENT (PUD)**

**ELMER & JANET ROLAND MC KINLEY FARMS**

Chairperson DeBoyer: The rules for the Public Hearing are found printed on the back of the agenda. (Rules were read by Chairperson DeBoyer). We will allow the applicant to speak first and make their presentation if they so wish.

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Timothy Stoker, spokesman on behalf of McKinley Farms. Also present with him tonight is Lisa Bondy – BMJ Engineers, William Roland, Dan Cortis, and Tom Burgess – Waste Water Management. Gave a presentation describing the proposed project as a 38 residential unit PUD, site condominium, with primary ingress/egress coming in off of Swartout Road, showing the layout plan with all 38 lots, including sidewalks with buffers around entire project on all sides, describing the open space areas preserving the natural habitat. Also talked about proposing a small waste water treatment facility to be approved by MDEQ placed on property off of McKinley Road - completely buffered and landscaped.

Tom Burgess, spokesman Waste Water Management, gave a presentation on how the waste water facility will look (all underground, with maybe a small shed ), work, how it will be managed and if there would be an odor from the facility. He also showed photos of similar waste water facilities that he has constructed and would give the addresses to if anyone would like to see in person what the facility would look like.

### **Opened The Public Hearing:**

Comments in favor with concerns:

Dan Turke	5711 McKinley
Judy Biland	8390 McKinley
Karen Cole	6462 Benoit

Comments not in favor with concerns:

Mark Ketterer	6139 Swartout
Mike Garska	6294 Swartout
Casey Kaatz	6464 Benoit
Steve House	6418 Swartout
Susan House	6418 Swartout
Gary Edgington	8381 McKinley
Scott Seley	8355 McKinley
Chris Winters	6242 Swartout

Chairperson DeBoyer: If there are no further comments, we will allow the applicant to respond to some of the questions that were raised by the public.

Tom Stoker: Expressed appreciation to the public for expressing their opinions and thoughts about their community. Concept of this project was to develop a project that was sensitive to the surrounding area by providing for significant buffer space and by trying to provide for a waste water system that would be safer and beneficial to the surrounding area than a common septic system leaching into a drain. Also all storm water from development will be directed into the drain with the approval of the St. Clair County Drain Commissioner. In reference to limits of construction, we will make sure the boundaries are staked at the time the construction starts. The maintenance of the waste water facility will be funded by the association, which consists of the people living in McKinley Farms. You do not have to take our word for it regarding the waste water facility, please go and investigate sites with these facilities on them. I will put my phone

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number on record so anyone can call me with questions or set a time to visit a facility – 313-223-3473.

Tom Burgess: I will make a list of waste water facilities and their addresses and present it to the Planning Commission, so anyone can also go on their own to visit the site.

Tom Stoker went on to talk about getting road approvals from St. Clair County Road Commission, issues regarding speeds, and a traffic study.

Closed the Public Hearing at 8:35p.m.

Chairperson DeBoyer: So that all of you in the public know, all the members of the Planning Commission live in Clay Township. As Planning Commissioners we cannot make our decision based on what we like or what we dislike. We make our decisions according to the laws of the State of Michigan and the Ordinance of Clay Township. We will follow the guidelines that are laid out for the Planning Commission to make their decision. A decision will not be made tonight. After this meeting all of the information will go back to our planner, the Road Commission, and our engineer. It will go to any entity that is required to review it. Once we receive all the reviews back, then the Planning Commission has three options available – 1) May recommend approval, 2) May recommend approval with conditions, and 3) May recommend denial. Then at that time it will go to our Township Board to review and they will go through the same process. So this is not a process that will be decided in 30 days. If the Township Board were to decide this would meet all the requirements and therefore there is approval, at that point further information and agreements are required from the applicant. It is a long process. Do any of the Commissioners have any thoughts or questions?

Keller: My thoughts and concerns are regarding the treatment plant. Do we as a township have any checks and balances on the treatment plant?

Chairperson DeBoyer: We do not approve or disapprove the treatment plant. The MDEQ is the only entity that can approve or disapprove and we have to live with their decision

Simon: How long can the treatment plant operate if the electricity goes out?

Tom Burgess: If the power in the area goes off we can supply a generator to the site, but with one this size, we probably won't have a permanent generator. But it can be set up for a portable one. It is decided by the MDEQ if we need a generator.

Discussion followed amongst the applicants, the township planner, and the board regarding the numerous comments on the review from the township planner, such as the parallel plan, the open space, landscaping plans, zoning issues, etc.

**7. SITE PLAN CONSIDERATION:  
NICK'S COUNTRY OVEN    3634 PTE. TREMBLE RD.**

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Chairperson DeBoyer: They have gone to the ZBA for a couple of variances on the recommendation of the Site Review Committee. The ZBA representative can give us a synopsis.

Antkowiak: There were about 6 items they presented to us. Three of the items dealt with setbacks of the existing building the other three items dealt with the requirement to have the properties within 200 ft. of the site noted on the site plan (site plan requirements), the type of material that is used to cover the building, and the double driveways that are there. The ZBA granted the variances for the setbacks because it is an existing building and they granted a variance for the landscaping across the western side of the property. It also granted the parallel parking spaces that are indicated on the site plan to allow emergency vehicles to get around the building and the three items dealing with the site plan requirements were postponed.

Chairperson DeBoyer: In speaking with our planner about this site plan, the two parallel spaces. When you look at your plan about 80% - 90% of the front parking space is in the MDOT right of way, therefore it is outside of the jurisdiction of Clay Township. I would like to ask our planner to give us a run down of what the gentleman's comments were from MDOT regarding any parking in the Michigan right of way.

Peter Briddick: Any improvements that are proposed that will go into the Michigan right of way will need permits from MDOT. I asked him what about existing buildings, landscaping, signs, etc. that are already in the MDOT right of way. He stated we want them to go away. He also stated we don't want to take away someone's available parking and that we would be reasonable, but ultimately we want to make those things go away. He said that MDOT rents air space for somewhere around \$100 for signs in the right of way. He said that when the applicants receive their permits that they might not get anymore notice than 30 days that the State will be putting in a turn lane. I did get two names from him, Chuck Bergman and Ken Holtburg, which we should send our site plans to for review when they involve MDOT. Like Madam Chair said the Township has no authority to grant any improvements being proposed to go into the MDOT right of way. The applicants will have to get permits from the State.

Sharrow: I have a question for you to ask the applicant. I see in the paperwork that he is going to lease the property. In approximately 1991 or 1992, Mr. Grillo purchased the property and was approved by the Planning Commission to add to the existing store. But then word came back to the Planning Commission the he could not build it due to the contamination in the ground from an old service station that used to be there. So he never did add onto the building. I would like to know if the applicant is aware of possible contaminants that might still be in the ground. It is over 20 years ago and some of the contamination could have dissipated, but I just want to help him out and let him know before spending a lot of money and finding out in the end that he can't build.

Mr. Gojcevic: I know nothing about the contamination.

Sharrow: The owner of the property should provide you with some proof about whether there is contaminants or not.

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DeBoyer: So you know we could approve this addition, but when you started construction, the soil could be tested and you could be stopped right there because there is contamination. This is just a recommendation to try to help you.

Antkowiak: We still seem to have a site plan that is quite deficient in terms of required information. Is the applicant prepared to deal with the issues that were brought up on the August 1<sup>st</sup> letter from the planner? Did the applicant receive the letter? Mr. Gojcevic: Yes.

Antkowiak: Then we would have to postpone this until we get a revised site plan.

Gerald Fournier, Architect for Nick's Country Oven: I would like to respond to the planner's review. In regards to the parking spaces in the MDOT right of way, we are not changing anything there. There are five spaces in the front of the building and parts of them are in the MDOT right of way and we are not changing them. They are all existing.

Chairperson DeBoyer: When we look at this plan now, knowing how MDOT feels about the right of way, we cannot count in any parking that is in the MDOT right of way. We do not have that authority.

Mr. Fournier: Then it is impossible for us to provide the correct amount of parking that is needed for the improvements without those front parking spaces. Then I guess the spaces will have to be approved by MDOT first. Also, Nick had no idea about the contamination issue on the property. You caught us all by surprise with that, as we would not have gone this far until we got the soil tested. Probably the best thing at this point would be to table this until we can determine if there is contamination, get MDOT's approval, and then we will address some of the other issues with the site plan.

MOTION BY SHARROW, SUPPORTED BY LINES TO POSTPONE ANY DECISION ON THE SITE PLAN UNTIL APPLICANT NOTIFIES US WHEN HE WANTS TO GO BACK ON THE AGENDA.

R/C VOTE ON THE MOTION: AYES: ANTKOWIAK, KELLER II, LYLE, LINES, SCHWEIKART, SHARROW, SIMON, DEBOYER. NAYS: NONE.

EXCUSED: KRUEGER

**MOTION CARRIED.**

**8. EXTENSION OF APPROVED SPECIAL APPROVAL LAND USE/SITE PLAN:  
ALGONAC BAPTIST CHURCH 8543 MARSH RD.**

Chairperson DeBoyer: It was first approved September 8, 2004 and we have a letter dated July 14, 2006 requesting an extension, indicating they are not quite ready to break ground.

MOTION BY LYLE, SUPPORTED BY SIMON TO EXTEND THE SPECIAL APPROVAL LAND USE/SITE PLAN FOR ONE MORE YEAR AND IF PROJECT IS NOT STARTED WITHIN A YEAR AND ANOTHER EXTENSION IS REQUESTED, THE PLANNING COMMISSION WILL HAVE TO REVIEW THE SITE PLAN AGAIN.

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R/C VOTE ON THE MOTION: AYES: ANTKOWIAK, KELLER II, LYLE, LINES, SCHWEIKART, SHARROW, SIMON, DEBOYER. NAYS: NONE.

EXCUSED: KRUEGER

**MOTION CARRIED.**

**9. PLANNING CONSULTANT'S REPORT:** NONE.

**10. Z. B. A. REPRESENTATIVE'S REPORT:** NONE.

**11. CHAIRPERSON'S REPORT:**

Chairperson DeBoyer: The survey has gone to the printer. We will be sending out about 4400.

Sharrow: I would gladly write a little announcement about the survey to be put on Channel 6 and put in the Times Herald and the Voice.

Discussion followed regarding the portion that DDA will pay for the survey. Chairperson DeBoyer will have to check, but it appears they will pay up to \$1500 or one-half.

**12. PLANNING COMMISSION MEMBER'S COMMENTS:**

Sharrow: Are we going to choose a new Secretary?

DeBoyer: It will be done at the end of the year.

**13. PUBLIC COMMENTS:** NONE.

**14. ADJOURNMENT:**

Motion by Keller, supported by Lines, to adjourn the meeting at 9:25 p.m.

AYES: All. NAYS: None. EXCUSED: Krueger.

**MOTION CARRIED.**

Patty Watson  
Recording Secretary