

CHARTER TOWNSHIP OF FLUSHING
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FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
PLANNING COMMISSION WORK SESSION
DATE: NOVEMBER 23, 2004 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF THE PLANNING COMMISSION

Jerome Doyle, Chair	Aaron Bowron
Robert Gensheimer, Vice Chair	Richard Buell
Eric Swanson, Secretary	David Gibbs
Ronald Flowers, Board of Trustee Representative	

Jerald W. Fitch, Building Inspector
Julia A. Morford, Recording Secretary

PRESENT: Doyle, Gensheimer, Swanson, Bowron, Buell, Flowers, Gibbs, Fitch and Morford

ABSENT: None

OTHERS PRESENT: None

I. MEETING CALLED TO ORDER at 7:18 p.m. by Planning Commission Chair Jerry Doyle.

II. ADOPTION OF AGENDA: BOWRON MOVED, seconded by Flowers to adopt the Agenda for November 23, 2004 as presented. **MOTION CARRIED.**

III. APPROVAL OF PREVIOUS MINUTES:

- (A) **APPROVAL OF MINUTES OF SEPTEMBER 28, 2004: BOWRON MOVED**, seconded by Gibbs to approve the September 28, 2004 Planning Commission Minutes as corrected. **MOTION CARRIED.**
- (B) **APPROVAL OF MINUTES OF OCTOBER 12, 2004: GENSHEIMER MOVED**, seconded by Swanson to approve the Minutes of October 12, 2004 as corrected. **MOTION CARRIED.**
- (C) **APPROVAL OF MINUTES OF OCTOBER 26, 2004: FLOWERS MOVED**, seconded by Gensheimer to approve the Minutes of October 26, 2004 as presented. **MOTION CARRIED.**

IV. UNFINISHED BUSINESS:

None

V. Review C-1 and C-2 Zoning Districts – Variances and Setbacks

The Planning Commission received a draft proposal from **ATTORNEY STEVE MOULTON (ATTORNEY MOULTON)** of An Ordinance to Amend Sections 20-1301 and 20-1401 of the Zoning Ordinance of the Charter Township, regarding the Dimensional Requirements of Lots Zoned C-1 and C-2.

DOYLE stated there was very little C-1 and C-2 property in the township. **GENSHEIMER** stated that Mt. Morris Road and McKinley Road was primarily C-2. **DOYLE** stated that when the sections were updated, the situation had been overridden. A lot of the property has been rendered as useless and no one can construct anything on the property because the setbacks are illegitimate. If the Planning Commission should change the size of the property to five (5) acres, what would happen to all the current property that is less than five (5) acres.

POINTS OF DISCUSSION:

- LUV’s Banquet Hall property (Mt. Morris Road and McKinley Road) – perfect spot for a storage unit – could a variance be granted.
- Variances are only acceptable for certain items.
- According to the Ordinance, nothing could be constructed because of the offsets in C-1
 - a. width of 200 feet for side yards
 - b. if a building was constructed and it was ten (10) feet from the property line and things were stored in the building – the issue would not be acceptable.
- **SWANSON: ATTORNEY MOULTON** proposed taking all the property that is currently zoned C-1 and C-2 and change it over to make either a C-1 or C-2 district and within that district, if the requirements could be met, one could build in that area; any future zoning would have to have the minimum of five (5) acres for the C-2 zoning.
- **FITCH:** stated that C-1’s setbacks are worse than C-2; C-2 zoning has five (5) acres
- **FITCH:** stated his opinion of the proposed Ordinance is that anything that is currently C-2 may indeed be a district and expanded upon if they would fit the requirement “envelopes” within the district. It would give the Planning Commission a chance to hear another item as a special use.
- **GENSHEIMER:** some of the C-2 zoning districts abut residential property; if the Planning Commission could keep a hold on the matter and state that it would be of a logical use of the property, certain things would have to be done.
- **SWANSON: ATTORNEY MOULTON** addressed the matter in his proposed ordinance where the side yard measurement was fifty (50) foot on both sides, but the Planning Commission has the power to adjust so that the total of the front and rear yards would be a minimum of one hundred (100) feet and the total of the side yards would be a minimum of one hundred (100) feet.
- **DOYLE:** the Planning Commission was too restrictive on everything which the Planning Commission has been telling individuals they have to do – not just one thing but everything.

- **GENSHEIMER:** in a commercial area where it was commercial/commercial then the Planning Commission could be more flexible. If the property was commercial/residential then control would have to be established.
- **BUELL:** how do other townships in Genesee County (compared to Flushing Township) interpret the ordinances.
- **GIBBS:** has worked in Mundy Township and felt Mundy Township was similar to Flushing Township.
- **DOYLE:** Mt. Morris Township has more commercial than Flushing Township.
- **FLOWERS:** Vienna Township had a variety of zoning districts with almost the same population.
- It was the aim of the Planning Commission to try and clean up the zoning districts as well as private drives.
- **FITCH:** the existing non-conforming private drives were the problem, as each private drive had its own restrictive issues.
- **BOWRON:** did **ATTORNEY MOULTON** want to take off the front/side/rear yard setback by thirty (30) feet and then fifty (50) feet from the lot width and lot depth area?
- **DOYLE:** if owners could do something with their property that would be legitimate. Currently there are areas where nothing could be done.
- Suggestions for LUV'S Banquet Hall (Mt. Morris Road and McKinley Road):
 - a. East property is residential.
 - b. Back property is residential.
 - c. West property is commercial.
 - d. maintain a line on the East side and have owner STEVE HEATH (HEATH) go closer on the West side.
 - e. problem: if district was there originally and the Planning Commission changed the ordinance and owner still wanted to use his property, should the Planning Commission revert back to what the original ordinance stated could be done when the original ordinance was first adopted in order for the property to be used, OR would the Planning Commission demand the individual purchase more property in order to utilize the property.
 1. when HEATH first purchased the property, it was still residential.
 2. currently it is residential and commercial.
 3. before the ordinance was changed it was legitimate to utilize the property in a different manner.
 4. presently, HEATH cannot expand the use of the property.
 5. **BOWRON** – the issue happened prior to HEATH purchasing LUV'S Banquet Hall.
- **DOYLE** – a Special Use Permit runs with the property; the Special Use Permit does not get changed because the property has changed from one person to another.
 - a. some cases where there have been no actions, would revert back to what it was previously
 1. special use permits
 2. variances

- a. if an individual is approved for a variance and nothing is built within a certain time frame, the property would revert back.
 - b. the individual would have to seek a variance the second time.
- **STEVEN HEATH (HEATH)** has no way to expand the building on the property (LUV'S Banquet Hall).
- **BOWRON:** anyone that has purchased property and has not been happy with its current designation, there could be an issue.
- Ordinances could be taken to Court – the Planning Commission would have to work something out even if the ordinance had to be adjusted or the ability to get a special use permit was based on certain conditions in which case the non-conforming uses would not be “hanging” around for future years.
- **SWANSON: ATTORNEY MOULTON** has proposed to take every commercial area and make a district which would eliminate the non-conforming use.
 - a. 1 parcel - Seymour Road next to the railroad tracks (bus barn)
 - b. 1 parcel - McKinley Road - Martins Apple Orchard
 - c. 1 parcel - M-13 South of Mt. Morris Road by the machine shops
 - d. 1 parcel - Carpenter Road and M-13
 - e. 2 parcels - Coldwater Road and Elms Road
 - f. 1 parcel - Elms Road and McKinley Road
 - g. 1 parcel - Meadowbrook Mobile Home Park Entrance
 - h. 1 parcel - Seymour Road and Mt. Morris Road
 - i. 2 parcels - Frances Road and Seymour Road
 - j. Approximately 5 parcels (Biggest Commercial Section) – Mt. Morris Road and McKinley Road
- **SWANSON:** the district idea suggested by **ATTORNEY MOULTON** would allow businesses to be condensed within the district as long as they met the setbacks.
- **GENSHEIMER:** the draft ordinance was if the parcels were contiguous within an area, they would be considered a district which would actually make more sense.
 - a. any future commercial areas would have to consist of five (5) acres.
 - b. within a five (5) acre parcel there could actually be three (3) different businesses – each business would not be required to have five (5) acres.
 - c. **DOYLE:** as long as dealing with special use, conditions could be placed and would be no different than looking at a piece of property in “no man’s land” where the individual would develop a portion of the property and leave the rest of the property for open space, that would be exactly what the Planning Commission would be doing.
- **BOWRON:** the situation would be a non-conforming use – if **HEATH** would like to change the non-conforming use, and because of the wording of the Ordinance, **HEATH** would not be able to proceed – What is the problem?
 - a. **DOYLE: HEATH** would like to use the property like it was accepted in the first place.
 - b. **BOWRON:** anyone that has a non-conforming use could not change that use – it would not be unique in zoning.
 - c. **DOYLE:** the Planning Commission has a choice.
 - d. **SWANSON:** the only reason **HEATH** has a non-conforming parcel would be due to the offsets.

- e. when the Planning Commission changed the Ordinance it affected a lot of people not just **HEATH** and his (Heath's) property (LUV'S Banquet Hall).
 - 1. any new person coming into the township with two hundred (200) feet of property and wanted to put a C-1 business would only have twenty (20) feet of property to work with due to the offsets.
 - 2. case would end up going before a Judge.
- **DOYLE:** when the Planning Commission reduced the setbacks so people could do "something", it would make the ordinance rational or acceptable for existing property with less than five (5) acres
- **BUELL:** there were seventeen (17) C-2's with less than five (5) acres; three (3) C-1's which are vacant with no current uses of C-1 in the township; there are five (5) C-2's larger than five (5) acres (Elms Road and Mt. Morris Road/Mt. Morris Road and McKinley Road Southwest corner).
- **SWANSON:** likes the flexibility to adjust the setbacks as specified in the draft ordinance.
- **DOYLE:** ordinances are the dictating mechanism for the township.
- **BUELL:** wanted to know if a PUD would ever run afoul of the C-2 ordinance.
- **DOYLE:** when acreage has been placed in a PUD, different sizes could be designated for each zoning district.
 - a. in some situations a site plan could be put together with different commercial and residential items in the same PUD – it would be legitimate because there would be a Special Use Permit and conditions could be placed; one condition would give something and in another condition something would be taken away.
 - b. zoning district would always stay with the property.
 - c. sixty (60) acres is required for a PUD.
- It was recommended the Planning Commission have Doug Piggott (Piggott) review the non-conforming issues (private drives, C-2, etc) in the township and give his written opinion; Piggott would later be invited to attend a Planning Commission meeting.
- It was recommended Michigan Township Association (MTA) be contacted regarding an ordinance pertaining to private drives, C-1, and C-2 zoning districts.

GENSHEIMER MOVED, seconded by Gibbs to have Jerry Fitch ask Doug Piggott to review the private drive ordinance, as it currently stands, and share his written opinion and if there is room for improvement, perhaps inform the Planning Commission as to what other townships are doing; review C-1 and C-2 zoning district ordinances to see if ideas could be given to eliminate non-conforming problems for both issues.

VI. NEW BUSINESS:

None

VII. PLANNING COMMISSION COMMENTS:

1. Future Sessions from Planning Commission Minutes of October 26, 2004 page 6:

- a. Review the C-1 and C-2 Zoning Districts (Reviewed)
- b. Private Drives (Reviewed)
- c. Open Space Development – (Fitch stated a development could possibly be coming to the Planning Commission) – there have been no issues

1. **DOYLE:** Open Spaces are supposed to be a zoning which could be done for a site that would allow the Planning Commission to handle the acreage in more of a manner similar to properties in a PUD
 - a. review size of parcels
 - b. allow anything different in open spaces
 - c. amount of property that would be considered open space property

VIII. MEETING SCHEDULE:

REGULAR SCHEDULED MEETING – MONDAY, DECEMBER 13, 2004 – 7:00 P.M.
THERE WILL BE NO WORK SESSION DURING DECEMBER 2004.

IX. ADJOURNMENT: There being no further Work Session business, **DOYLE** adjourned the Planning Commission Meeting at 9:00 p.m.

JEROME DOYLE, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval

Planningminutes 112304