

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
PLANNING COMMISSION
DATE: JULY 12, 2004 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF 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, Bowron, Buell, Flowers, Gibbs, Fitch, and Morford

ABSENT: Swanson

OTHERS PRESENT: Steve Heath, Larry Heath, Adam Heil, Michael Sesti, and Howard Scheuner of

I. MEETING CALLED TO ORDER at 7:09 p.m. by Planning Commission Chair Jerry Doyle.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Gensheimer to approve the Agenda as written. MOTION CARRIED.

III. APPROVAL OF MINUTES:

A. Approval of Minutes of May 25, 2004: FLOWERS MOVED, seconded by Gibbs to approve the Minutes of May 25, 2004 with corrections. MOTION CARRIED.

Due to the urgency for the Proposed Conditions for Hyde Park Phase I (Howard Scheuner), the Minutes for June 29, 2004 were the next set of minutes up for approval.

B. Approval of Minutes of June 29, 2004: FLOWERS MOVED, seconded by Gibbs to approve the Minutes of June 29, 2004 with corrections as listed on the Check List of Conditions as presented. MOTION CARRIED.

IV. UNFINISHED BUSINESS:

1. Hyde Park Proposed Conditions

DOYLE reviewed the eighteen (18) Proposed Architectural Conditions and Recommendations for Hyde Park Phase I with the following motion for approval:

“**FLOWERS MOVED**, seconded by Gibbs to approve the Minutes of June 29, 2004 with corrections as listed on the Check List of Conditions as presented. **MOTION CARRIED.**”

HOWARD SCHEUNER (SCHEUNER) inquired as to the moratorium on the building permits. **DOYLE** stated the status being, where there is a set of conditions, and as long as the conditions are followed, **SCHEUNER** could apply for the building permits.

V. NEW BUSINESS:

1. Informational Discussion on Storage Units on Mt. Morris Road (Steve Heath)

STEVE HEATH (HEATH) owner of LUVS Banquet Hall, 8394 W. Mt. Morris Road, (East of McKinley Road), Flushing, was in attendance for an information discussion concerning building storage units in back of the LUVS Banquet Hall located at 8394 W. Mt. Morris Road, Flushing, Michigan.

HEATH stated that he needed five (5) acres of land to construct the storage units to be located in back of the LUVS Banquet Hall, but currently he owns only two (2) acres of land. Would there be any way in which he could request a variance to construct the storage units since he already owns the hall; the storage units would be separate units.

SPECIFICATIONS OF THE PROPERTY:

- Total area - 519' x 175' wide
- 2.08 acres zoned C-2
- would start with two (2) storage units – eventually have eight (8) units
 - a. units would be 160' x 20'
 1. first building: 16 – 10' x 20' units
 2. second building: there will be 5' x 5'; 5' x 10'; and 10' x 20' storage units
 - b. steel structures
 1. 25 year warranty on the paint
 2. construction company has 100 years of experience in constructing storage units

FITCH stated that storage facilities would be allowed as a Special Use in the C-2 Zoning District. From the original ten (10) acres of property owned by Mrs. Bunch, approximately four and one half (4½) acres of the front property had been zoned C-2 and the back five and one half (5½) of the property had been zoned RU-3. The Eastern neighbor's property (Gail Bunch) has been surveyed, including the easement, and rezoned back to RSA. **FLOWERS** stated the main purpose of the rezoning had been to have a home constructed for Mrs. Bunch's Mother. (Note: the remaining property out of the ten (10) acres was actually rezoned to RU-3).

FITCH stated there could be some restrictive setbacks if the Bunch property had been rezoned back to RSA. Another RSA zoned property is located behind the Quick Shop Party Store, West of **HEATH'S** property.

PER ARTICLE VII DISTRICT REGULATIONS, SECTION 20-702, THE REQUIREMENTS ARE:

- a. 5 acres
- b. lot width - 200 feet
- c. lot depth - not applicable
- d. front setback - 80 feet
- e. side setback - 80 feet
- f. rear setback - 80 feet
- g. minimum building height - 2 ½ stories

GENSHEIMER stated that if the Planning Commission should forgive the five (5) acres, with the setbacks, the most that could be constructed would be a fifteen (15) foot structure. **DOYLE** stated there had to be five (5) acres. **GENSHEIMER** wanted to know if there could be a narrower storage unit. **HEATH** stated if the setbacks were eighty (80) feet, the property would only support two (2) buildings in the center if the buildings were ten (10) feet. **DOYLE** stated there had to be thirty (30) or forty (40) feet so that an individual could drive around the storage unit. There also had to be space if a truck wanted to pull into the area.

ITEMS NOT ACCEPTABLE:

- Open field on the West side of the **HEATH** property
- Drain, between Bunch's house and Quick Shop Party Store to the West, which extends North to McKinley Road
- Acreage

DOYLE stated sometimes in cases such as the one mentioned, there could be spotted C-2 areas and RSA (residential) areas next door; so therefore, the rational would be to protect the residential property so there would be a setback to place berms, trees, or something that would allow the smooth transaction between residential and commercial property.

DOYLE stated another point would be to know the exact terminology of "storage building."

DOYLE stated the Zoning Board of Appeals could not reduce the acreage, but the setbacks could be reduced; the situation would be an acceptable thing under the Special Use Permit, which has the right to allow certain specifications based on information that has been given.

Listed under Article VII, Section 20-701, Zoning District Uses, *Storage* is considered "DS" which stands for Uses Permitted by Discretionary Special Use Permit, whereby conditions may be placed on the property.

GENSHEIMER felt the Planning Commission should not deviate that much from the ordinance concerning the acreage. **BUELL** felt there was a gray issue involved because of an ongoing enterprise located on the property; it would be non-conforming and would be rejected. **BUELL** mentioned there were a number of times that someone had come to the Planning Commission and wanted to expand an enterprise, which had been conforming in the past, but due to updates it was no longer conforming. **GIBBS** felt the setbacks were causing the problems. **GENSHEIMER** stated if **HEATH** would add on to the existing banquet hall, it would be a different field and not the same line of business. **DOYLE** stated the previous setback, for the building in question, had been seven (7) feet. Today, the building could not be constructed that close to the property line due to different restrictions. Most of the property that had been available for LUVS Banquet Hall has been used for parking of automobiles. **BOWRON** mentioned the Planning Commission would be on a “slippery slope” if authorization was given and a subsequent petitioner, in the future, came to the Planning Commission and there should be a rejection. Looking back at a precedent where the Planning Commission had done something inconsistent, the Planning Commission’s decisions would start to look arbitrary, etc. There would be a legal monster.

DOYLE stated the only solution to the matter would be the ability for the Planning Commission to reconsider the legitimacy of what the ordinance stated which would have to be viewed from all angles such as the residential property, setbacks, and whether the project would be too stringent for using the particular type of structure. Square footages have been placed on certain parcels of land for restrictions and regulations on different zoning districts. The rationale would be for the protection of the properties next to the project as well as trying to control up to the point where one would not be placing a city within a suburban area. In the C-2 and C-3 Zoning District, the square footage has been for five (5) acre parcels. There had also been input on the acreage from Rowe Inc, the Planner for the Township.

DOYLE stated there are continual updates of ordinances due to changes.

HEATH had inquired from **BUNCH** as to purchasing an additional three (3) acres. **BUNCH** decided she did not want to sell. **DOYLE** wanted to know if the Township Ordinance had made situations, such as **HEATH’S**, to a point that states the property would not be worth anything.

DOYLE would like for Flushing Township Attorney **STEVE MOULTON (MOULTON)** to review the matter and give his opinion as well as discuss the issue with the Planning Commission.

HEATH stated that since the property was not suitable for storage units, how could he use his property; has the Planning Commission rendered **HEATH’S** property useless? **HEATH** wanted to know if there were steps to obtain a variance. **DOYLE** stated that variance wise, there would be a possibility, but acreage would be the next step. **DOYLE** stated the Zoning Board of Appeals could not put a variance on the size of the property. At present, the Planning Commission has rendered **HEATH’S** property useless except for fifteen (15) feet in the middle of the property. An addition could be added to the Banquet Hall which had been grandfathered.

GENSHEIMER wanted to know if twenty (20) feet was taken off three (3) sides of the property and the units were turned in the other direction, would the layout work on the property?

DOYLE stated the problem was the acreage. There would be no alternative unless the ordinance was changed. **FLOWERS** stated **HEATH** has requested approval for a new use for commercial property, on the proposed property, and the Planning Commission has told **HEATH** that he needed the acreage in order to comply with the project; the Planning Commission has not informed **HEATH** that he could not place an addition on the existing commercial building. **DOYLE** stated the legitimacy of the whole situation would be that if the Planning Commission had rendered **HEATH'S** property or anyone else's property illegitimate, if **HEATH** wasn't asking for the storage units but was asking to construct a building on the property, the Planning Commission has rendered the property useless because only a fifteen (15) foot building could be constructed on the property.

DOYLE stated the question at hand for **ATTORNEY MOULTON** was if the case was an existing rental business on the banquet hall at present, would the business not be changed. (See Exhibit A).

DOYLE stated the original information told to Mrs. Bunch by the Planning Commission, before she built the home for her mother, was that she could have divided the property for two (2) more residences than what was divided; Mrs. Bunch was not interested. The property could still be sub-divided but a private drive could not be in the plans.

PLANNING COMMISSION COMMENTS:

1. Coldwater Road Extension

FITCH stated that at the last meeting, a letter was given to all the Planning Commission members regarding Lee St. John (St. John). The matter has been referred to the Zoning Board of Appeals.

DOYLE stated the method in which he (Doyle) thought the matter could be handled was: **1)** to allow St. John to do what the individuals wanted with their property but make St. John and his family personally responsible for the maintenance of the road so that any complaints would have to go to St. John instead of the Township. The Maintenance Agreement would be the biggest item because everyone has not signed the Agreement. If the maintenance of the road could be handled by St. John and anyone that owns the property from now on, it would remove the Township's assumed responsibility from the matter. The individuals, on the North side of the private road, have nothing to do with the Maintenance Agreement, even though the people on the North side use the road. **FLOWERS** stated Lee St. John has a five (5) year contract with the Township for the purpose to chloride and grade the roads with the township paying for the services; the cost is then added to the taxes for the property owners involved. **2)** Go ahead and accept it as a road only, 33' to 35', but all the improvements such as gas, electricity, etc. are to be placed on private property.

FITCH stated the Zoning Board of Appeals would not be granting use of the road, but making the application for the provision of land to the Assessor; he would then deny the request due to lack of an access since it would not comply with the Zoning Ordinance. **BOWRON** stated the issue of going to the Zoning Board of Appeals would only be Administratively.

DOYLE stated the Planning Commission should make some type of amiable recommendation to the Zoning Board of Appeals as to how the matter should be handled. The method to handle the situation would eliminate future problems similar to the issue; the non-conforming issues would then be decreased.

The private road matter would be referred to the Zoning Board of Appeals; **DOYLE** would update **SWANSON** on the matter when he has returned from his vacation; **FITCH** would schedule a Zoning Board of Appeals meeting at that time.

2. **Planning Commission Seminars: 1) Laying Out Your Land Use Future and 2) Land Use Tools: Piecing the Puzzle Together**

FLOWERS recommended the Planning Commission attend the upcoming Land Division Seminars: 1) *Laying Out Your Land Use Future* and 2) *Land Use Tools: Piecing the Puzzle Together* which has been scheduled for Tuesday, August 17, 2004 at the Bavarian Inn Lodge in Frankenmuth, Michigan. The early bird deadline would be Tuesday, August 3, 2004.

VI. MEETING SCHEDULE:

PROBABLE WORK SESSION – TUESDAY, JULY 27, 2004 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, AUGUST 9, 2004 – 7:00 P.M.

PROBABLE WORK SESSION – TUESDAY, AUGUST 24, 2004 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, SEPTEMBER 13, 2004 – 7:00 P.M.

PROBABLE WORK SESSION – TUESDAY, SEPTEMBER 28, 2004 – 7:00 P.M.

VII. ADJOURNMENT: There being no further Work Session business, **DOYLE** adjourned the Planning Commission Meeting at 9:10 p.m.

JEROME DOYLE, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval