

Colfax Township, Weldon Township and Village of Thompsonville  
Community Joint Planning Commission  
14731 Thompson Avenue, Thompsonville, MI 49683  
Minutes – September 22, 2016 Special Meeting

Sue Meredith declared the meeting open at 7:00 P.M. following the Pledge of Allegiance.

Present at roll call: JPC members Shelley Greene, Peg Minster, Irene Dunham Thayer, Sue Meredith, Don Suchocki, Chris Bobek, Debra Franke, Eugene Allen and Mike Foust; and Zoning Administrator Craig Meredith. Absent: Sally Bobek and Pat Shaeffer (excused).

Guest: Mark Eidelson

Agenda Additions/Corrections. Motion by Debra, Irene seconded to approve agenda. Ayes: all; motion carried.

Public Comment. None

Zoning Amendments. Chair Sue Meredith turned the meeting over to Mark Eidelson, president of LandPlan. Mark said Shelley contacted him concerning the JPC's desire to have more flexibility in the C-1 commercial district. Draft amendments were prepared to permit a lot in the C-1 District to be used exclusively as a residence. That is a significant policy change. He planned to summarize the five individual amendments for this change. For Amendment #1, Shelley noted that the C-1 District extends beyond the east Village limits into Colfax Township which affects use of the word *village* in item 1). Sue asked about C-2; Mark said it does not apply as written here. Don said he believed the JPC's original intent was to have commercial available for future use in the east corridor and thought we would have both residential and commercial. Depending how things develop, Mark discussed the possibility of taking properties out of C-1 and placing them in the most logical residential district. Shelley asked about spot zoning; Mark pointed back to the Master Plan as the guide. Eugene gave a theoretical example of the grocery store being bulldozed for a residence on Thompson Ave. He had a concern with a wholesale change to a Mixed Use District and noted the intent was to develop the street as a business district. Mark said C-2 is for bigger commercial uses that aren't catering to local needs within the Village and typically is not apt to allow residential. He supports allowing living quarters above businesses; it keeps people downtown and helps business. It's also a natural police department.

If the JPC pursues this amendment, Mark said as Gene pointed out anyone could knock down a commercial building or take a vacant lot and put in a dwelling. There would be nothing the JPC could do to stop it. If the JPC wants the ability to not allow that to happen, keep it zoned C-1 and do not pursue the amendment. If a property owner wanted it rezoned, the JPC has a tremendous amount of discretion. The courts grant a tremendous amount of discretion when a legislative body approves or denies a rezoning. If the JPC feels that rezoning is not in the best interest of the economic stability of the village and character of the downtown village we want to encourage, we could deny the rezoning. If a rezoning request near Thurman were brought forward, an argument could reasonably be made that they are two different situations. Residential may be reasonable there and a good fit with a mixed use concept; just because one is denied in one area does not mean being against another for a mixed use concept. Mark's opinion was that if the JPC feels some C-1 lots are suitable for residential and others are not, he would not recommend an amendment. He stressed that the basis for rezoning approvals or denials need to be clearly justified for a particular request and not by comparing one to another. They all will be different. Sue asked about spot zoning; Mark said each needs to be evaluated on its merits within context. Debra asked about living quarters; Mark said residential is currently allowed above a business in C-1 and it could be renters other than the business owner.

Mark said it is spinning wheels to get into zoning regulation detail unless all are on the same page. Perhaps leave it as is and deal with it as a rezoning issue. Irene asked about written requirements related to a request; Mark said an Article in the ordinance takes everyone, including the public, through the process. Everything needs to be clear and documented. The JPC's extensive discussion of rezoning surfaced agreement that leaving C-1 as is and relying on the rezoning process of the zoning ordinance affords the JPC greater flexibility. Motion by Irene, Eugene seconded to not make any changes to the current C-1 zoning district. Ayes: all; motion carried.

Sign Amendment. Mark recommended the discussion be of a general nature given the limited time between receipt of the draft and the meeting. He focused on the summary document of the U.S. Supreme Court decision on signs. If one has to read the content of the sign in order to determine if it complies, then the content is being regulated. That is a violation, on the surface, of free speech rights granted under the Constitution. If MacDonald's wants to advertise Burger King on its sign, they can't be told what it has to read. It may not pass a challenge. Regulate the sign size, height, area, location – not the message or content of the sign. Sections 10.5 and 10.6 were changed the most. Sign regulations are complicated and the detail is necessary. If they are vague, it poses problems for the zoning administrator and the ZBA will be kept busy with interpretation requests. Shelley asked about incendiary language; Mark said common law prohibits it just as falsely yelling fire in a theater does. Costs to translate wording in a foreign language would apply. Irene: should 9.3 read 10.3? Mark: yes. Craig asked about kiosks inside conservancy property. Mark: page 4, definition of sign under G, last word on second line – has to be designed to advertising or identifying – all of which could be construed as not applying to a trailhead or a sign identifying where trailheads are or be aware of invasive species. Craig said wavy type vertical banners say phragmites and are being moved around by an invasive species group. Mark would consider it not as a sign.

Mark suggested everyone take a close look at the amendment before discussing it constructively as a group. Craig can continue to administer the ordinance for all regulations except content. Mark did not feel the JPC is under immediate pressure to move on this, but everyone is starting to give it consideration because it is such a significant decision. Shelley asked for clarification of signs on vehicles. Mark said if one is parked for extended periods at one location, either by the property owner or another person, it would be a violation because the intent is advertising. Craig asked about food trucks. Mark said its purpose is to sell food; the writing on it is secondary to the purpose. A person who is allowed temporary signs, say two such as for school mascots, can put one on their own lawn and the other on a friend's lawn. No more will be granted. There was agreement with Sue's proposal to add a review of this amendment to the October agenda.

#### Additional Questions

8.26.A5 Wireless Communication Facility: the last sentence beginning "Not included in this definition..." lists several items such as CB and HAM radios. Are they exempt? It doesn't say they are prohibited. Mark said as far as the zoning ordinance is concerned, they are not interpreted as WCFs. It's not saying they are prohibited, just that they don't fall under the WCF definition so they are not subject to those regulations. Putting up a personal antenna would be an accessory structure and one would apply for a permit. Mark checked for a radio/broadcasting tower, but it was not listed as a permitted use. To give a company the opportunity to apply, the JPC may want to consider an amendment. WC tower is shown on page 4-7, line 8. WC facilities is on page 4-8, line 29. Mark said it should be facilities; for JPC purposes it's the same.

8.26.B first sentence states "...constitutes a use permitted by right..." but by right is not mentioned in Table 4-3. The table lists S<sup>3</sup> on line 29 and footnote #3 mentions special land uses and prohibited but there is no mention of by right. Mark explained if it is simply collocation of equipment, it can't be prohibited or treated as a special land use. It is a use by right as a Class 1 facility. The footnote can be amended to refer to Section 8.26.B for the reader's ease.

Table 4-3, line 18 allows outdoor commercial recreation facilities but there is no definition. Mark agreed one is needed. Could it include an RV park? Mark said that would fall under campgrounds, but unless the recreational facilities are defined one could argue it falls under OCRF. OCRF should exclude campgrounds; they are a separate activity. This item should go on an amendments list and, at a minimum, specify the uses of greatest concern and exclude them. Mark also suggested adding line 3 Campgrounds to Table 4-3 for C-1 and C-2.

#### Master Plan

Mark gave an overview of his review of the Master Plan. Overall, there are many things he would change for clarity and direction. As one of many examples he didn't feel Ag needed to be identified. The area is mostly rural residential and agriculture could have been covered in the text rather than putting it on the Future Land Use map. In the future, the goals, objectives and policies should be up front. That is what most people look for – the meat. Also be sure to include changing trends and conditions. Mark acknowledged that some of the gray areas may be purposeful and not by accident – sometimes it's necessary to get everyone on board.

Mark noted there are very few communities that have gone through what the JPC did and put together a plan and then were actually able to take the next step and get a joint zoning ordinance adopted. There are more that adopted a joint master plan but could never take it to the next step. Mark is thrilled it worked for the JPC.

Finally, Mark said a new Medical Marihuana law is in place and provides a mechanism to allow growers to grow and sell commercially with a licensing and taxation program; a local municipality must first allow growers to get into the commercial part of it. Unless that is the direction desired – to allow growers to grow and sell commercially – the current ordinance is okay.

Coli Communications Application. Craig gave an overview. It is a by right use because equipment will be collocated on the water tower. White plastic antennas are placed on homes for service. Peg would like Mr. Standfest in attendance and others agreed. Shelley noted the need to remove equipment; do they have approval? Peg and Eugene said written approval is needed from AT&T. Shelley explained the process and the specific timeline for this type of application. Peg declared the application is administratively incomplete with the need for AT&T's approval. Other necessary information was identified. Shelley will write Mr. Standfest informing him of the application's status and what he needs to provide the JPC in writing. He needs to state if he is going to remove the AT&T equipment and has their permission or whether AT&T will be removing the old equipment in which case the JPC needs such an authorization in writing. A condition to the permit will be a requirement to remove old equipment. Shelley said Mr. Standfest asked if a permit is needed to repair or replace equipment; the JPC said no – need to inform Mr. Standfest of this. Motion by Peg, Irene seconded to send letter to Mr. Standfest stating what is needed to make the application administratively complete. Ayes: all; motion carried.

Public Comment. None.

Adjournment. Motion by Shelley, Peg seconded to adjourn at 8:35 P.M.

Respectfully submitted,

Shelley Greene  
Secretary

*Minutes are proposed until approved at the next meeting.*