

MINUTES

Cascade Charter Township Planning Commission
Monday, June 5, 2006
7:00 p.m.

ARTICLE 1. Chairman Goldberg called the meeting to order at 7:00 p.m.
Members Present: Goldberg, Koessel, Lewis, Logue, MacAllister, McDonald, Postma, Richards, Robinson.
Members Absent: None
Others Present: Planning Director Peterson, Admin. Assistant Hern and Members of the Public.

ARTICLE 2. Chairman Goldberg led the Pledge of Allegiance to the Flag.

ARTICLE 3. Chairman Goldberg requested motion for approval of the June 5th agenda.

Member Richards motioned for approval of the agenda, supported by Member Robinson. All in favor with none opposed, the motion carried.

ARTICLE 4. Chairman Goldberg requested motion for approval of the May 15, 2006 Planning Commission Meeting Minutes.

Member Lewis motioned for approval of the minutes as presented, supported by Member MacAllister. May 15, 2006 Minutes approved as corrected. All in favor with none opposed, the motion carried.

ARTICLE 5. **Case #06-2791: Kraft St. Partners, Phase 3**
Recommendation to the Township Board for approval of the PUD rezoning with the PUD Ordinance.

Chairman Goldberg asked Staff for introductory remarks and Planning Director Peterson reviewed the site plan of the project. He also said that at the Public Hearing on April 17th, the Planning Commission awarded preliminary approval of the PUD rezoning subject to the five (5) conditions listed by Staff within the handouts.

The Applicant has addressed all of the above items and we have prepared a series of text amendments to the PUD Ordinance to include this phase of the project. The Applicant has reviewed the changes and has agreed with the wording.

Staff recommends that the Planning Commission forward a positive recommendation to the Township Board for approval of the PUD rezoning with the PUD Ordinance with the condition that the Engineering items are addressed prior to the Township Board Hearing. The Township Board will hold an additional Public Hearing to consider your recommendation.

Chairman Goldberg opened the meeting for questions of Staff and Member Lewis asked if Betten has complied with the easement in the rear of their property. Planning Director Peterson said that their architect is working on the area now and restore the service drive in the back. Member Lewis noted that a surplus of cars has been moved up front of their lot and Chairman Goldberg question if the pads have been eliminated? Planning Director Peterson said some of the pads have been eliminated, along the side and the front of the property. The condition was that the cars are to be parked in assigned spots and does need to be watched from time to time. Member Lewis said that cars now are in the way and seem to be reducing the room of the entrance drive.

Member McDonald asked if the sidewalk is being installed on the site and Planning Director Peterson reviewed the location of the sidewalk on site and reviewed the Township's extension of the sidewalk to connect to Kraft's sidewalk and one small piece to the north will be missed.

Member MacAllister asked if the drive to Gordon Foods would remain and Planning Director Peterson has not heard what Gordon Foods plans to do with the driveway. Member MacAllister expressed her concern regarding the potential of cars parked there or loitering and Planning Director Peterson said that Gordon probably does not want unacceptable behavior in their lot but they will have to decide what to do with the area that remains. She also asked if the access behind Betten was included within this article and Planning Director Peterson said that it is not included.

Being no other Commissioners' comments, Chairman Goldberg asked the Applicant if he wanted to add anything during the meeting and the Applicant declined any further comments.

Chairman Goldberg requested a motion and Member McDonald motioned for a recommendation to the Township Board for approval of the PUD rezoning with the PUD Ordinance, seconded by Member Richards.

Chairman Goldberg opened for discussion. Member Lewis commented that he is very happy to see the sign issue has been included within the PUD. Being there no other discussion, Chairman Goldberg called to question. **All in favor with none opposed. Motion passed.**

ARTICLE 6.

Case #06-2807 Zoning Ordinance Amendment, Antenna
(Tabled from the May 1st Planning Commission Meeting)
Discussion of proposed amendments for antennas.

Chairman Goldberg noted this item had been tabled at the May 1st Planning Commission Meeting.

Member Robinson motioned to remove this case from the table, supported by Member McAllister. All in favor with none opposed, Case #06-2807 Zoning Ordinance Amendment, Antenna removed from the table.

Planning Director Peterson said this item was brought before the Commission at the May 1st meeting and tabled until Staff could provide an opinion letter from the Township Attorney as it related to this matter. This letter is attached and Staff has included the current zoning language and provided the proposed amended language in highlights for the Commission's review. This item was generated by a request to install a co-located antenna on a Consumer Power's tower that is located within a residential zone. The Township does not allow towers or antennas to be installed in a residential zone. Tonight, Staff suggests, unless further information is needed, that the Planning Commission set a date for a Public Hearing and discuss the merits of allowing co-location of antennas for a recommendation to the Township Board.

Chairman Goldberg asked Planning Director Peterson to review the proposed new language. Planning Director Peterson reviewed the addition of Section 6.04 (10): Antennas for cellular phones and any other personal communications service but only when attached to an existing structure, building, utility pole, utility tower or other similar existing permitted structure, provided it is authorized by the Planning Commission subject to conformance with the standards of Section 17.03 (i). This would be inserted into R-1 and R-2 zoning ordinances after Section 6.04 (9).

Section 17.03 (i) reads: Cellular antennas and other appurtenances on existing towers, structures, building, utility pole, utility towers or other similar existing permitted structure are regulated...and

Planning Director Peterson referred to the Section 17.01 Title: Special Uses included within the Commissions' packets.

Planning Director Peterson noted the Planning Commission would still review the co-locations of the antennas under the Special Use Type I, allowing the Commission to make sure the area is appealing and fits within the community. For the Public Hearing, Staff plans to provide pictures of other co-locations in surrounding communities as examples.

Chairman Goldberg opened the discussion for questions of Staff. Member Koessel referred to the current section on Page 3 in the section referring to Cell Towers/Masts and asked what if an existing structure is not tall enough for the co-location, can the Commission still enforce the height restriction in a residential neighborhood? Chairman Goldberg believes the Planning Commission can refer the co-location of an antenna to another location if a current structure is not tall enough for an affective signal. He also said that the only problem the Commission may have is if they could not find any existing structure that would provide the minimal coverage to the cell phones. Member Koessel said it is not just the height to be concerned if the tower would have an adverse affect. He realizes they are not just talking about a tower but also talking about the equipment that is installed at the base of the tower or whatever structure is there and how it must be screened and cannot have an adverse affect on the neighborhood. Chairman Goldberg noted this is a different section and the piece Member Koessel is referring to is only for the erection of a tower or mast. Member Koessel asked if under the new language, there is a power pole in someone's front yard that appears to be high enough for a co-located cellular antenna to fill the hole for cell coverage, will the equipment be able to be located at the base if its someone's front yard? Planning Director Peterson confirmed that is correct and referred to the existing ordinance on Page 17-3 (i), cellular antennas and other existing antennas and masts are regulated as follows and the applicant would have to go through A, B and C and C takes care of this particular issue whether the structure is compatible with the area. Chairman Goldberg believes that what he understands now is that the language be reviewed relates to the construction of a tower or a mast, not the antenna itself. He also clarified that 17.03 (i) deals with the antenna, itself, as it may get located on something that is already in existence.

Member McDonald referred to 6.04 (10) and the language of "...only when attached on an existing tower or building..." does this exclude them from increasing the height? Planning Director

Peterson noted it does not necessarily exclude them as the building could have additional floors built but they would have to follow the ordinance for the additional floors of the building, but what it does not allow them to do is add an additional pole on top of a structure to make the antenna tall enough. Member McDonald questioned if this would entice people to offer placing a co-located antenna on their property so they could collect the fee from the company. Planning Director Peterson said that if the co-located antenna is installed, that property owner would be able to collect the fee for the co-location.

Member Robinson referred back to Member Koessel's comments, if the cellular provider wants to co-locate on a power pole in a residential area, they would be allowed to do so and residents would have the equipment in their front yards? Planning Director Peterson said it could be done but would be under the Planning Commission's review and they could state their preferences at that time once they've reviewed the request. Chairman Goldberg noted the Planning Commission would have the ability to regulate the equipment on the ground (i.e. make it smaller, landscaping around the equipment, etc.) so as to make it as compatible as possible with the surrounding area.

Member Lewis asked if the Planning Commission could have the equipment installed on a side yard? Member Koessel noted that most of the utility poles in residential areas are located in the front yards and this is where his concern lies. Utility companies are not going to move their poles to side or rear yards but does the Township have to allow them in the front yards or can the Township restrict them to side or rear yards? Planning Director Peterson believes the Township could implement that restriction. He does not foresee any cellular providers wanting to co-locate on a utility pole only because the height is not there. Member Koessel asked what type of structures would companies want to install an antenna on and Planning Director Peterson noted schools, church steeples, large Consumer's lattice towers and other similar structures. The language can be developed to restrict the co-locations to just these types of structures. Chairman Goldberg asked if Staff knows, logistically, if the equipment needs to be installed right at the base of the co-located structure? If the company wants to utilize a pole in someone's front yard, can the communication company run an underground cable to the equipment that could be located in a side yard? Chairman Goldberg believes this could also be included in the language, if the structure is in someone's front yard, the equipment would have to be located on the property's side or rear yard.

Member Richards questioned if all antennas are created equal? She's aware that there are boosters to fill spots where coverage is not available. Do the boosters require the whole set-up? Planning Director Peterson is not sure if the boosters require the base equipment. Member Richards does not believe they require as much if there is a small whole that does not provide coverage.

Chairman Goldberg summarized what he is hearing from the Commission is we understand the current situation does not allow for co-locations in residential zones is unlikely to sustain scrutiny. The Commission also understands that if they were to say it is a permitted use in a residential zone, it would pass scrutiny because they could place one wherever they want. The Commission needs to find the 'sweet spot' in between these two (2) things that states: yes, if the communications company has to have it, the Commission wants it done as unobtrusively as possible, on an existing structure, in a place the Commission finds acceptable. How the Commission finds the 'sweet spot' in this continuum, he is not sure but feels most of the Commissioners are not quite sure yet since they have not reserved for themselves enough control over what the Commission will find acceptable and what they will find unacceptable. Member Koessel noted that it is not so much as control but the language is not clearly defined in the language, the restrictions are not noted regarding height, etc. Chairman Goldberg said the language could say that an existing structure, who's existing height by the antenna and the associated facilities could be the location of which could be regulated/conformed to the zoning of the lot with other provisions within the ordinance. Planning Director Peterson said that language should help and would not affect the Consumer's towers since there is no residential yard there. He agreed there is room to better define conditions of co-located antennas. Planning Director Peterson said he understands the sense of the Commission's requests and Chairman Goldberg asked the Township Attorney help develop the conditions within the language of the ordinance and the equipment for the antennas could conform under the accessory building conditions, accessory buildings are not allowed in front yards. Planning Director Peterson said they will work on the language in C and develop standards for the other areas mentioned.

Chairman Goldberg requested the Commission review the revised language prior to setting the Public Hearing date unless Staff believes this is taking too much time for the communications company. Planning Director Peterson noted a company is waiting for the Commission's decision but he would rather have the

Commission approve the language. Chairman Goldberg said that unless the vendor has communicated an urgency, he would like it reviewed at the next meeting.

Member Logue asked if a high tension tower has a co-located antenna and the surrounding high tension towers become obsolete and are removed, would the one tower with the co-located antenna remain? Planning Director Peterson said that if the structure becomes obsolete, it will be removed and the co-located antenna would have to be relocated elsewhere.

Chairman Goldberg requested a motion to table the item until the language is better defined within the ordinance.

Member Robinson motioned to table Case #06-2807 Zoning Ordinance Amendment, Antenna, supported by Member MacAllister. All in favor with none opposed. Case #06-2807 Zoning Ordinance Amendment, Antenna tabled.

ARTICLE 7.

Any Other Business

Chairman Goldberg opened the meeting for other business and said Member Robinson brought to his attention an article in the *Michigan Association of Planning* that summarized a recent statute that was passed that had the affect of consolidating zoning enabling act for townships, cities and villages and made some changes to those enabling ordinances. A couple of things he would like to draw the Commissions' attention to are:

- 1) This summary makes mention there will be a phasing out of Zoning Boards over a five (5) year period and transferred to the Planning Commission. After his review, he did not see anything that would affect the Township's Zoning Board of Appeal (ZBA) and discussed this with Planning Director Peterson and what is being referred to are Zoning Boards the Township does not have in place; this affects Zoning Boards that function more like a Planning Commission and nothing in Cascade Township will be affected.
- 2) There are situations that do affect the ZBA and zoning amendments where the act will allow a Township Board to make revisions in a proposed zoning ordinance (i.e. P.U.D. Ordinance) and to adopt the revised version without referring it back to the Planning Commission. Typically, the Township Board sends it recommendations back to the Commission and recognizes when the Enabling Act changes, that would override any contrary provision the Township may have in its zoning ordinance and he, personally, requests the Township

Board send its recommendations back to the Commission and follow the current practice whenever possible so the Commission may complete their work on the project.

Planning Director Peterson noted that is Staff's intent, to keep the current practice, and believes this would only go into practice for minimal changes.

Chairman Goldberg opened the meeting for additional Commission comments and Member Lewis asked if a building has been recently removed on 28th Street and Planner Deem noted the Rapid Packaging building has been removed. Member Lewis asked if the Commission has approved any projects for the site and Planning Director Peterson noted they are just cleaning the site up and Staff has not received any plans yet.

Member Koessel also stated the A.J. Veneklassen case approached the Township Board regarding the center turn lane. This has been approved subject to the installation of the center turn lane and will be coming back before the Commission. It was agreed that the Developer, Township and County would share in the cost of adding the turn lane. Member Lewis asked if the County would share in the cost of the center turn lane, this is not their usual practice and Member Koessel said that Staff has approached them and they have agreed. The estimates are roughly \$20,000 to \$30,000 and the Developer, Township and County will share one-third of the expenses.

ARTICLE 7.

Adjournment

Member MacAllister supported by Member McDonald moved to adjourn. The motion carried and the meeting was adjourned at 7:46 p.m.

Respectfully submitted,

Claude Robinson, Secretary

Lisa Hern, Recording Secretary