

**TYRONE TOWNSHIP PLANNING COMMISSION**  
**Approved Work Session Minutes**

**February 14, 2006            7:30 p. m.**

**PRESENT:**    Sally Eastman, Dave Hanoute, Richard Hartigan, Steve Hasbrouck, Laurie Radcliffe

**ABSENT:**     Joe Fumich

**CALL TO ORDER:**    7:30 p. m. by Chairman Hasbrouck

**PLEDGE OF ALLEGIANCE:**

**CALL TO THE PUBLIC:**

Township Clerk David Kuzner informed the Planning Commission that the Township had budgeted \$743.00 for Planning Commission postage this year. He asked if it would be inconvenient for Planning Commission members to pick up their packets at the Township Hall.

Mr. Kuzner was informed that Planning Commission members did not have keys to the building. Most of the members said they preferred having the information mailed to them. The Planning Commission collects fees from applicants to cover the cost of reviews and the postage should be covered by the fees.

**APPROVAL OF THE AGENDA:**

Moved by Hanoute, seconded by Eastman to approve the Agenda as presented. Motion carried by unanimous voice vote.

**APPROVAL OF THE MINUTES:**

Moved by Hanoute, seconded by Radcliffe, to approve the January 24, 2006 Regular Meeting Minutes as corrected. Motion carried by unanimous vote

Page 2, Line 36: (...lack of circuitous continuous travel...)

Page 2, Line 43: (...wether whether it was recommended...)

Page 3, Line 43: (...could be designed as a **curve cul-de-sac**...)

Page 6, Line 43: (...at the February ~~14 7, 2006~~...)

**CORRESPONDENCE:**

- 1)    January 17, 2006 - Letter from Secretary Radcliffe to Clerk Kuzner requesting a letter from the Township Board to the County Register of Deeds

Received and placed on file

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- 2) January 17, 2006 - Letter from the Charter Township of Fenton regarding an amendment to their Township Land Use Plan

Chairman Hasbrouck asked to have the correspondence placed on file with a letter forwarded to Fenton Township acknowledging the receipt of their Master Plan amendment and informing them that we have no comments at this time.

- 3) Receipt of correspondence from the Planning Commission members regarding a confidential site drawing presented to the Planning Commission by Township Attorney Neal Nielsen

Chairman Hasbrouck presented the correspondence to Attorney Nielsen.

- 4) January 30, 2006 - Letter from David Lossing to Mike Lewis regarding a Southern Lakes Planning Initiative draft resolution

Ms. Radcliffe said she had received a note from Mr. Lewis asking for discussion of the resolution at our next meeting. She noted that three communities had already agreed to sign the resolution.

Chairman Hasbrouck scheduled the request for discussion at the next meeting.

**SUBCOMMITTEE REPORT:**

- 1) Review of the **Michael and Cathy Brown** request for state statute land division of property at 8497 Allen Road, RE parcel 31-400-016, to create four parcels. The parent parcel will be accessed by an existing driveway and the new parcels will be accessed from a shared driveway and public utility easement with frontage on Allen Road. The Planning Commission tabled the request on December 20, 2005.

MOTION: Moved by Hartigan, seconded by Eastman, to remove from the table the request of Michael and Cathy Brown for approval of their land division request for property at 8497 Allen Road. Motion carried unanimously by voice vote.

Mr. Hasbrouck recalled that the request had been tabled for further discussion of the existing accessory structure setback distance from the shared driveway easement.

MOTION: Moved by Hanoute, seconded by Hartigan, to recommend to the Township Board approval of the Michael and Cathy Brown state statute shared driveway land division request for property at 8497 Allen Road, RE parcel 31-0440-016, to set off four (4) parcels and a shared driveway as shown in the Boss Engineering site drawings (page 2 of 6) dated 10-05-05, as it complies with the Township Land Division Ordinance. Motion approved unanimously by voice vote.

Mr. Hasbrouck commented that he voted to approve the request because the definition of corner lots referred to the intersection of streets (Zoning Ordinance 36, Section 2, p. 1-12). Mr Hanoute said that he had based his approval on the Section of the Ordinance which allows the Planning Commission to modify the shared driveway requirements as long as they meet safety and engineering standards (Section 24.06 and 24.06.N).

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Mr. Brown was informed that his request would be scheduled for review by the Township Board on February 21, 2006, but to check the Board Agenda with the Deputy Clerk before that date.

Chairman Hasbrouck observed that Township Attorney Nielsen, Supervisor Lewis, Clerk Kuzner, and Trustees Nagy and Thompson were in attendance at the meeting to hear the Planning Commission responses to Correspondence Item 3 and the discussion regarding Conditional Zoning (New Business 1). He asked if the Planning Commission would consider moving the New Business forward in the Agenda.

MOTION: Moved by Hanoute, seconded by Hartigan, to alter the agenda by moving the Conditional Zoning discussion forward. Motion approved unanimously by voice vote.

**NEW BUSINESS:**

- 1) Consideration of the Conditional Zoning white paper, Memo, and sample Conditional Zoning Ordinance (referred to as 27.06A) provided by McKenna Associates.

Township Planner Greg Milliken noted that Conditional Zoning had been permitted in the state for the past year as an amendment to the Zoning Act (Section 125.286i) that allows applicants to present non-negotiable rezoning conditions for approval or denial. Because of the lack of language and information in the amendment, there are questions about procedure, administration, and the conditions to be included in the conditional zoning agreement. He provided a Memo, dated February 1, 2006, based on the experiences their firm had with this amendment in other communities.

Mr. Milliken commented that their model ordinance was similar to the MTA ordinance, but more detailed. He recommended that conditional zoning agreements include references to the specific land use to be allowed, building density requirements, minimum or maximum square feet of structures, variety in building styles and height(s), minimum or maximum setbacks, road standards, landscaping, hours of operation, access points, infrastructure improvements, methods of enforcement, the project completion time period, and the reversion zoning classification. Conditional zoning applicants have the opportunity to present their offer for approval or disapproval without negotiation. However, the Township can establish standards for consideration, require a pre-development conference, and specify their reasons for approval or denial at the time they take action on the request.

McKenna Associates recommends adoption of a conditional zoning amendment to the Zoning Ordinance to address some of the processing, review, and administrative issues not included in the statute that should be considered in the conditional zoning agreement. For example, the amount of time allowed to complete the project, how changes to the zoning map will be made, and how changes in use will be reviewed, and ways to avoid spot zoning. Without a specific local ordinance, the process to be followed is outlined in the statute which requires a Planning Commission review, a Public Hearing, and a recommendation to the Board. He reminded the Planning Commission that rezonings are also subject to referendum.

Another important consideration is the Future Land Use Map, the surrounding land uses, any changes in the conditions after the land use plan was put together, the date the Master Plan was updated and the impact of rezoning on the local infrastructure. Currently, the Future Land Use map shows Medium Density Residential (R-1 or R-2) as a transition between the MHP

district and the Low Density-Preservation District (RE or FR). The conditional zoning process has not been tested in the courts, and any proposed conditions should be reviewed and approved by the Township Attorney.

Attorney Nielsen said he didn't agree with Mr. Milliken's process recommendations. There was no magic way to do conditional zoning and different municipalities do it in different ways. Tyrone Township has no criteria to go on because there is no ordinance that addresses conditional zoning. The statute was drafted by developers for developers and has been used historically to accelerate the development process. The Board is trying to accomplish a zoning change but we are also trying to make sure that we get the Planning Commission's goals and thoughts. Too many of the written comments from the Planning Commission deal with the process rather than the details.

The Board doesn't have time to talk about the process and the Planning Commission needs to get off the process and decide if they really want a Mobile Home Park or stick built houses and if they want to be able to finance the sewer with more density than we have now. Because there aren't enough taps being used in the Township, the Board will have to take money out of the general fund to pay for the sewer system. He wanted to get the Planning Commission's thoughts and opinions and then bring it back through the system once everything is in place. Leadership has to do with vision and change. He asked the Planning Commission to get off the conditional zoning process and tell him their vision of what they wanted to accomplish.

During the discussion of the confidential drawings presented by Mr Nielsen at the January 24, 2006 meeting, the Planning Commission made the following comments (exclusive of their references to the statutory processes required for site plan review and rezoning of property):

- They were asked to comment on the development of the 40 acre parcel only;
- No information had been provided about the zoning proposed for the site;
- The difficulty in making recommendations without information;
- The importance of supporting the Master Plan and the Future Land Use map;
- The transitional medium housing densities master planned for the parcel under discussion;
- The importance of specifying the density in the zoning contract when the density shown in the drawings exceeded any of the Township's single family zoning district densities;
- The tax base benefits from stick built housing;
- Specifically defining the use to be allowed as a condition of the rezoning;
- Including conditions for discontinuing the use of the site or project if it is abandoned or the approved use is changed;
- Whether this was a single project or two separate projects;
- Determining the zoning which will serve as the basis for the conditional zoning and the underlying zoning;
- The applicant's failure to respond to earlier questions for information about their project development plans;
- Whether the conditional zoning would involve the Court as well as the Township as parties to the agreement;
- How and when the Board planned to notify the public of the proposed zoning changes;
- The lack of any information about the project to be used as a basis for recommendations;
- Using modification of the consent agreement to speed up the process;

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- An approximate 30% increase in the number of units proposed from the density shown in an earlier proposal;
- The Planning Commission lacks the flexibility the Board has to by-pass procedures and make decisions;
- The court previously rezoned the majority of the applicant's property at the applicant's request;
- The applicant presented the conditional zoning request directly to the Township officials;
- Use of the Township Planner's professional expertise to provide the best recommendations for protecting the Township's interests;
- The court should review the changes to the conditions if the applicant wants to change the court ordered zoning;
- The Township should have the input of the people living next to the project before making recommendations about the contract;
- The conditional zoning request has the potential to set several dangerous precedents for the Township;
- An earlier recommendation was made to have the parcels get larger as the development moved west;
- Stick built homes may not always be preferable to trailers in terms of density;
- The true acreage of the Bantle property should be determined because it affects the project density;
- The percentage of lot coverage should be addressed in the conditional agreement;
- The proposed combination of the houses and driveways on MHP size lots would eliminate most of the green space within the development;
- The maximum and minimum dwelling size should be addressed, particularly if Zoning Ordinance regulations do not apply;
- The applicant was previously asked to consider variety in the housing styles and heights to alleviate monotony ;
- Shared driveways would help improve green space;
- Typical designs and layouts should be provided to show the location of buildings and driveways and the amount of yard area available per parcel; and
- As long as individuals function as a Planning Commission members they have to follow the statutory Planning Commission procedures.

During the discussion, the Township Board members made the following comments related to the proposed development and provided some information for the Planning Commission.

- The Board attended this meeting because they are under a time constraint and have been working for over three months on this project;
- Without a conditional zoning ordinance, they need suggestions on how to proceed with the agreement;
- The Planning Commission is still talking about generic ideas while the Board is under a financial deadline to settle litigation by contract zoning;
- The rezoning will provide a tax benefit to the Township and provide sewer users;
- There is a lot of talk about process but there isn't a lot of talk about the issue they are grappling with at the Board level in order to make things happen for the community;
- The Board and the Planning Commission need to have the same goals and work together to do what is best for the Township;

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- The leaders of the Planning Commission were invited to the (contract) meetings to solicit their input about how the Board could come up with a plan to bring about a final resolution;
- There was no effort to do anything behind anyone's back;
- The Board is trying to get to the point of involving the public, but everyone knows you don't invite the public to negotiations on litigation;
- When the negotiation is settled and the deal is struck, you inform the public about what is on the table;
- Your misconception is that the issue is about a consent agreement, but it's about the negotiation of a law suit that is pending;
- The Board isn't a Planning Commission, but the Board is out there making planning decisions so they asked for input from the leaders on the Planning Commission who can speak for the Planning Commission, know the Ordinance, and have the vision of the Master Plan we want to see;
- Once the pieces of the puzzle are put together, the Board will ask the people to give it a thumbs up or thumbs down;
- The Board has asked the Planning Commission for help for three months;
- The Board is doing the negotiating but they want the best of both worlds from the people who have the knowledge;
- If the Planning Commission doesn't want to help, they should just ask the Board to leave them alone;
- There is a law suit with Livingston County over repayment of sewer bonds and Livingston County and Tyrone Township don't have enough money in their coffers to pay the interest on the money due;
- The negotiating point is that if you don't rezone the 40 acres, the Township will have to shell out the interest on the money that is being paid;
- The Board just wants ideas, they're not asking the Commission to take this on as a project and they are asking for knowledge, not the creative process;
- Most of the Board feels that they should have professional input from the Planning Commission on an informal basis;
- The best way to do this is take the knowledge the Planning Commission has and incorporate it into the Board's decision; and
- Early in December, the Board sat down and said this is what we have been proposed with so give us some input.

At the conclusion of the discussion between the Board and Planning Commission, Mr. Nielsen thanked the Commissioners for finally giving him a few things to work with, but concluded that most of their comments still dealt with the process not their visions and goals. He informed the Planning Commission that the project could be turned into a development similar to a site condominium with the same phasing that is already there. The site condo area would be limited to stick built on site construction and the units would be considered real property. The price range for similar entry level housing in Livingston County is currently between \$125,000 and \$175,000.

Landon Investment has an ownership interest in the 40 acre parcel west of their mobile home project and they want to extend the existing MHP lot size and density into that area. If the bill for connecting the sewer isn't paid, the Township goes bankrupt and a tax will be levied on

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everybody in the Township for the differential. The Planning Commission needs to get off the conditional zoning process dinosaur. The state law has been implemented for more than a year and the Planning Commission still doesn't have an ordinance for it.

Originally, the developers wanted MHP rezoning to accommodate their density requirement, but when he came here about a month ago, the staff suggested R-2 cluster zoning (for the Bantle property) and then came back later and said the applicant couldn't get the number of parcels they wanted with that zoning.

Ms. Eastman commented that she was one of the Planning Commission members who knew absolutely nothing about the project until she got a drawing, but she remembered when we sat across from the Township Board about six months ago and Mr. Kuzner said, "The buck stops here." She asked him to take the buck and run with it. She hadn't been privy to any of the Board information or discussion, so the rezoning review process was all that she could consider for this request. She suggested, that in the future, if something like this comes before the Board, the first time the Planning Commission hears of it shouldn't be when we have someone we have never met before browbeating us about it in a public meeting.

Mr. Hasbrouck said that following the December Planning Commission meeting his suggestion to Mr. Lewis had been to contact the Township Planner for help in coming up with the basics to be contained in the conditional agreement. That is what he still recommended and what the Township should do. The Planning Commission isn't any more expert than the Board. The Planner is the one who gets most of the information for the Planning Commission. We provide the local input and work with our Planner to come up with the procedures and ordinances we have now. The Planner knows the details.

Mr. Hanoute thought that in the end, the proposed density could create something worse than any mobile home park in terms of aesthetics or health, safety and welfare by virtue of the density. There will be a lot of young home owners with lots of children. There aren't any sidewalks so the kids will play in streets that are almost too narrow for passing. Generally, the people in mobile home parks are older than the residents you find in entry level housing. Removing the MHP zoning might remove a stigma, but R-2 zoning requires open space and the minute you alter that requirement you establish a really dangerous precedent.

Mr. Hartigan said that stick built housing with a variety of designs would make it much nicer than a mobile home park. It would avoid the cookie cutter look and become a nicer community with more value. He objected to expanding the corridor zoning into the rest of the Township.

Mr. Van Hecke explained the confusion about the R-2 zoning. The R-2 zoning would never meet the density they proposed in December, but you could provide the lot sizes they were proposing with R-2 cluster zoning. That was a trade off using smaller lots to increase the amount of green space. After he reviewed the Ordinance sections, he prepared a chart for them showing that 65 lots would be allowed under the cluster option. To get the number of units they wanted would have to be done by variance, a PUD, or contract zoning.

Mr. Hasbrouck commented that the Planning Commission understood the Board's financial concerns, and he hoped that the recommendations made were helpful, but the Planning Commission didn't know enough about the proposal at this point to make a recommendation about any of the plans.

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As an example of a similar project, he referred to a partially built development south of Fowlerville in Handy Township with similar sized lots and stick built homes. He thought the Board should look at it and then make up their mind if that is what they want for Tyrone Township or what limitations they might want to have. The Planning Commission isn't any more expert than any of the Board members in deciding what they would like. The Board could use their own judgment about what they like and don't like and then tell Mr. Nielsen.

Mr. Hasbrouck said he was willing to conduct a site visit for anyone who could meet him in Howell, because they really needed to see how that type of a development would look. To get there, you take I-96 to Fowlerville Road, go south on Fowlerville Road about 600 feet and turn right.

Mr. Hanoute thought the developer should be asked to provide a site plan that included half a dozen typical models on typical lots showing the location of the buildings, the elevations, the driveways, and the landscaping so there would be something to comment on. That was talked about in the first meeting last year, and they never carried through. Based on his experience in building similar projects, they will have real difficulty laying out a house on a 5500 foot lot.

Mr. Hasbrouck said that the Township doesn't have a perfect ordinance that address everything but the legal experts and the professionals say we don't have to. The Board can still do their 'non-negotiation' with the applicant, but Township could have been finished with most of this already if Landon had followed through with the request for rezoning or site plan review discussed earlier.

Mr. Hartigan commented that the Handy Township project was originally constructed as a Mobile Home Park but couldn't make it financially either, so they converted it to stick built. If you want to look at high density and unimaginative design (for lack of a better word) you should go view it. You can also see the back of the project from the expressway.

Ms. Radcliffe commented that it was hard to make high density developments look appealing because there was no room for yards and landscaping. Green areas and landscaping are what makes sites appealing. At a minimum, the development should have an attractive entrance, buffers between the zoning districts, and yards with room for landscaping.

Mr. Hasbrouck reminded the Board and the Attorney that Mr. Hanoute had the knowledge, experience, and willingness to help the Board in its quest to get a better plan. He was the member of the Planning Commission most knowledgeable about residential architecture and development. Together, Mr. Hanoute and Mr. Milliken could provide the suggestions that the Board is looking for to make this a better agreement.

Mr. Nielsen said he sat down with the Planning Commission two months ago, and it had taken two months to get to this point. That's why they created statutes like this (conditional zoning) for Boards (sic) like this. Mr. Hasbrouck replied that the reason it took so long was because the Planning Commission never received complete information about the request or the Board's plans.

Chairman Hasbrouck recessed the Meeting for a two minute break

**OLD BUSINESS:**

- 1) Review of the revised Private Road / Shared Driveway Ordinance (dated 11/30/05) distributed at the January 10 meeting.

Chairman Hasbrouck reminded the Planning Commission that this Ordinance was almost ready for a Public Hearing.

During discussion of the revisions, the Planning Commission requested the following changes:

- Inclusion of language which allows the Planning Commission to require stub easements for private roads at their discretion;
- Referencing "utility easements" in connection with private road easements;
- Section 24.00.A, Line 4: ...where public roads may not be ~~appropriate or desired~~ could be changed to **appropriate, or desired, or accepted** by the County; or **approved or allowed** by the County, or similar language which references County authority over determination of public streets and roads;
- Decided not to include language regarding corner lots created by shared driveways;
- Asked for addition of language to the ordinance which requires the applicant for a land division who puts a private road, private drive or shared driveway on a property line which would require them to allow access to that shared driveway by the adjacent property owners in the future and to allow improvement of the property line access if required for additional use.
- Considered the pros and cons of language stating that if the intersection of the private road or shared drive has the potential to become a road, then the lots fronting on the intersection should be laid out as corner lots;
- Interpreting each driveway intersection based on the structures in existence and the potential for road construction on its own merits rather adding language to the Ordinance; and
- Review of the ordinance definitions for 'street,' 'road,' and 'driveway.'

- 2) Discussion of proposed revisions to the Planning Commission Fee Schedule for approval by the Board

The Planning Commission accepted the schedule. Chairman Hasbrouck asked to have a category included for LCDC review of community septic systems and municipal sewer systems.

**ZONING ADMINISTRATOR'S REPORT:**

**ZONING BOARD OF APPEALS REPORT:**

**OTHER BUSINESS FROM MEMBERS:**

- 1) Southern Lakes Planning Initiative report

Ms. Radcliffe reported that the Southern Lakes Planning Initiative members would be meeting at the Township Hall on February 15, 2006 and Planning Commission members were welcome to attend

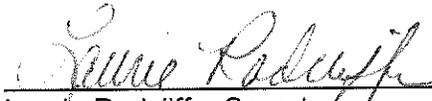
**NEXT MEETINGS:**

February 21, 2006 - Subcommittee Meeting

February 28, 2006 - Regular Meeting

March 14, 2006 - Work Session

**ADJOURNMENT:** 9:45 p. m.

  
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Laurie Radcliffe, Secretary  
Tyrone Township Planning Commission

  
\_\_\_\_\_  
Barbara Burtch, Recording Secretary  
Tyrone Township Planning Commission

**CORRECTIONS TO THE MINUTES:**

- Page 3, Line 41: (...the amount **of** time allowed to complete the project, how changes to the zoning map will **be** made...)
- Page 4, Line 38: (...the ~~use~~ approved use...)
- Page 6, Line 8: (Your misconception is that the **issue** ~~contract~~ is about...)
- Page 6, Line 14: (...the Board ~~we~~ will ask ...)
- Page 6, Line 32: (...the Board sat down with ~~the Planning Commission~~ and said this is what...)
- Page 7, Line 31: (Mr. **Hartigan Hasbrouck** said...)
- Page 8, Line 26: (...should you go view it.)
- Page 8, Line 29: (Green areas and landscaping **are where** what **makes** ~~made~~ sites appealing)
- Page 9, Line 20: (...intersection should be ~~laid~~ out as corner lots)