

CHARTER TOWNSHIP OF MERIDIAN
TOWNSHIP BOARD REGULAR MEETING – **APPROVED** -
5151 Marsh Road, Okemos, MI 48864-1198
853-4000, Town Hall Room
TUESDAY, APRIL 19, 2005, **6:00 P.M.**

PRESENT: Supervisor McGillicuddy, Clerk Helmbrecht, Treasurer Hunting, Trustees Brixie, Such, Veenstra, Woiwode
ABSENT: None
STAFF: Township Manager Gerald Richards, Director of Community Planning & Development Mark Kieselbach, Director of Engineering & Public Works Ray Severy, Police Chief Dave Hall, EMS/Fire Chief Fred Cowper, Attorney Mike Woodworth

1. CALL MEETING TO ORDER

Supervisor McGillicuddy called the meeting to order at 6:00 P.M.

2. PLEDGE OF ALLEGIANCE/INTRODUCTIONS

A. Police Promotion Introductions

Chief Dave Hall introduced Assistant Police Chief Russell Wolff, Lieutenant Ken Plaga and new police officer Robert Jurhs.

Assistant Police Chief Russell Wolff led the Pledge of Allegiance.

3. ROLL CALL

Supervisor McGillicuddy called the roll of the Board.

4. PUBLIC REMARKS

Supervisor McGillicuddy opened Public Remarks.

Cheryl Fritze, President, Riverwood Park Association, 2207 White Owl Way, Okemos spoke in opposition to the Okemos Road Widening Project and to the need for the Ingham County Road Commission to follow the law and the Township ordinance for tree clearing on the east side of Okemos Road.

Garry Kregalka, Bodwin & Fuzak, 4990 Northwind Drive, East Lansing, introduced himself as the ordinance prosecutor for the Township with Board approval this evening.

Lynn Ochberg, 4383 Maumee Drive, Okemos, and Planning Commission Chair, availed herself for discussion on the Master Plan. She also requested an amendment to the Land Use Ordinance that would require the engineering department to submit a “Certificate of Feasibility” during the staff review process relative to feasible drainage plans.

Tom Brennan, 2906 Colony, East Lansing, member of the Ingham County Bar Association Board, apprised the board of a legal publication entitled *Briefs*, which would be useful in notifying the legal community when placing a request for proposal (RFP) for legal services.

Supervisor McGillicuddy closed Public Remarks.

5. REPORTS/BOARD COMMENT/NEW WORRIES

Trustee Veenstra expressed concern with a public comment alleging the Ingham County Road Commission (ICRC) stated it does not need to comply with the Township’s ordinances.

Manager Richards added that when the issue came to his attention, he spoke with the resident who made the statement during public comment.

Requirement that Ingham County Road Commission obtain a tree cutting permit: (Questions for the Attorney (See Agenda Item #8))

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Q. Do we have an ordinance that requires them to get a tree cutting permit for this; are they subject to our ordinance? Could we find out if this is true, that they claim they are not subject to our ordinance?

A. By statute, jurisdiction and control of those rights of ways are vested with the Road Commission. While we can have a tree clearing ordinance that applies to everyone else, that statutory vesting of jurisdiction with the Road Commission would exempt them from our ordinance. Therefore, we're not able to enforce it against them.

Q. And we vigorously enforce it otherwise, correct?

A. To the fullest extent we can.

Q. Does that mean that if the Road Commission was cutting trees outside of the right of way they would have to follow our ordinance?

A. Yes, they would.

Trustee Brixie attended the Groundwater Management Board Meeting. She announced the 10th Annual Children's Water Festival will be held May 12, 2005 at Michigan State University's Wells Hall from 8:30 AM until 2:00 PM. She encouraged residents to attend and see how education and protection of our groundwater is being promoted to our children. She also requested Board members return the survey given to them by the Groundwater Management Board.

Clerk Helmbrecht announced the new election equipment has arrived in the Township. There were many changes to the state election law this past year. The annual school election held in June is now a May election. All school elections for Haslett, East Lansing, Okemos and Williamston will be the beginning of May of each year. Registered voters within the Township received new voter identification cards to properly reflect the twenty precinct polling locations.

Clerk Helmbrecht also suggested creation of a group consisting of township residents, Consumers Energy, Ingham County Road Commission and the Township to develop a tree replanting program.

Treasurer Hunting concurred with Mr. Brennan's comments and asked that future requests for proposals for legal services be advertised in the *Briefs*.

Supervisor McGillicuddy requested Board members submit the monitoring reports to her.

Township Manager Richards announced a charette on Thursday, April 28, 2005 to investigate the non-motorized pedestrian bicycle traffic flows between and in neighborhoods from Capeside on Hulett Road south to Jolly with a tie-in to commercial on Jolly and Okemos Roads. The charette will begin at Bennett Woods Elementary School. A walking tour will be conducted by facilitator Norm Cox from 3:00 PM to 5:00 PM. Township staff will stake out the new road entrances into the new planned unit developments off Hulett Road. Parties will reconvene at 6:00 PM in the Bennett Woods Elementary School library and hold a consensus building session. It is hoped that at the conclusion of the evening, suggestions and actual plans for improvements will be in sketch form.

6. APPROVAL OF AGENDA — OR CHANGES

Trustee Brixie moved to approve the agenda as submitted. Seconded by Trustee Such.

VOICE VOTE: Motion carried unanimously.

7. CONSENT AGENDA

Supervisor McGillicuddy reviewed the consent agenda.

Treasurer Hunting moved to adopt the Consent Agenda amended as follows:

- **Move Agenda Item #7D to Agenda Item #10C**
- **Move Agenda Item #7E to Agenda Item #10D**

Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor

CHARTER TOWNSHIP OF MERIDIAN, REGULAR MEETING, APRIL 19, 2005 *APPROVED*

McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

The adopted Consent Agenda items are as follow:

A. Communications

(1). Board Deliberation (BD)

- 9A-1 Patricia A. Johnson, 3836 Okemos Road, Okemos; RE: Filing of Appeal for SUP #05011 (Eby)
- 9A-2 Lynne S. Page, President, Briarwood Home Owners Association, PO Box 210, Okemos; RE: Filing of Appeal for SUP #05011 (Eby)

(2). Board Information (BI)

- BI-1 Cheryl Fritze, President, Riverwood Park Neighborhood Association, 2207 White Owl Way, Okemos; RE: Invitation to attend the Ingham County Road Association public hearing on the Okemos Road Expansion Project to be held April 7, 2005
- BI-2 Jan Rogers, 1247 S. Michigan Road, Eaton Rapids; RE: Appearance of Glendale Cemetery
- BI-3 Lynne S. Page, President, Briarwood Home Owners Association, PO Box 210, Okemos; RE: Invitation to attend the Ingham County Road Association public hearing on the Okemos Road Expansion Project to be held April 7, 2005
- BI-4 Win Stebbins, 3875 Roxbury, Okemos; RE: Update on the Okemos Road Widening Project
- BI-5 Eleanor V. Luecke, President, LINC, PO Box 40, Okemos; RE: 2005 Okemos Road Construction Plan Hearing

(3). Regional Linkage (RL)

- RL-1 Ingham County Historical Commission, Ingham County Courthouse, Mason; RE: Invitation to the 100th Anniversary Celebration of the Ingham County Courthouse, May 7, 2005 at 10:30 A.M.

(4). Staff Communication/Referral (SC)

- SC-1 Michigan Townships Association Legislative E-Report April 1, 2005 Edition
- SC-2 Michigan Townships Association Legislative E-Report, April 8, 2005 Edition

(5). On File in the Clerk's Office (OF)

Materials received at the April 5, 2005 Meeting

- Eleanor V. Luecke, President, LINC, PO Box 40, Okemos; RE: Rezoning #05020 (Sumbal)
- Eleanor V. Luecke, President, LINC, PO Box 40, Okemos; RE: Master Plan
- Eleanor V. Luecke, President, LINC, PO Box 40, Okemos; RE: Comments on Acceptance of the Perkins/Copeland log cabin into the Meridian Historical Village
- Lynne Page, President, Briarwood Home Owners Association, PO Box 210, Okemos; Copy of People and Pavement, *Michigan Land Use Institute*

Treasurer Hunting moved that the communications be received and placed on file, and any communications not already assigned for disposition be referred to the Township Manager or Supervisor for follow-up. Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

B. Minutes

Treasurer Hunting moved to approve and ratify the minutes of the April 15, 2005 Regular Meeting as submitted. Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

C. Bills

Treasurer Hunting moved that the Township Board approve the Manager's Bills as follows:

Common Cash	\$ 108,104.60
Public Works	\$ 170,001.83
Total Checks	\$ 278,106.43
Credit Card Transactions	\$ 12,436.25
Total Purchases	<u>\$ 290,542.68</u>
ACH Payments	<u>\$ 446,835.77</u>

Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

[Bill list in Official Minute Book]

F. Confirmation of a Fire Department Promotion

Treasurer Hunting moved to ratify the promotion of Colleen Clark to the rank of Lieutenant. Seconded by Trustee Brixie.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

8. QUESTIONS FOR THE ATTORNEY (See Agenda Item #5, #10A, #11A)

9. HEARINGS.

- A. Appeal of SUP #05011 (Eby), request to construct a 46-unit (25,400 sq. ft.) assisted living facility on a RA (Single Family-Medium Density) zoned, 3.1 acre site located on Okemos Road south of 3836 Okemos Road and north of Tamarack Drive
Supervisor McGillicuddy opened the public hearing at 6:35 P.M.

APPELLANTS:

Helen Ramsey, 2236 Tamarack Drive, Okemos, filed her appeal for the following reasons:

- Belief the project will decrease her property values
- Belief that if the Eby project goes bankrupt, the facility will become student housing
- Belief that the project will bring increased traffic to the area

ATTORNEY COMMENT: Just for clarification, there are two sets of standards that the Planning Commission applied and that this Board will be reviewing on appeal. One set of standards is found in 86-126, the review criteria that apply generally to SUPs. That includes, by way of example, that the project will not adversely affect or be hazardous to existing neighboring uses. In addition, the standards of 86-654 also apply; those are special standards that apply to non-residential uses in a residential district. I just

wanted to clarify for the Board what criteria are applicable.

Patricia Johnson, 3836 Okemos Road, Okemos, filed her appeal for the following reasons:

- Belief that fear of litigation was the reason the Planning Commission approved the SUP
- Belief that the six page staff “rebuttal” represented the applicant against the residents
- Belief that the staff memorandum contained information which appeared to be true, but was not
- Belief the verbiage “and other similar institutions” contained in staff memorandum is erroneous
- Belief that the building cannot be “harmonious” with the surrounding neighborhood if the size of the building is not considered
- Belief that the burden is on the applicant to show this project will not damage residents within 300 feet
- Belief that the “restaurant” in the south corner will emit odors which will be blown against her house through use of fans
- Belief that emptying of the dumpster will cause excessive noise
- Belief that the application is defective because it was not applied for by an owner of the property
- Belief that the Planning Commission did not apply all nine (9) of the review criteria
- Belief that the term “assisted living facility” is not defined by the Public Health Code as a home for the aged
- Belief that density is a standard used to evaluate nonresidential uses, despite comment contained in the staff memorandum to the contrary
- Belief that the conditions placed on the SUP approval by the Planning Commission did not insure the project would not cause a negative impact on surrounding properties
- Belief the project will generate 250% more traffic than a residential development
- Belief that “assisted living facilities” are more like apartments

Howard Selover, 3987 New Salem Avenue, Okemos, filed his appeal for the following reasons:

- Belief that the “constant pursuit” of commercializing the subject property over the past few years has had a detrimental effect on the sale of six (6) homes on the market in the immediate vicinity and will result in the loss of property values for the remainder of the residents
- Belief that the comparison used in the staff memorandum of this proposed facility to Claire Bridge is “flawed”
- Belief that the walkway which connects New Salem Avenue to the subject property will increase traffic and parking on New Salem
- Belief that emptying of the dumpster, food delivery and ambulance runs will add to the noise levels

Lynne S. Page, President, Briarwood Home Owners Association, 3912 Raleigh Drive, Okemos, filed her appeal for the following reasons:

- Belief that the staff memorandum contained numerous significant “inaccuracies”
- Belief that the staff memorandum did not contain all of the appellants’ issues
- Belief that the term “assisted living facility” does not have legal standing in federal or state regulations
- Belief that the project is too dense for the land size
- Belief the proximity of the detention basin and garbage dumpster is too close to residential property

APPLICANT

Richard Eby, Eby Design Group, 13795 S. Mur-Len Road, Olathe, Kansas, responded to issues raised. The Wynwood is a 42,000 square foot building on approximately 5 acres of land in a RA zoned district.

He believed the homes which surround Clair Bridge were similar to the ones which would surround this project and did not believe there was a detrimental impact to those homes.

Mr. Eby offered the following information:

- The dining facilities would not be serviced by a commercial kitchen. Meals are prepared for the residents, with a complete ventilation system. There would not be any deep fryers used, and the vent

system is 240 feet away from the nearest neighbor.

- The laundry facility consists of four (4) machines which vent along Okemos Road and would be approximately 280 feet from the nearest residence.
- The day time shift would consist of eleven (11) personnel
- The afternoon shift would consist of seven (7) to eight (8) staff
- The night staff would consist of five (5) personnel and would park in front
- Submitted traffic study indicated the facility would have no appreciable impact on the Okemos Road traffic
- Homes surrounding other Eby projects continue to increase in value
- Site is eight (8) feet lower than other parcels in the surrounding neighborhood with a double row of screen around the perimeter of the property
- View of Bickford Cottage provided from eight (8) different locations surrounding the perimeter of the property
- Poll of four (4) of the current Eby facilities revealed an average of approximately one ambulance call per month
- Development of this land as a single family residential project would also require a detention pond
- Approximately sixty five percent (65%) of the Eby projects adjoin or abut single family residential

Don Hodney, 3621 Breezy Point Drive, Okemos and owner of the property, provided pictures of other detention basins within Meridian Township.

PLANNING COMMISSION REPRESENTATIVE

Commissioner Wolfe generalized why the Planning Commission believed this SUP was a good use:

- Obligation as a Township to provides all types of housing in the community for its aging population
- Location is along a main thoroughfare with public transportation
- Only access to this property is from Okemos Road
- This facility will provide less traffic than other projects which could be built on the property
- Extra screening protects the neighborhood

PUBLIC

- David Held, 3833 New Salem Avenue, Okemos, expressed concern with previous Planning Commission denial of a doctor's office as "too commercialized" and now proposes a more extensive use. He also spoke to the geology of the land, expressing concern over the kitchen vents at the same level as his bedroom window.
- Jean Zwier, 3840 Binghampton Drive, Okemos, expressed concern over the ability of her children to continue biking down Okemos Road, especially with another entrance. She felt depreciation at the front of Briarwood subdivision could trickle down to the rest of the neighborhood.
- Gus Breymann, 2176 Donovan Place, Okemos, stated good policy is the result of the greatest good for the greatest number of people. He did not feel the Planning Commission showed that the nine (9) review criteria have been met for the proposed use of the subject property.

APPELLANTS' REBUTTAL

Patricia Johnson stated the side of the development which abuts her home is not screened and it would take years for the screen to fill in. She stated the parking lot will be fifty (50) feet from her property line.

Lynne Page voiced support for Ms. Johnson's concern as her property is the most affected parcel in Briarwood.

APPLICANT'S REBUTTAL

Mr. Eby corrected an earlier statement from the public about the number of units and the size of the land for

the Peoria, Illinois site. He noted that a condition contained in the staff memorandum stated SUP approval was contingent upon receipt of a license.

PLANNING COMMISSION REBUTTAL

Planning Commission Chair Lynn Ochberg assured the Board that despite public comment to the contrary, the Planning Commission carefully considered each review criteria. Lacking clear evidence that the criteria has not been met and having clear evidence the criteria has been met is what dictates the decision made for the SUP.

Supervisor McGillicuddy closed the public hearing at 7:40 P.M.

[Supervisor McGillicuddy recessed the meeting at 7:41 P.M.]

[Supervisor McGillicuddy reconvened the meeting at 7:53 P.M.]

- B. Mixed Use Planned Unit Development #05024 (Russell), request for a mixed use PUD containing 5,000 sq. ft. of non-residential space and twelve residential units on .75 acre site located in the Village of Okemos

Supervisor McGillicuddy opened the public hearing at 7:54 P.M
Director Kieselbach summarized the proposed mixed use PUD as outlined in staff memorandum dated April 14, 2005.

Supervisor McGillicuddy closed the public hearing at 8:00 P.M.

10. ACTION ITEMS/ENDS

Supervisor McGillicuddy opened and closed public comment.

- A. Transfer of Property to Land Preservation

Clerk Helmbrecht moved [and read into the record] NOW THEREFORE BE IT RESOLVED THE TOWNSHIP BOARD OF THE CHARTER TOWNSHIP OF MERIDIAN hereby approves the acceptance of the following five parcels into the Land Preservation Program with the amounts expended from the Township's General Fund to acquire these parcels being reimbursed by the Land Acquisition Fund:

33-02-02-06-251-026	\$300.00
33-02-02-06-251-034	\$670.11
33-02-02-28-306-024	\$2,899.30
33-02-02-28-326-033	\$1,748.02
33-02-02-28-326-037	\$2,302.87
	\$7,920.30

Seconded by Trustee Brixie.

Board members discussed the following:

- All parcels up for tax sale are located near already purchased land through the Land Preservation Fund
- Two parcels in the Towar area
- Three parcels in the Sower Boulevard area
- Some of the parcels were part of the Okemos Square PUD
- Question of whether the PUD has been violated because the open space has not been maintained
- Property already owned by the Township
- Approval would allow an inter-fund transfer from Township ownership to the Land Preservation

- Park Commission awareness of the parcels
- Good addition to prevent fractured open space problem within the Township
- Establishment of a sanction for failure to conform with a PUD that would involve money to purchase open space as opposed to a fine
- Township put in a position to protect open space already protected
- Not all of the parcels were part of the PUD
- Regardless of ownership, the PUD governs use of the land unless amended through the proper process
- Potential to require open space to be deeded to the Township at the time of PUD approval to ensure it remained open space

Prevention of open space sale: (Questions for the Attorney (See Agenda Item #8))

Q. How can we prevent in the future any properties within a planned unit development going up for sale?

A. The first step is to pay close attention to when properties are up for tax sale and, at that point, try to compel the associations to conform to the requirements that were imposed on them when the planned unit development was actually accepted.

One of the difficulties is, as Trustee Brixie has alluded to, the barn door is open, the horse is already out, somebody else now owns this property and you don't have an accountable entity, like a homeowners association, you can go to and say, "Wait a minute. You violated a condition of the PUD." So, it would require us to maybe be aware as these key things come up for tax sale that you may want to take action at that time.

Q. Is there any way when we approve a PUD to make it irrevocable, so they cannot sell it off?

A. The problem is it's not really their sale in the conventional sense. They simply stop paying taxes. The state takes care of the sale.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

B. Resolution Approving Installment Purchase of Real Property and Section 9 Review

[Clerk Helmbrecht left the room at 8:15 P.M.]

Treasurer Hunting moved approval of:

- 1. the attached "Resolution Approving Installment Purchase of Real Property" and**
- 2. forwarding the proposed acquisition to the Planning Commission at its first possible meeting opportunity, per Section 9 of the Municipal Planning Act (MCL 125.39), for its review and approval of the location, character and extent of the parcel for public purposes.**

Seconded by Trustee Brixie.

Board members discussed the following:

- "Second chance" to preserve a centrally located greenspace in the Township
- Outstanding negotiated arrangement for the purchase price and payment schedule
- Sensitive piece of property in a prime location within the core of the Township

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Treasurer Hunting

NAYS: None
Motion carried 6-0.

[Clerk Helmbrecht re-entered the room at 8:20 P.M.]

- C. Amendment to Retainer Agreement for Township Attorney
Trustee Woiwode moved approval of amending the legal services agreement with the Hubbard Law Firm to reflect a change in services and a monthly retainer of \$11,000 and authorize Township officials to sign the revised legal services agreement. Seconded by Trustee Brixie.

Board members discussed the following:

- Obligation to obtain a RFP on this change in order to follow procedure
- Significant savings four years ago when Township went with the services of Hubbard Fox

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Woiwode, Supervisor
McGillicuddy, Treasurer Hunting
NAYS: Trustee Veenstra
Motion carried 6-1.

- D. Prosecution Services

Trustee Veenstra moved the Township accept the proposal from Bodwin & Fuzak P.C. to provide prosecution services and authorize Township officials to sign a retainer agreement for prosecution of Uniform Traffic Code and other specified ordinances. Seconded by Treasurer Hunting.

Board members discussed the following:

- New legal firm for approximately one-half of the Township's legal work

Manager Richards added that the retention of Bodwin & Fuzak is for the prosecution of Uniform Traffic Code offenses in District Court (OUI, speeding tickets, and appearance tickets for civil infractions of ordinance violations for nuisances and housing). He clarified this represents significantly less than half of Township attorney fees.

The maker offered the following amendment:

- **Delete the letter "s" from the word "ordinances" and add the word "violations" immediately after**

The amendment was accepted by the seconder.

ROLL CALL VOTE: YEAS: Trustees Brixie, Such, Veenstra, Woiwode, Supervisor
McGillicuddy, Clerk Helmbrecht, Treasurer Hunting
NAYS: None
Motion carried unanimously.

11. DISCUSSION ITEMS/ENDS

Supervisor McGillicuddy opened public comment.

Helen Ramsey, 2236 Tamarack Drive, Okemos, spoke to the issue of the detention pond on the assisted living facility site as a breeding ground for mosquitoes which could carry the West Nile virus.

Supervisor McGillicuddy closed public comment.

- A. Appeal of SUP #05011 (Eby), request to construct a 46-unit (25,400 sq. ft.) assisted living facility on a RA (Single Family-Medium Density) zoned, 3.1 acre site located on Okemos Road south of 3836 Okemos Road and north of Tamarack Drive

Board members discussed the following:

- Explanation of the appeal process for public benefit

Supervisor McGillicuddy asked legal counsel to talk about use.

ATTORNEY COMMENT: Trustee Brixie makes an excellent point. The function of the Board with regard to this SUP is as an appellate tribunal. In that capacity, what you are doing is looking at the record that was developed below at the Planning Commission level. Now, what the Township Zoning Act, and there has been some reference to the Township Zoning Act, requires is that if you are going to impose conditions on land and land usage, you have to articulate what standards you're going to be using to impose those conditions. And, you must follow those standards. Now, the Township has done that in its ordinances. It has done that in Section 86-126, the review criteria for SUPs. Those are the same criteria that were applied by the Planning Commission when it made its decision.

In addition, there has been reference to the other criteria that applied to nonresidential uses in residential districts, and that is 86-654. So, there are the criteria. Now, what this Board is to do is to see whether there is substantial material and competent evidence to support the decision that was reached below.

I think there has been some confusion tonight about relative burdens of proof and burdens of persuasion. I wanted to address that for just a moment. When an applicant files for a special use permit, it is that applicant's burden, at the Planning Commission level in this case, to persuade the Planning Commission that they satisfy the criteria. If the Planning Commission then is persuaded as they apparently were in this case, and approves the SUP, on appeal it is the appellant's burden to show that that decision was wrong. That burden is limited to information contained in the record. So, while we might want to, or there might be a temptation to, retry this case (to use a lawyer term) on appeal, that's not we're about. We're about reviewing the record that was developed below by the Planning Commission. I hope that clarifies the function the Board is about here tonight. If you have any questions, I will be happy to answer those.

Continued Board discussion:

- Use of the phrase "other similar institutions" within the staff memorandum
- Staff did not list all of the types of land uses allowable by special use permit as a non-residential use in a residential district, just those listed under the human care section

Types of land uses allowed by special use permit: (Questions for the Attorney (See Agenda Item #8))

- Q. I am a little concerned about something that is potentially opened ended. Perhaps it would be helpful to be fully brief by that staff on that set of issues because I think that is one that I want to be make sure I am clear on, how we can say, "This kind of use is sort of like those kind of uses and, therefore, should be allowed in this area?" I am looking at the concern about sort of a rolling precedent that expands the intention of the SUP ordinance inadvertently.
- A. As Mark has already said, what you have is a listing under the general category of institutions for human care. We have the listing, for example, of homes for the aged and there has been some argument as to, "Well, it's not precisely stated there; is it really intended to be included?" I am not suggesting it is necessary, but one option available to the Board on appeal is to send this to the ZBA for determination and interpretation as to whether our ordinance permits this kind of use under the category of institutions for human care.

Again, I'm just pointing out that the option is available as one of the options you have on appeal. It would be the Board's call as to whether this would be appropriate.

Continued Board discussion:

- Planning Commission conditioned approval of the SUP on the fact that the applicant stated they would receive a state license called "a home for the aged"

- Units do not have “kitchen facilities” as defined by ordinance
- SUP is granted for the land, not the individual owner
- Property is not zoned for apartments and could not be used for apartments without amendment or a request to rezone

ATTORNEY COMMENT: If I could add to that, again, one of the options that’s available to this Board is to affirm with modifications. I resorted back to the language from the Planning Commission where it requires the applicant to obtain all necessary permits, licenses, etc. Perhaps what the Board would want to consider in response to Trustee Woiwode’s concerns is “shall obtain and maintain all necessary permits....” So in the first instance, you’ve got it, but we want to make sure it is very clear in the SUP that it is always maintained. If the license is forfeited, lost or revoked, then we know they’ve violated a condition. It may already be implicit in there, but what I’m suggesting is that modification may make it very clear.

Continued Board discussion:

- Potential opportunities for additional conditions not previously included; i.e., lack of current screening on the north side of the property
- Staff decisions appealable if a resident felt the condition was inadequate
- Concern that the detention basin remains in light of expressed resident concern with West Nile virus
- Possibility of parking lot lights being placed on a timer, except one light in front for night-time staff
- Amend conditions to specify time of trash pickup during the day and direction of lights
- Planning Commission and the Board rejected previous developments for this site
- Planning Commission followed the review criteria for this project
- Definite need for somewhere for our aging community to live
- Possibility of placing the dumpster in the lower northwest corner
- Detention basin would be approximately three (3) to four (4) feet deep
- Appreciation for the three-sided brick structure with gate surrounding the dumpster
- Ordinance enforcement regarding the smell of cooking odors
- Five (5) years for screening to fully develop is too long
- Number of parking spaces exceed ordinance requirement

The consensus of the Board was to instruct staff to prepare a motion on the appeal and place this item on for action at the May 5, 2005 meeting. Staff is directed to provide additional conditions as discussed by the Board.

- B. Mixed Use Planned Unit Development #05024 (Russell), request for a mixed use PUD containing 5,000 sq. ft. of non-residential space and twelve residential units on .75 acre site located in the Village of Okemos

John Russell gave a brief history of the property to date. He spoke to Planning Commission approval of this development. He has had dialog with the bank for a shared parking agreement, but no written agreement as of yet. He also felt 40 parking spots were adequate, and reminded the Board they have the authority to waive the parking requirement of 49 spaces.

Board members discussed the following:

- Possible addition of balconies for the apartments which front Okemos Road
- Possible increase in outdoor seating for a gathering space
- Very shaded area where green roof is located on the north side
- Selection of appropriate native ground cover which thrive in shade
- Grey water recycling system limited to the four (4) town homes
- Grey water recycling design with appropriate filter to prevent polluting the Red Cedar River
- Corrected plans reflect materials to be used
- Types of trash receptacles which would be more consistent with the historical nature of the downtown area

- Enhance amenities to more appropriately reflect the “flavor” of the downtown area
- Discussion by the Economic Development Corporation for creation of a Downtown Development Authority (DDA) which would require standards to be set for the area
- Appreciation to the developer to try some new amenities
- Adoption of a standard should be within a “family” of choices
- Upgrade to a modern bike rack
- Linkage of the parking lot with office building on the corner of Clinton and Okemos Roads would result in loss of parking spaces for both parcels
- Existing spruce trees on the common lot line should remain
- Possible Native American theme for the public art to recognize the heritage of the Okemos name
- Brick walkways as a nice amenity
- Timing for development of standards for amenities
- Developer will begin with construction of the town homes first
- Landscaping for perimeter of the parking lot on the north end
- Possibility of off-site parking agreement with the bank
- Applicant has made a formal request to the Township for parking arrangements at the Meridian Activity Center across the street
- Parking use for the office and retail space will be opposite the peak times for the town homes and apartments
- Board should not hold up this project for lack of a few parking spaces
- Staff to pursue feasibility of increasing accessibility to the Red Cedar River at Moore and Clinton Streets through a series of steps

It was the consensus of the Board to set this item on for action at the May 5, 2005 Board meeting.

C. Master Plan

Planning Chair Lynn Ochberg gave a brief history of Planning Commission work on the BL-69 corridor section of the Future Land Use Map. She pointed to the last sentence in the second to last paragraph on page 69 of the Master Plan. The Planning Commission had requested the sentence be removed and it was inadvertently left in the Plan.

Board members discussed the following:

- Industrial designation in the northeast corner of this quadrant in the Township
- Land nearby in Bath Township and Clinton County is industrial and commercial
- Residential designation on BL-69 not realistic
- Residential projects use BL-69 as their back yard (e.g., Sierra Ridge)
- Ensure that the bigger picture is considered, including Lansing and East Lansing
- Regional efforts to reduce the movement of office space from the downtown Lansing area
- Type of feedback from neighboring communities, Planning Commission review of neighboring plans and measure of conformance with a more regional approach
- Request to Michigan Department of Transportation (MDOT) to consider installation of a pedestrian crossing near Newton Road where the Township’s greenspace plan crosses BL-69
- Concern over the Sumbal property along BL-69

The consensus of the Board was to place this item on for action at the May 5, 2005 Board meeting with the deletion noted by Planning Commission Chair Ochberg.

D. Procedure for Amending Pathway Map

Director Severy summarized the procedure for amending the pathway map. He noted that suggestions for pathway revisions are not received on a regular basis and suggested a process to allow ample notification to the citizens impacted by the proposed amendments.

Board members and staff discussed the following:

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- A single resident request not valid for Board consideration
- Suggestion to review the pathway master plan on a two (2) or three (3) year cycle by holding an informational hearing during September for citizen nomination which would be taken up by the Board the month thereafter
- Possible use of the Meridian Monitor to increase public awareness of the plan on a regular basis
- Concern that the items which led to the proposed amendments would repeatedly resurface
- Have staff monitor the requests and bring to the Board when action would be appropriate
- Staff bring to the Board upon a preponderance of requests and/or every three years at an appropriate time in order to not discuss the building of pathways in that construction year and the Master Plan in the same time frame
- “Competitive” process for pathway placement on the Master Plan
- Taxpayers have voted on three (3) occasions to build pathways
- Variety of ways in which proposed amendments come to light
- Current procedure in which recommendation for proposed amendments come from the staff
- Experience with the petition process shows that opposition to the proposed amendments comes from the residents whose property is affected
- Master Plan as a long-range plan
- Construction of the current Master Plan would take ten (10) years to complete

The consensus of the Board was to look at the Master Plan as a long-range plan and direct staff to alert the Board when there is development pressure in order for the Board to make a decision on whether to hold a walk-through with residents who live in the area.

12. PUBLIC REMARKS

Supervisor McGillicuddy opened and closed Public Remarks.

13. ADJOURNMENT

Supervisor McGillicuddy adjourned the meeting at 10:48 P.M.

SUSAN MCGILLICUDDY
TOWNSHIP SUPERVISOR

MARY M. G. HELMBRECHT
TOWNSHIP CLERK

Sandra K. Otto, Secretary