

**MINUTES
HOPKINS TOWNSHIP PLANNING COMMISSION
OCTOBER 27, 2009**

A meeting of the Hopkins Township Planning Commission was held on October, 27, 2009, beginning at 7:00 p.m. at the Hopkins Township Hall.

1. CALL TO ORDER AND ROLL CALL

The Chairperson called the meeting to order at 7:02 p.m. and led the Planning Commission and attendees in the Pledge of Allegiance.

The Chairperson called the roll.

Members present: Chairperson Lori Castello; Tad Heft, Robert Hoffmaster, Chuck Wamhoff, Michael Timmer

Members Absent: Fred Morely, Lee Murray

Also present were Township Attorney Catherine Kaufman; Township Zoning Administrator Kirk Scharphorn, Jr.; and approximately 30 interested persons. (see sign-in page attached in original minutes in PC book)

2. APPROVAL OF MINUTES: 10/6/09 PLANNING COMMISSION MEETING

The draft minutes of the October 6, 2009 meeting were unanimously approved as submitted, following a motion by Commissioner Hoffmaster and support by Commissioner Heft.

3. PUBLIC COMMENT: Chairperson Castello asked if there was anyone wishing to make a public comment on any general matter. No public comment was offered concerning non-public hearing items.

4. PUBLIC HEARING – CONDITIONAL REZONING REQUEST

Applicant: Nelson Lynn “Lynny” Zandbergen, Jr.

Address: Unaddressed

Property: Portion of the northwest corner of the intersection of 12th Street and 126th Avenue within the Township.

Parcel No.: 0310-025-012-00

Request: Rezone 7.65-acre parcel from AG – “Agricultural” to C-2 “General Business” with conditions in order to permit continued operation of a cattle hauling trailer washing facility within the already constructed 72’ x 180’ pole building.

Chairperson Castello introduced the first item of business on the agenda, which was the request of Nelson Lynn “Lynny” Zandbergen, Jr. to conditionally rezone a 7.65 acre portion of his 40-acre parcel located at the northwest corner of the intersection of 12th Street and 126th Avenue within the Township from the existing AG “Agricultural” zoning district classification to the C-2 “General Business” zoning district classification with conditions proposed by the applicant, in order to permit the continued operation of a trailer washing facility for 3rd parties within the existing 72’ x 180’ pole building.

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Chairperson Castello introduced Mr. Zandbergen (applicant), the applicant's attorney Mr. McKown, Township Attorney Catherine Kaufman and Kirk Scharphorn, Jr., Zoning Administrator.

Mr. Scharphorn presented the history relating to Mr. Zandbergen's conditional zoning request, including:

- Mr. Zandbergen's parcel is 40 acres in size;
- Mr. Zandbergen applied for a conditional rezoning of approximately 7.6 acres from agricultural, to C-2, with conditions. The remaining 33 acres +/- would remain zoned Agricultural;
- The existing building on the property is located on the area of the parcel proposed for rezoning to C-2, with conditions;
- The applicant's reason for the conditional rezoning request is to allow a trailer washing facility serving third parties to wash livestock trailers;
- Trailer or truck washing facilities are currently not permitted in the Agricultural zoning district;
- A rezoning applicant does not have to offer conditions with a rezoning application.

Mr. Zandbergen's attorney, Steve McKown, presented the applicant's case for conditional rezoning to C-2. Mr. McKown distributed an amended conditional zoning application to the Planning Commission. Mr. McKown noted that a survey showed that the original area proposed for conditional zoning to C-2 ran very close to the north side of the existing building, as well as ran through the middle of the manure bunker constructed on site. Therefore, Mr. Zandbergen has revised his conditional rezoning application to increase the proposed area for rezoning, to include in the manure bunker. As a result of this revision, Mr. Zandbergen submitted an amended conditional rezoning application to C-2, for 8.35 acres. The remaining 31 acres +/- would remain zoned Agricultural. Mr. McKown advised that the change of the area size for rezoning is the only change to the conditional rezoning application.

Mr. McKown told the Planning Commission that the Township initiated enforcement proceedings against Mr. Zandbergen and that the matter is currently pending in Circuit Court. Mr. Zandbergen's position is that his trailer wash is an agricultural use and that he received a permit from the Township's Zoning Administrator. Mr. McKown said that while his client feels he is in the right, he wants to try and comply with the Township's objections. Therefore, he has submitted a conditional zoning request in an attempt to comply with Township regulations and continue the trailer wash operations, as he has been doing for the last 2 ½ years.

Mr. McKown referred the Planning Commission to page 4 of the conditional zoning application and noted that for the last 2 ½ years, Mr. Zandbergen has been using his property (and the building located thereon) to

- store and feed cattle
- store seed, fertilizer
- store hay and crops
- store farm related equipment
- small repair facility
- small office with bathroom
- wash bays

Mr. McKown told the Planning Commission that it is the Township's position that Mr. Zandbergen may wash his own livestock trailers on his Agricultural zoned property, but that he may not wash the

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livestock trailers of third parties for a fee. Mr. McKown also said that Mr. Zandbergen also stores solid and liquid manure byproduct on site, and later uses it on his fields.

Mr. McKown advised the Planning Commission that Mr. Zandbergen is not proposing to do any use permitted in C-2, but instead is limiting his proposed uses to those contained in his conditional rezoning application. In addition, Mr. Zandbergen will not wash out trailers on Sundays, asks for a waiver of the site plan requirement and asks that the conditional rezoning be of permanent duration. Mr. McKown also advised the Planning Commission that he had a copy of the zoning compliance permit and Mr. Zandbergen's deeds, if the Planning Commission wanted to review the documents.

Mr. McKown said that the Township's position regarding Mr. Zandbergen's trailer wash was that such use would be permitted in an Industrial zoning district. Mr. McKown notes, instead, that C-2 allows vehicle repairs, car wash, warehousing and storage and other retail or service uses determined to be similar in nature by the Planning Commission. Mr. McKown said that if the Planning Commission decides to recommend approval of a conditional rezone to C-2, the Planning Commission must also make a finding that Zandbergen's proposed trailer wash (serving third parties) is of the same character as other uses permitted in the C-2 zoning district. Mr. McKown read dictionary definitions to the Planning Commission for the terms car and auto, noting that here Mr. Zandbergen is washing livestock trailers. Mr. McKown also stated that Mr. Zandbergen's trailer wash service is not a commercial truck wash, as Mr. Zandbergen does not use soap, does not wash the exterior of the truck or trailer and only wash the interior of the trailers. Mr. McKown noted that Mr. Zandbergen then uses the manure byproduct (liquid and solid) to spray on his fields (and sometimes fields of others). Mr. McKown said that Mr. Zandbergen's use of the building was synergistic, as he stored animals and crops, washed out trailers, used the manure byproduct on his fields. Mr. McKown said that when Mr. Zandbergen purchased the property in 2006, he tore down an old house on the property and had to work hard to bring the land into agricultural production.

Mr. McKown stated that it was his opinion that the proposed C-2 zoning, with conditions, was closer to the Township Master Plan's agricultural land use (for Mr. Zandbergen's property). Also, Mr. McKown said that C-2 zoning was much closer to Agricultural zoning than Industrial zoning and would fit all the uses that Mr. Zandbergen is doing on site now. Mr. McKown felt that the proposed C-2 zoning, with conditions, would provide protection for both the neighbors and the Township. Mr. McKown also noted that there are no other trailer washing facilities in the area and that this is a valuable service to the agricultural community.

Mr. McKown submitted to the Planning Commission a list of comments regarding Mr. Zandbergen's facility and his operation of same, from several facility users. Mr. McKown reiterated that Mr. Zandbergen's trailer wash service was of great benefit to the agricultural community in Hopkins Township.

Township Attorney Catherine Kaufman outlined for the Planning Commission the conditional rezoning process and advised the Planning Commission regarding their options for action on Mr. Zandbergen's conditional zoning application.

Chairperson Castello opened the public hearing at 7:15 p.m.

Brad Baskerville said that he lives five houses down the road from Mr. Zandbergen's property, on 126th Street. This is the first time he had heard about Mr. Zandbergen's trailer wash business. He asked if there were limits on the number of trailers washed per day; if the trailer wash was open 24 hours per day; if maintenance was done on trucks at the facility; and if there were any expansion

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plans for the business.

Mr. Zandbergen replied that the number of trucks served per day was limited by the number of truck bays (2). That the truckers back in their trucks, the trailers are washed out and the truckers leave.

Mr. Baskerville said that his property is clay ground and that he imagines Mr. Zandbergen's is, too. He asked if the manure stored on site would run downstream, or was it contained on site. He also asked what would happen if Mr. Zandbergen sold the property that is currently for sale. Would there be enough remaining land to accommodate the manure storage requirements?

Chairperson Castello advised the audience to address comments to the Planning Commission, through the Chair and that the Planning Commission would respond to each question.

Mr. Baskerville said that the ground in the area does not perc, so where will all the manure waste be maintained? He also asked if the conditional rezoning was granted, and Mr. Zandbergen sold his property, could a different commercial use locate in the building.

Mr. Ron Holzer, 2428 12th Street, addressed the Commission. Mr. Holzer said he lives one mile from Mr. Zandbergen's property and he is not bothered by the trucks going by his property.

Jason Joostberns said that he uses Mr. Zandbergen's facility to wash out his trailer. He said that Mr. Zandbergen's property is well maintained and is not an eyesore. He noted that the other nearest such facility is 3 ½ hours away.

Carrie Huston, of McBain Michigan spoke. Ms. Huston said that it is important to have a place to wash out livestock trailers. She said that Mr. Zandbergen is required to comply with MDA, MDOT and other state regulations. She said Mr. Zandbergen provides very good service, which is of great benefit to the community.

Bob Arendsen spoke. He told the Planning Commission that he is in the meat business and has become aware of the need to keep livestock trailers clean. He noted that biohazards are becoming increasingly important and that violation of such regulations can shut down a plant. When transporting cattle, trailers need to be washed out. Mr. Zandbergen is providing a valuable service to the meat industry and to farmers. He noted that in his business experience, he has seen that in both Tennessee and Oklahoma, agricultural regulations are encouraging more frequent washing of livestock trailers. The meat plants do not have the facilities or time to clean the trailers and Mr. Zandbergen is providing a very valuable service.

John Gates, of Dorr Township, addressed the Commission. Mr. Gates stated that he was the former Orangeville Township Supervisor, former Barry County Planning Director and involved with the Gun Lake Sewer and Water Authority. Mr. Gates said he has visited Mr. Zandbergen's facility and that the community should be thankful to Mr. Zandbergen for the way he runs his trailer wash. Mr. Zandbergen's manure is properly taken care of, dried, spread. Mr. Gates also said that Agricultural zoning relates to the production of food and fiber and that in his opinion, the transport of cattle is the production of food.

Jim Brenner spoke. Mr. Brenner said there is nowhere else to get this service and that many local residents use Mr. Zandbergen's facility. Mr. Brenner also said that Mr. Zandbergen employs local people.

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Gerald Arnsman addressed the Commission. He stated that the noise from trucks going to Mr. Zandbergen's property is not an issue. He asked if Mr. Zandbergen could receive a special use permit to allow his trailer wash, with the condition that if he sells his property the zoning would revert back to agricultural.

Kal Schanz spoke in support of having a place to dispose of waste. He noted that Mr. Zandbergen's property was located on the edge of the Township, was well run and was a nice place. He was thankful to have Mr. Zandbergen as a neighbor.

Tom Tuinstra spoke. He agreed with all the previous comments. He said he lives 1 ½ miles away from the Zandbergen property and feels like it is a poor time to kick a well run business out of the Township.

Kevin VanderPloeg spoke. He said his property is just north of the site. The noise is not a problem and the business is well run.

Hearing no more comments, Chairperson Castello closed the public hearing at 7:30 p.m.

Chairperson Castello asked the Planning Commission for comments or questions on Mr. Zandbergen's conditional zoning request.

Commissioner Hoffmaster asked if Mr. Zandbergen had a manure management plan and, if so, was he in compliance with all State regulations.

Mr. McKown responded that Mr. Zandbergen installed a cement lined manure tank. He also said that Mr. Zandbergen was in compliance with all GAAMPs regarding manure management. Mr. McKown also said that Mr. Zandbergen had no issue with the DEQ and the stream located on his property.

Commissioner Hoffmaster asked if Mr. Zandbergen had a plan for distributing manure on his fields and those nearby.

Mr. McKown said that Mr. Zandbergen follows the GAAMPs.

Commissioner Heft asked how large the tank was on Mr. Zandbergen's property and how much manure an average truck carried.

Mr. Zandbergen said it was a 200,000 gallon tank and that each truck produces about 9,000 gallons of manure waste. Mr. Zandbergen said that 93% of each load is water. He said that he piles the solid manure waste up in the building and moves the liquid waste outside. Mr. Zandbergen said that he had learned how to best operate this system as he went along.

Chairperson Castello asked Mr. Zandbergen how many employees he had and what his hours of operation were.

Mr. Zandbergen said he had three employees and that he did not operate on Sunday. However, his building was open on Sunday, so if someone wanted to wash out their own trailer on Sunday, they could do so. He said that his typical hours of operation were 8:30 a.m. to 5:00 p.m. or 5:30 p.m.. He also said that he would be willing to stay open later if a customer needed to have his trailer washed out after those hours.

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Chairperson Castello noted that livestock transport appears to be a 24 hour business. She asked Mr. Zandbergen if someone arrived at his site in the middle of the night, could they park their truck on his property all night, until the trailer wash opened for business?

Mr. Zandbergen noted that semi trucks are parked everywhere and he would prefer to allow a truck driver to park on his site and sleep there, rather than have them drive when they are tired.

Mr. Scharphorn asked if Mr. Zandbergen allowed truck drivers to sleep inside the building, or only in their trucks.

Mr. Zandbergen said he does not allow anyone to sleep inside the building.

Chairperson Castello asked if there was a bathroom and shower inside the building and if Mr. Zandbergen allowed the truck drivers to use such facilities.

Mr. Zandbergen said that there was a bathroom and shower inside the building. In the past, he had allowed truck drivers to use the bathroom and shower, but now he does not. He would like to offer these facilities to the truck drivers.

Chairperson Castello asked if he had an adequate septic on site to accommodate the trailer wash use, including the drivers who spent time on site. She asked if he had all required approvals and permits.

Mr. Zandbergen said that he did.

Commissioner Hoffmaster asked Mr. Zandbergen what percentage of his own trucks did he wash at the building and did he raise any cattle.

Mr. Zandbergen said that he buys and sells cattle; he works as an order buyer. 20% of the cattle are his own; the rest are customer based.

Chairperson Castello asked if he would provide repair services on site.

Mr. Zandbergen said that he does not repair trucks. Even for his own trucks, he sends them out for repair. He said that in some cases, he might repair his own trucks on site.

Chairperson Castello asked if the trucks coming to his trailer wash use the paved road (12th Street) or the dirt road (126th) for access.

Mr. Zandbergen said most use 12th Street. Only about 1 out of 25 come down the dirt road.

Chairperson Castello asked if he encouraged trucks to use 12th Street to access his facility.

Mr. Zandbergen said that he did.

Chairperson Castello asked how many trucks did he typically get per day at the trailer wash?

Mr. Zandbergen said, on average, he gets 8 – 9 trucks per day. He said in the winter he gets more, because it is harder to clean out the solid manure in the winter. In the winter he might get 10 – 12

trucks per day.

Mr. McKown noted that Mr. Zandbergen's facility has 2 washout bays.

Mr. Scharphorn asked what is the maximum number of trucks that would fit onto the property at one time?

Mr. Zandbergen said that 16 – 17 trucks could fit onto the driveway alone.

Chairperson Castello said that in general Mr. Zandbergen said his hours of operation were 8:30 a.m. to 5:00 p.m. plus or minus. She asked if a trucker arrived at 3:30 a.m., would he/she be able to wash out their trailer themselves (i.e., self serve)?

Mr. Zandbergen said yes, that people who know what they are doing would be able to wash out their trailer on their own, self serve.

Chairperson Castello asked would Mr. Zandbergen charge a fee for self service?

Mr. Zandbergen said that he would.

Chairperson Castello asked if a trucker could wash out their truck on their own (self serve) on Sunday.

Mr. Zandbergen said that a trucker could wash out their own trailer on a Sunday. He said that he has historically only had one person who washes out his trailer on a Sunday. Sunday service would be self serve.

Chairperson Castello then asked the Planning Commission for comments on Mr. Zandbergen's proposed condition that the site plan requirement for a commercial business be waived, as his building has already been constructed. Chairperson Castello said that it was her opinion that a site plan was required, as the Township needs to know how the building is laid out, if there is adequate parking on site and if all Township requirements for a commercial structure and business have been satisfied.

Commissioner Heft agreed with Chairperson Castello, that if this is a commercial business, a site plan should be required.

Commissioner Wamhoff said that all commercial properties require site plan approval.

Chairperson Castello said that a site plan would let the Planning Commission and Township know what will work on the site.

Chairperson Castello then referred to a memo from Allegan County, regarding issues for consideration when the Planning Commission is reviewing a rezoning request.

Chairperson Castello first asked the Commission to consider if the proposed rezoning fit, ie., would all permitted uses in the proposed zoning district be appropriate for the location. Chairperson Castello noted that this review standard is not entirely applicable, as Mr. Zandbergen's conditional rezoning request limited his proposed use to trailer wash and would not allow all uses permitted in C-2 zoning district. She asked the Commission for their comments.

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Commissioner Timmer noted that Mr. Zandbergen's business was working as running. He asked that if the Planning Commission recommended approval on Mr. Zandbergen's request, did it act as a precedent for other conditional zoning requests in the future.

Chairperson Castello said that a conditional zoning approval was not precedential. She discussed a recent conditional zoning request that the Planning Commission considered, regarding a non conforming tavern. She said in that case, the conditional zoning approval limited the uses that may be made of an existing non conforming building.

Chairperson Castello asked Mr. Zandbergen who, if anyone, monitored and tests the waste on his site and the waste he spreads on his fields.

Mr. Zandbergen said that no soil sampling has to be done, but that he does sample the soil once a year. He said that he does not have high levels of phos. He noted that the solid manure is best for his fields. He noted that this year he even had to buy fertilizer. He said that DEQ is supposed to monitor his manure applications, but that they do not do so regularly.

Mr. Scharphorn asked if Mr. Zandbergen had to renew his DEQ permit annually.

Mr. Zandbergen said that he did renew his DEQ permit annually. Mr. McKown commented that the annual renewal fee was \$1500.

Mr. Zandbergen said that he usually renews his DEQ permit in March and that the annual cost is \$1500.

Chairperson Castello commented that the current Master Plan land use designation of Mr. Zandbergen's property is Agricultural and that one of the Township's top priorities is the preservation of farmland. However, she also noted that the Planning Commission does not want to deny someone the opportunity to make a living in these hard economic times.

Commissioner Wamhoff said that the Commission realizes that this type of use (livestock trailer wash) is needed in the area, especially given the proximity to Plainwell. However, he said the Planning Commission needs to determine if this is the right location. It is not that the Planning Commission does not want this use in the Township, but instead that the Planning Commission must help determine if it is in the right spot. Commissioner Wamhoff said it was unfortunate that Mr. Zandbergen had not gone through the appropriate Township procedures at the start and that the Planning Commission is now trying to work something out after the fact.

Chairperson Castello commented that the Master Plan does designate Mr. Zandbergen's property as agricultural and it is not located near other commercial uses in Hopkins Twp, although there are some nearby commercial uses in Wayland Township. She noted that the Master Plan also talked about allowing businesses in the Agricultural districts which support agriculture. Chairperson Castello said that she feels Mr. Zandbergen's livestock trailer wash may be such a business.

Commissioner Timmer noted that Mr. Zandbergen's property is located near the US 131 expressway, along a feeder road serving the expressway (12th Street). Mr. Zandbergen's property is at the edge of the Agricultural district and is accessible via a main, paved road. Chairperson Castello commented that the location on a paved road was better for truck traffic.

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Commissioner Hoffmaster said that the livestock trailer wash is a good use in an agricultural area. He commented that Mr. Zandbergen should have been up front with the Township from the start, regarding his intended commercial use of the property.

Chairperson Castello reviewed the existing land use patterns in the vicinity of Mr. Zandbergen's property, finding that there were no general businesses in the area in Hopkins Township, but that there were some commercial businesses nearby in Wayland Township. She asked the Planning Commission to consider whether Mr. Zandbergen's commercial operation of a livestock trailer wash had caused more traffic, caused less traffic or had no effect on the traffic in the area? She also asked had the need for road upkeep and maintenance been affected by Mr. Zandbergen's commercial operation of a livestock trailer wash?

Jason Joostberns commented from the audience that Mr. Zandbergen's trailer wash keeps him from driving through town, as he goes to Lynny's (Mr. Zandbergen) instead.

Another audience comment said that Mr. Zandbergen built his barn to have trucks in there, he always wanted to be commercial. The speaker was surprised that Mr. Zandbergen was having any problem with the Township.

Cora Lee Zandbergen spoke from the audience. She said that she lives across the street from the property at issue. She said that she has not noticed any additional traffic from the semis going to the trailer wash. She also said that she feels safer having the truck drivers sleep across the street at night, because they are nice people.

Chairperson Castello said that the Planning Commission has to work within the parameters of the existing Township regulations. She said that the Township wants to support agriculture and businesses that support agriculture. She said that the Planning Commission is trying to find a way to make this work, within the existing zoning regulations.

Mr. McKown commented that there was a misunderstanding initially. Mr. Zandbergen did not say he was going to wash the trailers of third parties, but it is his belief that Mr. Zandbergen did not have an obligation to do so. This is not a black and white issue. Mr. McKown also opined that he would advise his Township clients differently than the legal advice received by Hopkins Township.

Mr. Scharphorn said that Mr. Zandbergen submitted an application for zoning compliance. A zoning compliance permit only insures that required setbacks are satisfied. A zoning compliance permit is not a building permit. If a building is 100% for agricultural use, it is exempt from building permit requirements by State law. Mr. Scharphorn advised Mr. Zandbergen of these regulations, because he did not want a misunderstanding to occur. There was no reason for Mr. Scharphorn to believe that Mr. Zandbergen was building anything other than a 100% agricultural building.

Chairperson Castello asked Mr. Scharphorn how many zoning compliance applications he generally received for agricultural buildings in Hopkins Township. Mr. Scharphorn said he received about one such application a week. Chairperson Castello noted that while these types of requests are common, they rarely end up in front of the Planning Commission. She said that this is why the Planning Commission is considering text amendments to the Agricultural zoning district, to allow agricultural related businesses in the Agricultural zoning district.

Chairperson Castello made a motion to take a short recess; motion seconded by Hoffmaster. The motion was unanimously approved. The meeting was recessed at 8:10 p.m.

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Chairperson Castello recalled the meeting to order at 8:20 p.m. She noted that the Planning Commission has discussed a proposed text amendment to the Agricultural zoning district, to allow agricultural related businesses. Chairperson Castello said this proposed text amendment has not been adopted and is only in draft form at this point. Some of the possible permitted businesses in the Agricultural District, with special use approval, might include removal of top soil, veterinary clinic, sale of feed and seed, blacksmith, repair of farm machinery and similar uses at the discretion of the Planning Commission. Chairperson Castello said that the Planning Commission had reached a consensus during the Master Plan process that businesses that support agriculture should be allowed in agricultural areas.

Chairperson Castello asked the Commission for their thoughts on tabling Mr. Zandbergen's conditional zoning request while pursuing the proposed agricultural business text amendments.

Mr. Scharphorn asked if the proposed text amendments to the agricultural district would, if adopted, allow Mr. Zandbergen's commercial livestock trailer wash?

Chairperson Castello polled the Commission regarding if they felt that if adopted, the proposed text amendments would permit Mr. Zandbergen to operate a commercial livestock trailer wash, serving third parties (with special use approval), pursuant to the Planning Commission's discretion that such use would be similar in impact to other uses allowed. Commissioners Timmer, Wamhoff and Hoffmaster agreed.

Chairperson Castello opined that the proposed text amendments may be the best approach to Mr. Zandbergen's situation, as well as other proposed agricultural related businesses in the future. She said that special use approval allows the Planning Commission to consider a site plan. The Planning Commission will also be able to consider landscaping and parking issues. Additionally, Mr. Zandbergen would not have to hybridize his uses between commercial and agricultural, as he might if he is conditionally rezoned to C-2.

Commissioner Heft asked about the time frame for text amendment approval.

Mr. McKown said that a text amendment will not resolve the matter pending in court. He said if the Circuit Court finds that Mr. Zandbergen's use is not legal, they will apply to the Court of Appeals or go out of business. He said that getting a text amendment approved would take until May or June of 2010. He said that a text amendment will not resolve Mr. Zandbergen's issues.

Attorney Kaufman advised the Commission that currently Mr. Zandbergen is allowed to operate his business, under an order of the Allegan County Circuit Court. She said that the Planning Commission had the option of approving Mr. Zandbergen's conditional rezoning request, approving the request with revised conditions (if such revisions were acceptable to the applicant), denying the conditional rezoning request or tabling the request, if the Commission needed more time to consider the matter.

Mr. McKown asked that if the Commission tabled that matter, that it do so to a date certain.

Chairperson Castello said that she was not ready to make a decision on the conditional rezoning request. She noted, however, that she was only one member of the 5 present. She felt that she needed to see a site plan to help her understand the nature of the commercial activity ongoing on site. She also said that she felt she needed to have a commitment to proposed hours of operation

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and some type of statement regarding the business operations (such as a business plan). She noted that the Planning Commission's duty was to make the best decisions for the entire Township. She opined that Mr. Zandbergen is already operating his business and the Planning Commission's tabling of his conditional rezoning request will not harm him any further.

Commissioner Wamhoff asked if the proposed text amendments could be adopted by January 2010, in time for Planning Commission's next regularly scheduled meeting?

An audience member asked if the Planning Commission could conditionally rezone Mr. Zandbergen's property to C-2, why couldn't they conditionally rezone it to Agriculture and allow the commercial operation of the livestock trailer wash.

Chairperson Castello advised that the Planning Commission only recommends on rezoning requests, but that the Township cannot approve uses through a conditional rezoning that are not permitted in the proposed zoning district. She also said that the Planning Commission's duty is to the overall Township and they must be cognizant of that duty when considering land development requests.

Terry Lane asked, from the audience, how the Township determined that Mr. Zandbergen's use is not agricultural.

Commissioner Wamhoff said that the Michigan Dept of Agriculture (MDA) and Michigan Dept of Environmental Quality (DEQ) both came to the site and said such operation is not agricultural.

Attorney Kaufman advised that if the Planning Commission wanted to move forward on the proposed text amendments, they could schedule a special meeting to hold a public hearing thereon and make a recommendation. If the Planning Commission held a special meeting, the text amendments could be processed through in approximately 90 days. Attorney Kaufman did caution that during the holiday season, in some cases meetings are cancelled, which could cause an unexpected delay in approval of any text amendments.

Attorney Kaufman also advised that it was her opinion that the notice for the third public hearing that evening (regarding increasing the minimum lot size in the Agricultural district from 20 acres to 40 acres) was insufficient notice regarding the proposed text amendments to allow agricultural related business in the Agricultural district, as special uses. As such, she opined that the Planning Commission would have to do a different notice and hold a public hearing on the proposed text amendments.

Chairperson Castello suggested a special Planning Commission meeting be scheduled for November 17, 2009 at 8 p.m., to consider the proposed text amendments for agricultural related business in the Agricultural zoning district.

Commissioner Heft made a motion to table the Zandbergen conditional zoning request until the next regularly scheduled Planning Commission meeting, which would be January 26, 2010 at 8:00 p.m. at the Township Hall, but to require Mr. Zandbergen to submit a site plan to the Planning Commission for his commercial livestock trailer wash before January 26, 2010. Commissioner Wamhoff seconded the motion. The motion passed unanimously.

Supervisor Mark Evans asked why the conditional zoning request was tabled.

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Chairperson Castello said that the Planning Commission is considering recommending approval of proposed text amendments to the Agricultural zoning district that might resolve Mr. Zandbergen's issue. Additionally, the Planning Commission wants to review a site plan for the commercial livestock trailer wash before making a recommendation to the Township Board on the conditional rezoning application.

Chairperson Castello advised the audience that the Zandbergen conditional rezoning application would be back on the Commission's agenda on January 26, 2010 at 7 p.m. at the Township Hall. She said that all comments made that evening would be included in the Planning Commission's minutes and would be considered by the Planning Commission.

5. PUBLIC HEARINGS – PROPOSED ZONING ORDINANCE TEXT AMENDMENTS
 - a) ADDITION OF NEW RO ZONING DISTRICT; and
 - b) RAISE MINIMUM LOT SIZE IN AGRICULTURAL DISTRICT TO 40 ACRES

Chairperson Castello explained that the Planning Commission was considering the development of a new zoning district (RO), as well as considering raising the minimum lot size in the Agricultural district to 40 acres. Chairperson Castello said that creation of the new RO zone would not rezone anyone's property, but instead would create the district, which a property owner could request rezoning to in the future. Commissioner Wamhoff also stated, for clarification purposes, that the Planning Commission was only considering development of a new zoning district. No rezoning was proposed at this time.

Chairperson Castello opened the public hearings regarding the creation of the RO zoning district (Rural Open) and raising the minimum lot size in the Agricultural zoning district at 8:50 p.m.

Tom Tuinstra asked of what value was the new zoning district, if there was no place to put it.

Chairperson Castello said that the Master Plan did designate appropriate areas for the RO zoning district, but that people will have the option to request rezoning to this district. At this time, any rezonings to RO would be at the property owner's initiative.

Mr. Scharphorn presented the Future Land Use Map from the Master Plan and identified the areas master planned for rural open areas. He noted that these areas were in Sections 5 (part), 6, 7, 8, 17 (part), 18, 33, 34, 35 and 36. He reviewed the future land use categories with the Commission.

Chairperson Castello said the proposed RO zoning district would be like an "Ag Lite." Farming would be allowed (but no feed lots or poultry farms). A twenty acre minimum lot size is proposed. RO zoning would serve as a buffer for the more traditional Agricultural areas. RO would allow for some residential growth, but still preserve farmland. Mr. Scharphorn said that the RO would be similar to the existing R1 zoning (20 acre minimum lot size)

A comment was made from the audience, asking if the Township had considered that it is legislating kids out of the Township, as people cannot afford to buy a 20 acre lot.

Chairperson Castello said that the Planning Commission is charged with finding a balance between preservation of farmland and allowing development. The proposed RO district is only one piece of the puzzle. Development will be encouraged in areas that have infrastructure available, or will likely have it available in the future, as shown on the Master Plan

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Doug Hoffmaster commented that while preserving farmland is important, he is adamantly opposed to increasing minimum lot sizes in the Agricultural district. It will take away our kids' rights to have a house. Now it is allowed to put 4 houses on 80 acres. If you increase the minimum lot size to 40 acres (in Agricultural zoning district) you are taking away 50% of a farmer's 401(k). He is strongly against increase in minimum lot sizes in Agricultural zoning district.

Chairperson Castello thanked the audience for their comments and said that such input is very valuable and welcomed by the Planning Commission.

Lee Vandersyde asked if the Planning Commission was dictating which property would be put in which zoning district or if the new RO zoning would be imposed on a property owner?

Chairperson Castello said that the Planning Commission was only considering the creation of the RO zoning district; they are not proposing any rezoning to RO. Such rezoning would be at the property owner's initiative, if in compliance with the Master Plan.

Chairperson Castello also said that the top goal in the Master Plan is preservation of farmland. The Planning Commission is tasked with figuring out how to achieve that goal. The Planning Commission is not mandating anything. The Commission is appointed to hear opinions and consider all viewpoints.

Gerald Arnsman said that if the main goal is preserving farmland, requiring a 40 acre minimum lot size in Agricultural zoning district would do the opposite, as a person would buy a 40 acre parcel, put a house on it and let the rest of the land remain unfarmed. The Township would actually be losing farmland by requiring larger minimum lot size.

Lynny Zandbergen said that already there are 1 million acres set aside to be held out for farming and that most people who buy the land will not farm it. The land just grows into brush.

Lee Vandersyde said if my neighbors want to encourage farmland preservation, they can buy my land from me.

Bob Arendsen said he was strongly opposed to a 40 acre minimum lot size, as a property owner would need to have 80 acres in order to do one split. He asked who had the money for a 40 acre minimum lot plus the costs of installing a well and septic? Three audience members agreed with Mr. Arendsen.

Tom Tuinstra said farming currently is not profit making. He wondered why the farmers had to bear the cost of farmland preservation.

Commissioner Wamhoff said that all farmers need to make more profits. He said there are too many 20 acre parcels in Hopkins Township with a house on it and the rest of the land is left unfarmed. The Planning Commission (and Township) are trying to make it work, because requiring a 40 acre minimum lot size will make it less likely that someone just looking for a parcel to build a house on will do so in the Agricultural zoning district. In this way, agricultural land will be preserved for farming. He also noted that not all Hopkins Township kids will return to Hopkins Township to live permanently.

Chairperson Castello said that there are reasons behind the Planning Commission's and Township's decisions. We thought it was clear, through the Master Plan process, that farmland preservation is

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important. If we hear, however, that farmland preservation is not a priority anymore, then the zoning regulations can be changed. The availability of infrastructure is an important consideration when locating land uses. 90% of the Township does not have any infrastructure to support growth. So by increasing minimum lot sizes, one thing the Township is doing is bringing its zoning in line with its infrastructure.

Kal Schanz commented that we need farmland preservation and at this time, we are losing larger parcels of farmland. Mr. Schanz lives on 12th Street and he thinks 12th Street should be developed out. He thinks that the Township should zone 12th Street and ½ mile inland (westward) from 12th Street commercial and let it develop out. We need sewer in this area and if we had sewer the Township could take advantage of commercial opportunities arising from new casino.

Chairperson Castello asked for a show of hands, how many people who are taxed as agricultural want to try to preserve farmland and pass it down to their kids? She asked how big did those people think their farm parcels should be?

Lee Vandersyde asked the Planning Commission to consider adopting a maximum parcel size in the Agricultural district (instead of minimum). That way you do not hobble a farmer who invested life into his farmland.

Lynny Zandbergen asked the Planning Commission if they knew how many acres of farmland had been lost to development in recent years.

Bob Arendsen said that landowners should have options to sell their land and should not be locked in.

Mr. Scharphorn gave a recitation of agricultural regulations in neighboring townships:

- Hopkins Township (current) – 20 acre minimum; need 40 acres to split; can split to a 38 acre parcel and a 2 acre parcel
- Dorr Township – 4 splits are allowed forever on parcel; runs with land. Do not get more splits upon sale of property. 1 acre minimum/2 acre maximum
- Monterey Township – 1 split forever
- Wayland Township – Large road frontage requirement (500')
- Salem Township – some smaller parcels, but they must be clustered
- Martin Township – 165' of road frontage

Mr. Scharphorn said that Hopkins Township has more agricultural land than the other townships.

Kal Schanz again noted the importance of getting sewers in Hopkins Township, so as to tie into the casino growth.

Chairperson Castello indicated the areas on the Master Plan designated for mixed use or commercial growth. She said that at this point, sewers would have to be provided by private developers. Commissioner Wamhoff noted that Dorr Township residents are upset about sewer costs.

Chairperson Castello said that the Planning Commission clearly heard the public comments regarding concerns on minimum lot sizes. She said that the Planning Commission must balance all competing interests.

Hearing no more public comments, Chairperson Castello closed the public hearing regarding a proposed text amendment to create an RO zoning district at 9:45 p.m.

Commissioner Wamhoff made a motion to recommend approval to the Township Board of a zoning ordinance text amendment to create the RO (Rural Open) zoning district, with a minimum lot size of 20 acres. Commissioner Timmer seconded the motion. The motion passed unanimously.

Hearing no more public comments, Chairperson Castello closed the public hearing regarding a proposed text amendment to increase the minimum lot size in the Agricultural zoning district to 40 acres at 9:50 p.m.

Chairperson Castello said she would like to table this proposed text amendment, so that the Planning Commission could work further on it. Commissioner Hoffmaster made a motion that the Planning Commission table the proposed text amendment to increase the minimum lot size in the Agricultural zoning district to 40 acres, to allow the Planning Commission to further consider the matter and public comment thereon at a special Planning Commission meeting to be held November 17, 2009 at 8 pm. at the Township Hall. Commissioner Wamhoff seconded the motion. The motion carried unanimously.

6. COMMISSIONERS' COMMENTS:

Chairperson Castello advised the audience that the Planning Commission's work sessions were open to the public. She asked for comments and ideas to assist the Planning Commission. Thereafter, she called for any further public comment.

7. PUBLIC COMMENT:

Gary Timmer said he was a former planning commission member. He recalls that the 20 acre minimum was chosen as a compromise for farmland preservation. The Commission at that time felt that they could not take the minimum lot size in the Agricultural district any larger than 20 acres. They thought 40 acres would be too much.

8. ADJOURNMENT

There being no additional business to come before the Planning Commission, Commissioner Wamhoff made a motion to adjourn the meeting. The motion was seconded by Commissioner Heft. The motion carried unanimously. The meeting was adjourned at 9:56 p.m.

Respectfully Submitted

Lori Castello
Chairperson of the Planning Commission

Date minutes prepared: 10/30/2009

Date minutes approved: _____