

**MINUTES SILVER CREEK TOWNSHIP
PLANNING COMMISSION MEETING HELD ON APRIL 26, 2017**

The Public Hearing was called to order by Chairman Terry Harris at 7:00 p.m. on Wednesday, April 26, 2017. The Pledge of Allegiance to the Flag of the United States of America was recited.

MEMBERS PRESENT: Dave Grabemeyer, John Tidey, Terry Harris, Bill Zuhl, Tim Feirick

OTHERS PRESENT: Attorney John Magyar, Building/Zoning Administrator Todd Herter, Recording Secretary Lindsay Krohne, nine members from the public.

ABSENT: Jerry Donley, Tom Lehrer

APPROVAL OF AGENDA

Dave Grabemeyer motioned, seconded by Tim Feirick, to approve the April 26, 2017 Silver Creek Township Planning Commission Agenda. Motion carried by voice vote.

APPROVAL OF MINUTES

Bill Zuhl motioned, seconded by Dave Grabemeyer, to approve the March 22, 2017 Silver Creek Township Planning Commission meeting minutes. Motion carried by voice vote.

COMMUNICATIONS

Terry Harris read a letter received from Tim Hull regarding the use of electronic devices to allow out-of-town Planning Commission members to participate in the meetings. Tim's letter explained that the concerns that were expressed at the April 5, 2017 Silver Creek Township Board Meeting included some issues of the legalities that might need to be addressed in using such technology related to the Michigan Open Meetings Act, and voting by a commission member who is not physically present at a meeting but may wish to participate electronically. Tim's letter referenced a court case from 1985 (Goode v. Michigan Department of Social Services, 143 Mich App 756). His letter also stated that all that is needed is a revision of the Township's Planning Commission by-laws to recognize such attendance, and some communication equipment implementation.

Terry Harris explained that different equipment and software are currently being reviewed by the Township.

PUBLIC COMMENT

None.

TOWNSHIP ATTORNEY'S REPORT

Attorney John Magyar stated that he attended the Michigan Township Association seminar. He stated that they are working on a model sign ordinance, following a US Supreme Court decision regarding freedom of speech. He suggested not spending a lot of time on it right now, and waiting to see what they've come up with.

BUILDING/ZONING ADMINISTRATOR'S REPORT

Nothing to report.

NEW BUSINESS

REQUEST FOR TEMPORARY ZONING

Mrs. Sue Wiker, owner of property 50557 M-152 Dowagiac, MI 49047 presented her plan to open a Food Truck Park at the previous JoHø building location, which has been demolished.

Sue stated that she is not in the food business. She stated that she would create a location for food trucks to come in, park, and conduct their business. Sue stated that she would provide electric, clean water, and facilities to receive shipments, wash dishes, and would provide restrooms.

Terry Harris questioned if there would be restrooms on the property for customers. She stated that there would be.

Sue stated that she would be providing the property, kind of like a campground, except for food trucks. She stated that they would have 26-28 parking spaces and that it would be attractive.

John Tidey asked if the trucks would be there for the day and then leave. Sue stated that traditionally, they would park and conduct their business for maybe three hours or so and then pull out, however a park is different and she would give them an option of signing a lease for 1-2 weeks, possibly longer. She stated she would provide trash service and water, and they could just pull out whenever.

Sue explained that she spoke with the owner of JDø Marina regarding her proposed business, and his only concern was that he did not want customers coming to his business solely to use their restrooms.

John Tidey questioned the Wikerø presentation diagram, stating that it makes the property look larger than it is, and questioned if they really have enough space for this park. Sue replied that it was enough space, and that she would prepare a better diagram. She reiterated that the property is zoned commercial.

Terry Harris stated his concern for customers parking along M-152 and stated there may need to be some kind of signage showing that parking alongside the highway was not permitted. Terry

also questioned if there was enough width for two-way traffic in the parking lot and Sue stated yes, and also that parking makes up 40% of the property.

Attorney John Magyar asked Building/Zoning Administrator Todd Herter why they were here and why this business would require a special use. Todd Herter answered that this type of business does not fall under either Special Land Use or Permitted Use in the Zoning Ordinance. He stated that food trucks are mobile, and he didn't know what to do with it since it is not brick and mortar. Attorney John Magyar stated that the use seems to be quite similar, but they want to follow the right procedure. He stated that a Special Land Use permit requires giving notice to property owners within 300 feet, and also a publication, both with at least a 15 day notice.

Bill Zuhl referred to Open Air Business, and Todd Herter read the Open Air Use from the Zoning Ordinance. Discussion followed.

Terry Harris stated that this type of business is an odd duck for this area because there is nothing like it. Discussion followed.

Sue stated they would have a safe entrance and exit, and it would be the same entrance and exit as the previous business used. She added that they would provide an outdoor eating area with tables.

Terry Harris explained that he was concerned that with having trucks parked for an extended period of time, and that she would be responsible for their property. He also stated his concern with porta-potties and people tipping them over. Sue stated that she would research and get tips on how to secure them. John Tidey replied that it is private property and if something happened, she would be responsible.

Sue stated that there is a well there, and they would provide both clean and gray water. Terry Harris questioned where they would release the waste, such as grease. Sue answered that they would have a grease trap, which they would provide. She explained that a grease trap is vital as it catches all the grease before it enters the sewer, and then is taken away to dispose of. She stated they would also provide garbage service.

Dave Grabemeyer recommended they check with the electric company on what electric it would take to run such a business, to make sure they could get enough power to run it.

Craig Wiker asked if the Planning Commission could give a temporary Special Land Use permit, and Attorney John Magyar answered no. Sue stated that the Traverse City Clerk told her they are just now adopting an ordinance after two years with a temporary Special Land Use permit. Terry Harris stated that he has seen it under permitted use in other townships.

Sue stated that Sister Lakes is a recreational area and people come here to relax and spend money.

Discussion followed about the difference between food trucks and food truck parks. Sue stated that this fits in with tourism areas, and she plans for the business to be very family-oriented.

Terry Harris asked for clarification that her business would run from Memorial Day through Labor Day. He questioned whether there would be an amplified speaker or music, and Sue answered no, although she may want to have music only for an opening event. She reiterated her vision for the business to be family oriented with customers playing õBagsö games, etc.

Sue stated that if they could issue a Temporary Special Land Use Permit, they could watch how it operates. Discussion followed.

Attorney John Magyar stated that they are only permitting a use, not regulating it as we are not a police agency.

Terry stated that they have to go through the correct process. Terry asked what the desire of the Planning Commission was for this issue. Dave Grabemeyer replied that he would like to go forward with it. He also suggested a fence in front to make sure kids do not run out into the road.

Attorney John Magyar questioned whether they would like to move forward under Section 10.02 Permitted Uses or Section 10.03 Special Land Uses. Discussion followed on adding Food Trucks under Special Land Uses. Attorney John Magyar stated that when doing Special Land Uses, they have parameters to guide them towards what was presented to them.

Discussion followed about this type of business possibly fitting in Open Air Businesses in Section 14.08 of the Zoning Ordinance.

Terry Harris listed suggestions to be included: The business would only take place in the park, not in the road; the business would be 100ø from the closest property line; the number of food trucks would be determined by a site plan; no audio amplification would be permitted; a manager would be present during business hours; the truck vendor would be responsible for trash to maintain the health and safety of residents; no grease would be permitted to be disposed of improperly; etc. Sue stated that she would have a designated manager present during open hours.

Terry Harris read aloud the definition of a food truck.

Attorney John Magyar stated that Mr. & Mrs. Wiker would need to fill out an application for a Special Land Use with Todd Herter, and he would publish a notice of hearing. He explained the procedure to them for publishing a notice, holding a hearing, sending to the County Planning Commission for recommendation, and then back to the Township for the Township Board to vote on. Terry Harris recommended moving the next meeting to May 17, 2017 and holding the hearing on that night. Discussion followed.

PROPOSED CHANGES TO BYLAWS

Terry Harris stated that they have gone around and around about meeting dates and the frequency of meetings. He stated that he believes they have some things they need to cover that they havenø been, such as the Capital Improvement Plan. He questioned the Planning Commission members on whether they would like to make a change.

Dave Grabemeyer stated that he doesn't believe it is a big deal to cancel a meeting if there is nothing to discuss. Terry Harris agreed. Discussion followed.

John Tidey suggested planning to meet quarterly and adding a meeting when something pertinent came up. Bill Zuhl commented that he did not believe they could get through all of their business with only quarterly meetings. Terry Harris stated that if he were to cancel a meeting, he would give at least two weeks notice.

Discussion about absent members followed. John Tidey referred to a meeting he attended where a phone was set up for an absent member. He stated that there was an echo, static, and they couldn't hear each other. Bill Zuhl stated he had the opposite experience, where everyone could hear and there were no issues. Terry Harris agreed with Bill Zuhl. Terry Harris stated that they can't penalize someone for being absent when they can't provide a way for electronic participation. Bill Zuhl stated that there was discussion regarding electronic communication at the MTA conference, and you cannot count them as your quorum, but they can vote and participate.

UNFINISHED BUSINESS

None.

COMMISSION MEMBER COMMENTS

Bill Zuhl stated that the upcoming public hearing should be included in the regular meeting agenda, not as a separate agenda per the Open Meetings Enabling Act.

PUBLIC COMMENT

None.

ADJOURNMENT

Dave Grabemeyer motioned to adjourn the meeting, seconded by Terry Harris. Motion carried by voice vote.

The meeting was adjourned at 8:15 p.m.

Respectfully submitted,

Lindsay Krohne
Recording Secretary

Tom Lehrer
Planning Commission Secretary

To be approved at the next scheduled Planning Commission meeting