

**PLANNING COMMISSION
ONTWA TOWNSHIP, CASS COUNTY MICHIGAN
APPROVED MINUTES
WEDNESDAY
FEBRUARY 1, 2023 @ 7:00 PM**

Chairman Marbach called the meeting of the Ontwa Township Planning Commission to order at 7:02 pm

Pledge of Allegiance: All rose for the pledge of allegiance.

Chairman Marbach welcomed everyone, stating that there was a quorum present. He introduced the Ontwa Township Planner, Andy Moore from Wm and Works.

Agenda: Chairman Marbach asked if there were any changes, corrections or additions to the agenda as presented. Hearing none he asked for a motion to approve the agenda as presented. Motion made by Dawn Bolock and seconded by Dick Gates. He called for a vote and all were in favor.

Election of Officers for 2023: Chairman Marbach called for the Election of Officers. Sandra Seanor motioned to appoint Chris Marbach as Chairman, and Dawn Bolock as Vice Chairman. It was moved by Seanor and seconded by Mroczek. The Chairman called for a vote, all were in favor. Dawn Bolock motioned to nominate Sandra Seanor as Secretary. Bill Mahaney seconded the motion. The Chairman called for a vote; all were in favor, motion passed.

Approval of the Public Hearing and the Regular Meeting Minutes of 12-7-2022: Chairman Marbach asked for clerical corrections including dating the Public Hearing Minutes and adding a space to the Regular Minutes page. He called for other changes. There were none and he asked for a motion to approve the Public Hearing and Regular Minutes for 12-7-2022. Mike Mroczek motioned to approve, and Dick Gates seconded the motion. The Chairman called for a vote. All were in favor, motion passed.

Land Divisions: There were no Land Division requests.

PUBLIC HEARING OPENS

New Business: Eddies Market Rezoning - Chairman Marbach noted that the Eddies Market rezoning request is a Public Hearing duly advertised and noticed. He reviewed the process for the public hearing, which includes comments from the Zoning Administrator, our Planner and the Applicant. The applicant will have the opportunity to present his request. He noted the process will then allow questions of the applicant. The Chairman will call for those wishing to speak in favor of the project and then those wishing to oppose the project. The applicant will then have an opportunity to address any concerns from the audience or PC members. The

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Chairman will close the public hearing and the Planning Commission can discuss and make its decision regarding the rezoning. The Chairman suggested that participants keep their commentary to three minutes. In opening the public hearing, the Chairman read the parcel numbers for the rezoning request into the record: (1) 14-090-007-001-01, rezone to C2, (2) 14-090-006-015-04, rezone to C2 (3) 14-090-006-015-05, rezone to Multiple Family Residential (MFR).

Chairman Marbach called on Zoning Administrator Krempec for comments. He had none. Marbach called on Andy Moore the Ontwa Planner for his comments. Andy Moore noted that last year the applicant came before the Planning Commission with a request for PUD, that was not supported by the applicant's facts. It had a similar multifamily and commercial interest noting that the PUD request did not meet Ontwa Township Zoning requirements. Moore described the petition request. He further noted that the Planning Commission does not have to decide on the rezoning request this evening if it believes it needs additional information on the matter. He referred to the Wm and Works Memorandum dated January 24, 2023. Moore noted that after the PCs final recommendation regarding the rezoning it will be forwarded to the Ontwa Board of Trustees for a final decision. Chairman Marbach thanked Mr. Moore and called the applicant forward.

Brian Shier, applicant for Eddies Market rezoning request, stated that he resides at 27398 US12, Edwardsburg, MI. He introduced himself and proceeded to read from his application checklist nearly verbatim. A copy of the application is available at the Zoning Administrative Office. During his presentation he discussed the Master Plan, noting the future land use plan includes commercial development at that location. He also noted that the Multi-Family Residential (MFR) rezoning request did not meet the Master Plan at this time. He continued with his presentation saying he had discussions with school, church, and sports complex. Mr. Shier provide three letters of support from: The First Pentecostal Church (Robert Geans), Edwardsburg Public Schools (Jim Knolls, Ed.S), Market Van Buren (no signature).

Mr. Shier spent some time discussing the Edwardsburg School's need, as he perceives it for additional housing. He noted that he believed that the addition of housing units would support the commercial development he is planning. He concluded his presentation.

Sandra Seanor asked why he was requesting C2 vs C1? Shier noted that he thought that C2 aligns with uses on US-12 and C2 allows for drive through commercial activities. He noted that since covid, drive-thru facilities have become important for commercial properties. He said that he wanted any potential investor to have that option.

Shier went on to say that he thinks that the MFR is needed to support the proposed commercial property. He said that his plan prioritizes a safe walkable community between complementary land uses.

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Dawn Bolock asked about his address, which is different than the one listed in the application. Shier said that he now lives on the property proposed for rezoning and that 404 E Main in Niles (on the form) is the office address.

Sandra Seanor asked if he was still proposing 200 multifamily units? The applicant said they “don’t have a good handle on units right now”. He then stated that they would do whatever zoning permits them to do.

Seanor asked if they had completed a traffic impact study. Mr. Shier had said several times that he had been working with MDOT. She further noted that she felt that a traffic impact analysis with the concurrence on numbers by MDOTs Travel Demand staff was necessary for the PC to assess the appropriate rezoning. She continued asking if they had or are planning to do a housing market study to assess absorption rates, affordability etc.? Mr. Shier stated that he is not going to spend thousands of dollars on these studies and does not plan to do studies until the rezoning is approved. Mr. Shier asked, “why would I spend thousands of dollars on a traffic study to only get a no from the PC?”

Chris Marbach asked if there be a traffic light there at the property? Shier said he wanted one, but that MDOT would determine the traffic signal improvements. He noted that MDOT had already decided to install a traffic signal at Section St. which will be completed in the summer of 2023. There was more discussion of the 200 proposed units and what Mr. Shier perceives the school system needs.

Dawn Bolock asked about affordability and price point. Mr. Shier said they have research on this and are confident that the market need is there. He did not offer to share this information and did not provide information about unit price points.

Bill Mahaney noted that he believes that the applicant needs at least two driveways.

Support: Chairman Marbach asked for public comments in favor of the project. Hearing none he requested comments opposing the project.

Opposition: Ed Patzer 23353 Lakeview Dr., associated with the Edwardsburg Sports Complex ESC, said he has spoken to applicant a couple of times. Patzer indicated that he was concerned about security of the Sports Complex property. The ESC is planning to secure the front of the property soon and they don’t want people to have access to the property during non-office hours. He had asked the applicant, Mr. Shier to construct a fence between the sports complex the applicant’s property. He said that the applicant said no. Mr. Patzer went on to say that the sports complex is not a park, it is private non-profit property. Patzer felt that this would have a detrimental effect on the ESC property.

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Bob Runkle 27551 US 12 lives across from the proposed development. He said he thought that single family residential would be a better fit than apartments. He said he was surprised that they wouldn't consider single family residential instead.

Applicant Responses:

Re: Runkle's comment: Shier stated that he would not consider single family residential because of the Chicago Trails development since it had a second phase that never was never built. happened. Also cost of building single family is 3x higher that previously.

Re: Sports Complex: Shier said that he felt that the ESC board was receptive to the project, but Mr. Patzer wanted him to put a fence around the whole property and he said no. Shier said he was surprised that a fence would be a hangup on a multi-million-dollar development. He went on to say that he thought the ESC should have put up a fence when the sports complex was built.

Additional public comments:

Skip Kaspersak President of Sports Complex Board noted that people have referred to the ESC as a park, but it is not. She said that the ESC welcomes community but are not a public park and are not supported by tax dollars. She said that when the Board met with Mr. Shier, they had a lot of reservations. A major concern was about traffic impacts. Even their ESC events cause traffic problems, and the ESC continues to work to improve them. She noted that adding another 200 dwelling units plus commercial traffic, the impacts would be tremendous. She believes that a traffic study is appropriate and should be based on max buildout for residential and commercial. She asked that the Planning Commission make sure to have the facts before making a decision.

Todd Haberland 68656 W. Banks Drive, Edwardsburg. Asked "who absorbs the risk for the project?" He noted that the applicant doesn't want to invest in the studies, but he doesn't want the risk, so that puts the onus on the township. He questioned why the township would want to take that risk?

Mike Mroczek asked Mr. Shier if he would be willing to have the rezoning request broken into 2 or 3 parts since the MFR seems to be the more significant issue? Mr. Shier said no and stated that he would need approval on all three requests in order to move forward. The applicant said he wouldn't move forward with the project if they had to spend significantly more money just to get the rezoning.

Planner's comments: Chairman Marbach called on Andy Moore to review his report. Moore commented on the remarks made at the meeting regarding the traffic study and housing analysis and noted again that if PC had concerns about traffic or housing studies, they could table the action and ask for studies be provided before approving the rezonings.

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Chairman Marbach asked for a motion to close the public hearing, which was made by Sandra Seanor, seconded by Bill Mahaney. The vote was called for all were in favor and the public hearing was closed at 8:44 pm.

PUBLIC MEETING CLOSES

Sandra Seanor said that she wanted to make a motion. Chairman Marbach acknowledged the request. Seanor motioned that the rezoning application be tabled until such time that the applicant completes, and the Planning Commission receives a traffic impact study and a housing market analysis addressing the commercial and multifamily rezoning proposal. Both studies are to be completed by Michigan duly licensed traffic engineers and housing professionals. Second by Bill Mahaney. Chairman Marbach called for a voice vote. Secretary Seanor called for the voice vote: Bill Mahaney – Yes, Dawn Bolock – Yes, Mike Mroczek – Yes, Dick Gates – Y, Sandra Seanor – Yes, Chris Marbach – No. The motion passed 5 Yes, 1 No

New Business: Planning Commission Annual Report - Chairman Marbach presented the completed the 2022 Planning Commission Annual Report. PC members commented that it was very well written and comprehensive. A motion was made to approve the report by Dawn Bolock, seconded by Mike Mroczek. All voted in favor, motion passed.

Old Business: Chairman Marbach read a letter of support for the Elkhart Rd Trail project and asked for a motion to approve the letter. The motion to approve was made by Mike Mroczek seconded by Dick Gates, with all voting in favor and the motion passed.

Committee Reports Zoning Ordinance Review Committee Report: Andy Moore gave an update on the Master Plan stating that letters for the joint Township/Village project is underway. Letters will be going out to partner agencies shortly. It is estimated that the Plan update can be completed in between 9 months to a year. It will include both the Township and the Village. The additional of the Village will not extend the project completion time.

Seanor again noted that the Zoning Review Committee will meet February 14th. She again requested that any and changes or clarification regarding Site Plans, Site Condo, Subdivision, or PUD be sent by the members as soon as possible. Chairman Marbach further encouraged members to think about where in the Township MFR should or could be located as well as other changes that may be appropriate as the Mater Plan is updated.

Announcements: Roseanne Marchetti noted that she is the newest member of the County Planning Commission. She stated that the County Planning Commission had completed their interviews for a firm to update the County Master Plan.

Sandra Seanor noted that she had presented the ZO changes at the January 25th County Planning Commission meeting and John Hanson had forwarded all information to the Ontwa Clerk for the BOT February meeting.

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Chairman Marbach noted that the Michigan State Citizen Planner class is available beginning March 8th, for 6 meetings. He noted that the Township pays for members. He then adjourned the meeting.

Cc: LeRoy Krempec – Zoning Administrator, Ontwa Township Planning Commission member

Ontwa Township Re-Zoning Checklist

A. Land Supply.

1. Is there other land in the Township already zoned for the classification being sought by the petitioner?
 Yes; No *No other property has the same resources within the township.*

2. If there is other land in the Township zoned for this classification, has there been a change in conditions that necessitates more land in this classification?
 Yes; No *We feel that the new high school would justify an investment into the community.*

3. If there is insufficient land in the Township zoned for this classification, is the proposed change supported by, or consistent with the Master Plan?
 Yes; No *We are following the future land use in master plan.*

4. Is the proposed change out of scale with the needs of the community?
 Yes; No *The project will be phased and based on market demand.*

5. Are the proposed boundaries appropriately drawn?
 Yes; No *Professional engineer has surveyed and drawn to scale the site plan.*

B. Effect on surrounding properties.

1. Is the proposed change contrary to established land use patterns?
 Yes; No *We are following the future land use in master plan.*

2. Will the proposed change create adverse effects on surrounding properties?
 Yes; No *Currently the community must drive to Indiana for the services we are proposing.*

3. Will the proposed change create adverse living conditions in the area?
 Yes; No
Multi family residential units support members of a community that prefer the low maintenance, ammenities, and convenience.

4. Will the proposed change deter the improvement or development of surrounding properties?
 Yes; No
Diversification in property uses will help fill the many different needs of the community and support surrounding properties.

C. Effect on municipal services, facilities and costs.

1. Will the proposed change severely impact traffic in the area?
 Yes; No *Proposed development has direct access to a state highway.*
2. Will the proposed change severely impact schools, police and fire protection and/or other public services?
 Yes; No *This project will help fund public services.*
3. Are water, sewer, storm drainage and other facilities in the area adequate to meet the potential requirements resulting from the proposed change?
 Yes; No *Township engineer has confirmed the services are adequate.*

D. Range of uses that could be authorized

1. Is the proposed use unique to this site and better handled through a special approval land use?
 Yes; No *Zoning is based on the future use of master plan.*
2. Are there other potential uses permitted in the proposed classification that would be inappropriate at the proposed site?
 Yes; No *The zoning ordinance defines C2 and MFR very clearly.*
3. If other undesirable uses could materialize if the proposed re-zoning is approved, would a Planned Unit Development be a more appropriate approach?
 Yes; No *Township decided that it would rather separate uses by zoning.*
4. Could the proposed use be accomplished in a more restrictive zoning classification?
 Yes; No *Proposed uses are fit as intended by the zoning ordinance.*

E. Precedent

1. If the proposed change is approved, will it likely stimulate similar request?
 Yes; No *The location is specific to the best use defined by surrounding properties.*
2. If such similar requests are likely, could they adversely impact other properties, municipal services and facilities and public costs?
 Yes; No *There are no other locations that have access to public utilities with same characteristics.*

3. Are there other ways in which approving the proposed request would establish a precedent for local planning and zoning decisions?

Yes; No *Proposed development is following already established precedent.*

4. If so, is the precedent one that the Planning Commission desires to establish?

Yes; No *As defined in the future land use plan.*

5. Would granting the proposed request constitute a “spot zoning” granting a special privilege to one property owner which is not available to others?

Yes; No *We are following the future land use in the master plan.*

F. Justification

1. Are there substantial reasons the property cannot be reasonably used as currently zoned?

Yes; No *Agricultural use is not the best use just outside the village limits.*

2. Is there an objectively demonstrable market for the use proposed?

Yes; No *Over 800 families live out of district. This will lower the traffic and improve safety.*

3. Is there a market for other uses that may be permitted in the proposed classification?

Yes; No *Nothing that we would be comfortable investing in.*

4. Is the proposed change reasonable?

Yes; No *Project will be done in phases and based on market demand.*

G. Community Planning

1. Was there a mistake in the original zoning?

Yes; No
Demographics and economics over many decades has changed the best use based on the location.

2. If there was a mistake in the original zoning, does the proposed change constitute the most appropriate correction?

Yes; No *Based on municipalities available at the location now would constitute the change.*

3. Are there likely to be adverse changes in the characteristics of the Township that will result from the proposed re-zoning?

Yes; No *Nothing that we have not addressed or will address in our planning stage.*

4. Will the proposed change weaken the structure of the Zoning Ordinance?
 Yes; No
Completing the full process and procedures outlined in zoning ordinance will strengthen it.
5. Is the proposed change exclusionary?
 Yes; No *We are following the future land use in the master plan.*
6. Is the proposed change consistent with the Township Zoning Act?
 Yes; No *All steps are being followed as outlined in the zoning act.*