

HOWELL TOWNSHIP PLANNING COMMISSION

Howell Township Hall
October 24, 2017
6:30 p.m.

MEMBERS PRESENT:

Andrew Sloan Chairman
Mark Freude Vice Chairman
Carolyn Henry Commissioner
Matthew Counts Board Rep.
Peter Manwiller Commissioner

MEMBERS ABSENT:

Wayne Williams Secretary

Also in attendance: Zoning Administrator Joe Daus
Township Planner Paul Montagno

Chairman Sloan called the meeting to order at 6:35 p.m.

Chairman Sloan spoke to the large group in attendance and thanking them for coming. He then explained that American Democracy is right here where everyone will have a chance to voice an opinion.

The roll was called. All rose for the Pledge of Allegiance.

Chairman Sloan then explained that we have a procedural format to follow before the Public Hearing and asking everyone to be patient.

APPROVAL OF THE AGENDA:

MOTION by Henry, seconded by Freude, “**TO APPROVE THE OCTOBER 24, 2017 AGENDA AS AMENDED: MOVE ITEM 11A BEFORE ITEM 10A.**” Motion carried.

APPROVAL OF MINUTES:

MOTION by Freude seconded by Manwiller, “**TO APPROVE THE SEPTEMBER 26, 2017 MEETING MINUTES AS PRESENTED.**” Motion carried. (See September 26, 2017 Meeting Minutes)

CORRESPONDENCE:

Planning & Zoning News.

TOWNSHIP BOARD REPORT:

(Counts)

- Set the Township Clean-up Date for May 18, 2018.
- Approved the Fourth Amended and Restated Articles of Incorporation of the Howell Area Fire Authority.
- Tabled the re-zoning for Brad Jonckheere's Bedrock Ventures, LLC's Conditional Rezoning until next meeting.
- Accepted Carolyn Eaton-Wikle's resignation from the Township Board.

ZONING BOARD OF APPEALS REPORT:

(Sloan)

- Approved a variance to the Maximum Square Footage Allowance, to allow for a barn.

ZONING REPORT:

(Daus)

- See report.

HAMILTON'S PROPANE – FINAL SITE PLAN REVIEW:

- Township Planner Montagno introduced the project. This is for a Self-Storage facility and a propane distribution facility. It is located in the “HC” Heavy Commercial Zoning District. The Propane facility is not for the public’s use

but for a facility where the company's trucks can come and get refilled. The mini storage is a listed permitted use in the "HC" District. Whereas the propane distribution center is not listed as a permitted use but, it is similar to other permitted uses. The site is located at the southeast corner of Burkhart and Grand River. There are two proposed uses for the site but there will only be one access onto Grand River Ave. The outstanding recommendations/concerns that were stated in the Preliminary Review, the applicant has provided a newer set of plans addressing how these issues are being handled. If the Planning Commission considers approval, Planner Montagno suggestions are; condition it upon the engineer's favorable review, Zoning Administrator receiving the easement agreement and any other outside required reviews. Chairman Sloan took questions from the Commissioners.

- Jason Kratt from Hamilton's Propane stated they are moving in the right positon as they have been working with the Drain Commission and working on the other recommendations and requirements. Questions were taken from the Commissioners. (Many of those issues were answered in the Preliminary Site Plan.)
- Chairman Sloan entertained a motion for Final Site Plan. **MOTION** by Henry, seconded by Counts, "**TO APPROVE THE FINAL SITE PLAN, PARCEL #4706-21-300-011 FOR HAMILTON PROPANE, CONDITIONED UPON AN EXECUTED EASMENT AGREEMENT AND CONDITIONED FURTHER UPON THE ENGINEER APPROVAL, AS WELL AS APPROVAL OF FROM ANY OUTSTANDING GOVERNMENTAL AGENCIES.**" Discussion followed. A roll-call vote was taken: Sloan – yes, Henry – yes, Counts – yes, Freude – yes, Manwiller – yes. Motion carries 5 to 0.

PUBLIC HEARING: MIKE PAGE, TEXT AMENDMENT – USES IN "AR" AGRICULTURAL RESIDENTIAL DISTRICT.

- Chairman Sloan stated that everyone will get a chance to voice their opinion. I am hoping I will not have to set a time limit on speaking but I am asking that everyone be responsible and get to the point and do not repeat what has already been said. We will first hear from the Township Planner Montagno. Then Commissioners will ask their questions to the Planner. The Petitioner will speak. Then it will be open to the floor.
- Chairman Sloan entertained the motion to open the Public Hearing – **MOTION** by Freude, seconded by Manwiller, "**TO OPEN THE PUBLIC HEARING FOR MIKE PAGE, FOR A TEXT AMENDMENT, FOR USES IN THE "AR" DISTRICT AT 6:53 P.M.**" Motion carried.
- Township Planner introduced the request. This is a proposed Text Amendment to the Township Zoning Ordinance by petitioner Mike Page. He is requesting the Zoning Ordinance be amended to allow for shooting ranges in the Agricultural Residential "AR" District. The petitioner has indicated that he is interested in establishing a 1000' shooting range on a roughly 300 acre parcel of land on Fleming Road north of Warner Road in Section 17. Although the petitioner has interest in a particular parcel, the application for this Public Hearing is for the Text Amendment. Any permitted use change that is made to the "AR" District will be applied across all parcels within the "AR" Districts. Every zoning district has a set of uses that are permitted by right. In addition there are uses that are considered Special or Conditional Uses. Those uses are the ones that need to have a Public Hearing and the Planning Commission has the ability to review each applicant to make sure they are in compliance with the district and in harmony with any neighboring uses and also have the ability to place conditions on those uses. Within the Howell Township "AR" District there are approximately 13,500 acres. In the Township Planner's report he has a list of considerations: 1) Consider the purpose or intent of the "AR" District. (See Article IV – AR District, Section 4.01) He also took into consideration the Master Plan where residents responded to a survey and came to a Township Meetings to voice their opinion. The reason they like Howell Township is because of the open space and the natural features of the community. 2) Land Use is another consideration. If the use is allowed, it will be allowed in all "AR" Districts. It might be best be considered a Conditional Use where you can set up Supplemental Regulations. 3) Community Need. Text Amendments are initiated based on an identified need. It is the Planning Commission responsibility to consider whether there is a community need for the proposed amendment. Normally Text Amendments are brought forth from the Township Board and recommended to the Planning Commission to review based on a community need. The Zoning Administrator may bring something to the Planning Commission in response to multiply variance request of the same nature. This request has come from the proposed land owner. Township Planner Montagno suggest that the Planning Commission consider whether or not this is a community need and to listen to the voice of the community. The Planning Commission

may determine that the use would be more appropriate in another district. As far as procedures, this is an amendment to the text to Zoning Ordinance. A Public Hearing must be held, which is what we are doing now. The Planning Commission will make a recommendation to the Township Board who has the legislative authority to make changes to Zoning Ordinance. This must be done within 125 days of the filing date.

- Chairman Sloan took questions from the Commissioners. 1) Wanted examples of conditions that could be put on this. (This would depend upon concerns from the public and views of the Planning Commission. But some examples could include hours of operation, noise attenuation, separation from other uses, maybe additional setbacks.) 2) If this is rejected can the applicant petition to rezone the parcel to make it more applicable? (Yes, they could petition to rezone the parcel to a district where this is an approved use. But, it also has to be consistent to the Master Plan.) 3) There is a shooting range in the Hartland area, do we know how that one was proposed as far as a community need and how did they address some of the issues that are in front of the Commissioners right now? (Not that we know of, but believe that it is on a much smaller parcel. It would need to be researched to get that answer. Sometimes older uses could be considered legal non conformities that were in existences before a current ordinance was put in place.) 4) As far as right out denial of any text amendment of this nature, are we concerned as far as exposure, where it relates to any constitutional rights? (This use is considered in the Zoning Ordinance in other districts. So it would not be exclusionary. There are options that can still be considered for this.) 5) Is there any zoning that will permit a commercial gun range in Howell Township? (It is listed in Open Air Businesses that are permitted in other districts.)
- Chairman Sloan explained that in a Public Hearing the public has the right to give an opinion, it is not necessarily a question and answer session to the applicant. Comments are to be directed to the Commissioners or panel and not to each other. First we will hear from the applicant Mike Page.
- Chairman Sloan advised the petitioner to keep his presentation to the Zoning Text Amendment in which he wants to revise. This meeting is to discuss a proposed text amendment to change the definition of "AR" Zoning District. This meeting is not for your attended use for the property.
- Mike Page stated he would like to explain so that there shouldn't be any concerns of what he wants to do. (You will need to address the concerns but not to any specific site or land use plan.) Mr. Paige stated that he understands that there are concerns about having a shooting range in the area. This is not the normal shooting range. MR. Page gave his findings on the following concerns: 1) noise level. It is proposed that 100% of the firearms being used will be suppressed. Testing have been done for sound and testing over the water where the noise level is usually louder. He discussed the decimal range of the noise. If the text amendment is approved, he proposed that a \$10,000.00 monitoring system will be installed on all points of the property to keep from breaking sound levels. 2) Safety is a concern. The proposed property is surrounded by a 13-foot berm. He discussed other berms on the property. All targets will deflect down. 3) Research has been done on Property Values. Houses around other gun ranges that are within 1/4 mile are selling above asking prices. 4) The use of facility will primarily be a law enforcement training center. Sheriff Michael Murphy has given his support. It will also have a much vented process for civilian members. It will be restricted so that not just anyone can go there and be able to shoot long range. It will have multiply full-time range officers on duty. There are several governmental units that are looking for training to stop tragedies from happening. There is no other piece of property in the Industrial or Heavy Commercial Districts in southeast Michigan that will give the ability that this facility will provide. He also stated some other uses he would like for the parcel, like a fishing pond and camping. He stated he is proposing a conditional use because it is such a large parcel.
- Chairman Sloan took question from the Commissioners. 1) Do we have the actual text or is it more in the idea stage? (At this point the only words that have been submitted is to approve "shooting ranges". If it is going to be a conditional use or to have specific conditions that is associated with it, then that will have to be built into the zoning ordinance.) 2) You have made comments on what you propose to do for safety measures for your shooting range but, if the Township amends the text, it will open it up to anyone who wants a gun range. You cannot assure that those safety measures will be considered by others who will want to open a gun range. Mr. Page answered he would want to put those conditions in the text. 3) You stated you have the support of Sheriff Michael Murphy. Do you have a letter stating so? Mr. Page stated he does not have one but will get one. Mr. Page stated he showed the plans to Sheriff Michael Murphy. Mr. Page also stated that he has the NRA backing. 4) What do you base that statement from? Mr. Page stated that it is based on the NRA Range Guide. The berms are taller and wider than what the guideline require. 5) You also made statements about property values. Have

you received a marketing analysis as how it will affect the property values for Howell Township residents? Mr. Page stated he has Sold Values that shows the properties within gun ranges that have sold at or higher than asking prices. 6) Who is the realtor that you used? Mr. Page answered that he used his own realtor, Mark Rutman, from the Emerald Group.

- Chairman Sloan stated he will now open it up to the public. No one will have to raise their hand as he will start at one end and go straight down the line.
- Fred Palmerton, 4400 Warner Rd. – He wanted a better definition of Open Air Business Text Amendment versus a gun range. How does this impact other agricultural land? (Open Air Text Amendments have definitions including many uses. This intention for this application is just for shooting ranges and not an open air market.)
- Lawrence Hannigan, 3321 N. Burkhart Rd. – He submitted a letter previously which was given to the Commissioners addressing the risk to public safety, significantly increased noise pollution, environmental ground water impact, quality of life impact, negative impact on attracting new housing developments and new residents, negative impact on property values and tax revenues and who pays to clean up when the business closes or fails? It is stated; is this a need the community is asking for? But he believes that no one who lives in the community has come forward stating that this is a need. He would like the Commissioners to consider these concerns or research them before making their decision. He also stated he believes it is a mistake to put gun ranges in the “AR” District.
- Karl Harmon, 3581 N. Burkhart Rd. – His concern is about the drain that runs near there and possible lead contamination.
- Terry Salomonson, 3451 N Burkhart Rd. – Wanted to know why he didn’t receive the flyer that some residents received. (Audience member Allen Heneveld of Brighton stated he handed out some flyers.) Mr. Salomonson had concerns about the statement Mr. Page stated that he has extra land on this parcel than what he will be using. Mr. Salomonson has concerns will the gun range expand? He also stated that guns are getting bigger and bigger. What will be the extent of the size of guns be allowed? He also had concerns about the cost of clean-up if and when the business closes. There should be some sort of a kitty fund that applicant has to put into every month to cover this cost. He wanted to know if there will be restricted hours. He has concerns about which direction the shooting will be directed.
- The Commissioners addressed the audience; we are far from approving anything on a particular piece of property. We are not that far in the process to do that. There will be a lot of thought going into this. We are here tonight to listen to the public’s concerns.
- Allen Nowak, 4101 N. Burkhart Rd. – Stated he has a detective friend who stated, that he had not heard about this meeting for a gun range. Mr. Nowak also stated he is carpenter and doesn’t believe that there are 13’ berms on the property. He then asked the Commissioners if they would want this in their back yard. He also has concerns about stray bullets, noise pollution and property values. (One Commissioner responded that Mr. Paige has stated that Sheriff Murphy has a letter addressed to the Township and is in support of an overall text amendment and supports the concept of a training facility for law enforcement.) Mr. Nowak responded he was told by his friend that they have a gun range.
- Gary Mishler, 3889 N. Burkhart Rd. – Has concerns that since this parcel was a previous gravel pit that the berms are made out of rock and believes the bullets could ricochet.
- Dale Hartwick, 3995 N. Burkhart Rd. – Stated his property butts up against the parcel in question. He talked about when he used to haul gravel out of the pit that he was told there would be an 18 acre lake and condominiums would be put in. He also stated that he heard about another gun range around Island Lake that uses bales of hay/straw for berms. You need to get the sound down.
- Sandra Hartwick, 3889 N. Burkhart Rd. - Stated she didn’t think that gun ranges should be considered an Open Air Business because, when guns are shot it becomes a flying projectile. She also has concerns for her livestock.
- Allen Heneveld of Brighton – Asked if the property owner is the one who is required to ask for an amendment to the zoning. Mike Page is not the property owner. He also stated his family’s 80 acre farmland butts up against the proposed parcel in question and there is a berm and a chain-link fence. The family property is also woodland property which by the Master Plan is considered a Green Belt. He has concerns about the type of training that is proposed with what type of weapons will the law enforcement use. He has concerns about the many different angles the bullets will go during the practicing shooting. Please really investigate this and think this through.

- Again Chairman Sloan assured the audience that the Commissioners are here to listen to the public and that the Commissioners also live in the Township.
- Mike Browning, 3942 N. Burkhart Rd. – Stated he also is concern about his safety. He went on to say that many of the comments/concerns that are being brought up by the residents are in contrary to what the petitioner has proposed. Research needs to be done before any decision is made.
- Owner of Quality Living on Burkhart Rd. – Stated he has concerns for the safety of his residents. He picked his site on Burkhart Road because of the quietness of the area. Before purchasing his property he looked at the Master Plan and the Zoning Map, both showing that it is residential. The Township restricted us to only allowing 1 story buildings and we accepted that because we wanted to consider all the neighbors around us. He stated he is also an appraiser and shooting ranges are to be in Industrial Districts. He stated, that if you amend the zoning you are changing the nature of the district and property values will be impacted. He also has concerns that this being an Agricultural District, how the noise will affect the animals and livestock.
- Shelly Andrews, 4300 Fleming Rd. – Stated she has the all same concerns as everyone else. She wanted clarification that if the text change is approved, what all areas will that affect? (It would be for all lands/parcels that are zoned Agricultural Residential “AR” which makes up about 13,500 acres in the Township.) She also asked, so if you look at the Master Plan, then what is the purpose of “AR” in our community? She does not want to lose her peacefulness of the “AR” District.
- Tom Neilson, 3415 Fleming Rd. – Stated that he lives straight across from the entry to the property. He also stated he did not know about this meeting until his neighbor told him about it. He wanted to know what effort was being made to let the community know about the meeting. He also has the same concerns that others have.
- Michael Tipton, 552 Olde English Circle – Stated that he lived near a gun range in Washington State and depending on which way the wind was blowing you could hear the shooting. Mr. Tipton also commented on the water/sewer debt and the bonds that the Township has. What the Township needs are REU's and that means toilets, to pay that debt down.
- Judith Minton, 552 Olde English Circle – Stated, think about all the concerns that have been shared about changing the text, then multiply that by the all the other possible parcels that are available to install gun ranges. Others need to know about what the Township is considering. She than thanked the Commissioners for listening to the public.
- Alex Hansen, 3517 Amber Oaks – State he submitted a letter to the commissioners for review. (They were given a copy of the letter.) His parents lived 1 mile from the Southern Michigan gun Club. You could hear the gun shots despite having the home was on 10 acres surrounded by 100 to 150-foot trees. The sound barriers do not work. Is the Township prepared to police this when the suppressors are not being used?
- Mike Page, the Petitioner – State he wanted to address a couple of these issues. All firing ranges will be supervised by the “EPA” Environmental Protection Agency. Lead is expensive and there are people who will come and mine the lead and then recycle it. The lead will be contained at each target station. The “NRA” National Rifle Association and the “NSSF” National Shooting Sports Foundation have very strict guidelines on how these issues are handled. Again, he stated that the decimal level of noise would not be any louder than how loud is speaking now. He also stated that he is proposing a Suppressor Open Range. No one else in the country has done this.
- Jan Litogot, 3913 N. Burkhart Rd. – Stated her property butts up against the berm. She has concerns about safety, noise and the animals. She likes it quiet and believes it will hurt her property value.
- Jim Salter, 3381 Fleming Rd. – Stated he is against the gun range. He wanted to know just how powerful of guns would be allowed. Do all guns use the same silencers? Can Mr. Paige supply all those silencers? He also is concerned about the road that leads into the old gravel pit. He believes that the angle of the entry into that parcel is dangerous.
- Tamara Nowka, 4101 N. Burkhart Rd. – Stated that her property butts up against the property. She is already concerned to go outside during hunting season. She also stated that she could hear the gun testing when it was going on.
- Gary Browning, 4478 Deal Rd. – Stated there isn't a day goes by that he doesn't hear a gun go off in his area from hunters. He wants to know what type and size of guns will be allowed. Will there be any other type of training going there? How well will this be patrolled?

- Tamara Nowka, 4101 N. Burkhart Rd. – Asked if you open it up to gun ranges that allow long range guns there, is that opening it up to where anyone can use long range rifles in any “AR” District.
- Chairman Sloan reminded the public to keep in mind we are only talking about changing the text for the “AR” District. The type of guns that will be allowed, is not part of tonight’s discussion. If the text amendment should pass, that issue would come later in a Site Plan.
- There were utters from the audience that all residents should have been notified of this meeting. Chairman Sloan explained that it was published in the Livingston County Press. There is an alert that is on the Township Website. It is also on the Township Website under Meetings Agendas. Meeting agendas are posted on the front door of the Township Hall prior to the meeting day.
- Township Planner Montagno explained; when there is a Public Hearing on a particular parcel that is when you send a notice to the surrounding parcels within 300 feet. Because this is a text amendment to the General Ordinance and it does not pertain to any particular parcel, the requirements are different. There is no notification that is required to be sent to surrounding property owners.
- A Commissioner added that if anyone in the audience was proposing a text amendment change, we would be going through the exact same procedures. We are at the very preliminary stage of this request. This has been proposed to us and this is the procedure we are required to do.
- Terry Salomonson, 3451 N. Burkhart Rd. – Wanted to know if this parcel have REU’s on it? If so who pays for them? (It is not in the Water/Sewer District.)
- A resident asked if Mike Page is the owner of the property. (No he is not at this time but he is acting with the cooperation of the owner. Will need to check if there is an affidavit to this effect.) (The owner did accompany Mr. Paige at the last meeting.)
- Mr. Paige added that it is his attention is to purchase this parcel but waiting for financing to be complete. Someone else could come in and have a gun range for their buddies. I am trying to be completely honest with I am proposing to do to avoid issues in the future. This could always be turned into a subdivision later. I would like to keep it an open space with other purposes besides the gun range.
- A Commissioner asked if Mr. Paige has put an offer on the property and are there any contingencies on that offer. Mr. Paige answered yes that he has submitted an offer with the contingency that if this does not pass the offer becomes null and void.
- A Commissioner asked Mr. Paige if he has any other business that he owns. Mr. Paige answered that he owns “Oakland Tactical” that is near Hartland that sells law and police equipment.
- Chairman Sloan entertained a motion to close the Public Hearing. The Commissioners will then have their discussion. **MOTION** by Freude, seconded by Henry, “**TO CLOSE THE PUBLIC HEARING AT 8:33 P.M.”** Motion carried. Chairman Sloan thanked everyone for coming.
- A seven minute break was taken.
- Chairman Sloan called the meeting back to order at 8:40 p.m.
- There was much discussion from the Commissioners, Zoning Administrator and the Township Planner. Some of the comments are as follows: 1) this was a large turnout. 2) There is a lot to consider. 3) Thanked the audience for coming and giving your opinions. 4) This is one of few times where there has been such a resound feedback from the community. 5) We need to take this seriously. 6) What is the impact to the community? 7) Is there a need for this business for the residents? 8) What is the benefit to the Township? 9) Is there detriments to the Township? 10) We see what the community opinion is about this. 11) We are obligated to listen to every proposal. 12) We need to take the public opinions seriously. 13) Not ready at this point to make such a drastic change to the Text Amendment. 14) More of the community should be here when it effects such a large piece of our Township. 15) This is something that needs to take more time for consideration. 16) Is proud of the Township’s “AR” District. 17) Has a hard time of going outside the definition of “AR”. 18) There is a lot to question yet. 19) The questions that have been brought up are valid questions. 20) There needs to be more exploration done.
- Township Planner Montagno gave what the options for the Planning Commission are: 1) to postpone the issue and have direction to bring back more information to help answer some of the questions. 2) To recommend denial for this request and then the Planning Commission would take the time to explore this particular issue and determine, what is the best way to address it in the Zoning Ordinance. 3) Make a recommendation for approval. 4) Make a recommendation for approval but with changes.

- One Planning Commissioner asked if there was a way to let more of the people in the Township know that this is being proposed before the Township without it being too costly since it roughly effects 65% of the Township land. Township Planner Montagno explained it would take a mass mailing of the entire Township. By statute for a General Text Amendment it is only required to place a notice in the local paper, posted on the Township front door. It is also placed on the Township website. There is a time limit of 125 days from the time when the application is submitted. Township residents could form a committee on their own and go out and notify residents.
- Chairman Sloan entertained a motion: **MOTION** by Henry, seconded by Counts, "**TO POSTPONE THE DECISION TO THE NEXT PLANNING COMMISSION MEETING ON NOVEMBER 28, 2017 TO ALLOW FOR FURTHER COMMUNICATION TO MORE PROPERTY OWNERS.**" Discussion followed. A roll-call vote was taken: Henry – yes, Freude – no, Manwiller – no, Counts – yes, Sloan – no. Motion is denied 3 to 2. More discussion followed. **MOTION** by Freude, seconded by Manwiller, "**TO RECOMMEND TO THE TOWNSHIP BOARD TO DENY THE TEXT AMENDMENT CHANGES AS PRESENTED.**" Discussion followed. A roll-call vote was taken: Counts – yes, Henry – yes, Manwiller – yes, Sloan – yes, Freude – yes. Motion carries 5 to 0.
- Chairman Sloan stated to the public that the recommendation to the Board will be to deny the Text Amendment Change.

NEW BUSINESS:

None.

OTHER BUSINESS:

None.

CALL TO THE PUBLIC:

Chairman Sloan asked if there was any other comments from the public not relating to the Text Amendment. No response.

ADJOURNMENT:

MOTION by Henry, seconded by Counts, "**TO ADJOURN.**" Motion carried and meeting adjourned at 9:00 P.M.

Approved: _____

Andrew Sloan, Chairman

As Presented: _____

As Amended: _____

Wayne Williams, Secretary

As Corrected: _____

Dated: _____

Debby Johnson, Recording Secretary