

DEARBORN COUNTY PLAN COMMISSION MINUTES

Monday, April 24th, 2017

7:00 pm

- A. Andrew Baudendistel's reading of the Voluntary Title VI Public Involvement Survey –**
As a recipient of federal funds, and in support of Dearborn County's efforts to ensure nondiscrimination and equal access to all citizens, the County gathers statistical data regarding participants in county activities. Therefore, we have provided a Voluntary Title VI public Involvement Survey at this meeting. You are not required to complete this survey. However, the form is anonymous and will be used solely for the purpose of monitoring our compliance with Title VI and ADA.

B. ROLL CALL –

Members present:

Jake Hoog

Dan Lansing

Mark Lehmann

Jim Thatcher

Dennis Kraus, Jr.

Russell Beiersdorfer

Eric Lang

Mark McCormack – Planning Director

Andrew Baudendistel – Attorney

Members absent:

Art Little

Liz Beiersdorfer

C. ACTION ON MINUTES

Started with the February 27th meeting minutes. Mr. Kraus will not vote and will abstain because he was involved with the application. Mr. Beiersdorfer made a motion to accept the February 27th minutes as written. Seconded by Mark Lehmann. All in favor. None opposed. Motion carried. Next was the March 27th meeting minutes. It was noted that Art Little was not present, so there wasn't 5 members present from that particular meeting. The March minutes were potentially going to be tabled till next month (May); however, board discussion ensued and it was determined that just because a member is absent from a particular meeting, doesn't mean he or she can't vote on approving the minutes (e.g. board turnover sometimes makes this necessary). Mr. Lehmann made a motion to approve March 27th minutes, as written. Seconded by Mr. Hoog. All in favor. None opposed. Motion carried.

D. OLD BUSINESS SCHEDULED TO BE RE-OPENED: NONE

E. OLD BUSINESS TO REMAIN TABLED: NONE

F. NEW BUSINESS

1. Request: **Requesting 2 Waivers;** (1) Create an access point which does not meet the minimum driveway spacing requirements. (2) Create a direct access point onto Jamison Road.

Applicant/Owner: Judy Traynor
Site Location: 24140 Mayfield Lane / Jamison Road
Legal: Sec. 35, T 7N, R 1W, Parcel #15-01-35-300-026.001-006
Township: Harrison
Size of Affected Area: 6.449 Acres Zoning: Agricultural (A)

Mr. McCormack presented the staff report. The Applicant, Judy Traynor, is requesting two (2) waivers for a proposed driveway access: (1) to create an access point onto a Category 1 Arterial road which does not meet driveway spacing requirements; and (2) to create one (1) direct access point onto a Category 1 Arterial Road. *A site inspection was conducted in the week prior to meeting.* The Planning and Zoning Department found out about this driveway as a result of a complaint forwarded from the County Engineer. The driveway had already been installed and the County's guardrail had been cut in January; therefore, this case was initiated as an enforcement issue. Both the Applicant and the southern adjoining property owner are responsible for making the existing driveway access improvements. The land use on the Traynor property site is agricultural and residential. The remaining portion of property is idle land. Most of the surrounding properties are residential uses. Some of the property to the south used to be home to an excavating business, which had a permit (for a Paragraph C, which is similar to a conditional use). However, that business has been removed from the property for years and there have been 2-3 changes in property owners since the business use lapsed. The aerial vicinity map shown in the staff report is about 5 years old. The site map is also from 2012. Mr. McCormack noted that staff had noticed how close the house on the Traynor property is to the property line—so they researched the history of the property to the extent possible and practical. There are 3 panhandles in the area of Mayfield Lane, which were created in 1988. According to Assessor's records, the Traynor residence was built around 1992. However, the previous Planning and Zoning Department Director and previous Building Commissioner destroyed all permit records prior to 1998 or so (through an approved court order). The panhandles in this situation are not normal—and although a shared common access is noted in the surveys from 1988, the location of the shared drive is not shown or described specifically and there

are no permit records that could be located for the house on the Traynor property. The topography of the Applicant's property is very noticeable. The Google aerial depicted the location of the new driveway. The updated staff report on page 2 ; item 4: notes that the driveway: is about 48 feet wide, is approximately 62 feet from the existing access to the northwest adjoining tract, and is about 125 feet from the existing access to the northeast adjoining tract. In terms of the driveway spacing, the proposed access point is approximately 123 feet short of meeting the driveway spacing standards set forth in Article 24, Section 2408. On page 3 of the staff report, the Applicant's acknowledged reasons for the new driveway access onto Jamison Road are noted: (1) is school bus safety and visibility access; and (2) is semi and dump truck visibility and safety. On a related note, there was a recent permit issued for a pole-barn on the southern adjoining tract and in 2013, the Board of Zoning Appeals approved (limited) sales of automobiles on the Willis property. The former Paragraph C permit associated with the Tidwell Excavating business is not transferable. Additionally, the excavating use ceased for over a one-year period; therefore, any non-conforming use would have terminated and to establish a similar use, an application for a Conditional Use or rezone would need to be submitted and approved.

The Traynor property has historically been served by Mayfield Lane in Harrison Township. Article 24, section 2416 refers to the number and location of access points. The Applicant's waiver request must be evaluated in consideration of Article 1, Sec. 160 of the Subdivision Control Ordinance. The issues to consider in this case are: 1) the proposed access is 116 feet deficient of the County's driveway spacing requirement; 2) the driveway width exceeds the County driveway standards; 3) the sight distance is deficient by 25 feet, possible more in one direction; 4) the use associated with driveway does not appear to be residential in nature, as large truck traffic is visible and has been reported on the southern adjoining property; 5) potential soil and erosion control issues and stream problems. Mr. McCormack referenced the County Engineer's report. He noted that 6 letters were sent to adjoining property owners. 2 adjoining property owners responded via email. One email was received today (April 24th) and the other on April 12th. These emails were shared with the board. Concerns indicated include what Mr. McCormack has mentioned in terms of road safety, watershed concerns, and traffic concerns. Mr. McCormack also talked to both parties (2) who sent emails, via phone. Mr. Lehmann asked if there was a need for Rule 5 permit. Mr. McCormack stated that staff estimated that about an acre has been disturbed. Mr. Lehmann asked about the Traynor house being close to the property line. Mr. McCormack said he couldn't explain why the house was so close to the property line, because of the records being destroyed. He noted that there may have been a different, original common driveway; however, it was not shown in the survey. Mr. McCormack stated that in order to get it into conformance, the area would have to be resurveyed and an access easement, including maintenance responsibilities, would need to be done.

Mr. Hoog asked about the semi trucks parked on the adjoining property, which appear to be using the Traynor (new) driveway. Mr. McCormack indicated that he had seen some vehicular storage on the adjoining property, which is in some cases not on the Willis property. Mr. Lansing pulled up Google Earth on his phone and saw multiple dump trucks and assumed that both driveways (for Mayfield Lane and the proposed, new driveway) were being used for the automobiles. A neighbor on adjoining property, Mr. Stone, had indicated that his mailbox had been recently taken out and wasn't sure if the (car) traffic on Jamison had struck it or if one of the trucks on the adjoining property had hit it. The most significant issue or question to address is the type of traffic / use associated with the driveway. The driveway was not applied for as a commercial access—and no commercial or industrial use has been approved for this area, other than the limited automobile sales use by the BZA. Mr. McCormack noted that the driveway is also an inch or two below the grade of Jamison Road. Pulling out of the driveway is difficult, because traffic does come pretty fast.

Mr. Kraus asked for Applicant to come to the podium. Judy Traynor is the Applicant. She would like the new driveway access due to her concern for school bus safety and visibility. She doesn't like her grandson to get on the school bus at Mayfield Lane, because of the vehicles going down the hill at accelerated speeds. In the morning, it is dangerous. She says the semi trucks should go behind the house in the rear driveway—noting it would be safer that way. Mr. Hoog asked the Applicant how many trucks tend to come out of the driveway, at present. Mrs. Traynor said a few trucks some and go each day according to her observations. Mr. Hoog asked the Applicant if she personally was using the driveway for commercial use. She said no, although the adjoining neighbor (to the south) does use it for commercial use. Mr. Kraus asked if anyone had anymore questions for Mrs. Traynor. Mr. Lang asked the Applicant if the driveway access is for neighbors use more than her own (use). Mrs. Traynor said her grandson uses it to get on bus. Mr. Lang asked how the driveway and its location come about. The Applicant said that the neighbor took down the guardrail from her property. She wasn't aware that he hadn't gotten a permit to do so. Mr. Lang assumed that distance from her barn to the road is about 60 feet, which according to the aerials and topography shown contains a pretty substantial ravine within that gap. Jon Traynor approaches the podium (son of Judy Traynor). He noted that he had been the one who had started filling for the barn and the immediate area. He stated that he had talked with the neighbor to the south about putting in a driveway and they both had an interest in putting in a new entrance. Mr. Traynor indicated that the trucks from the neighbor's property couldn't make the turn onto Mayfield Lane from the Willis property; they also had a difficult time turning onto Jamison Road. He doesn't do anything commercial with the driveway and he didn't realize that the neighbor didn't have the appropriate permits to cut the County's guardrail and install a new driveway. He also noted that the area that is disturbed past the driveway entrance is a dirt bike track for his kids. He is not planning on adding a lot more fill.

Mr. Kraus said Mayfield Lane is an approved driveway. Mr. Kraus said the traffic is concerning. Mr. McCormack made some more staff comments. He said that the problem with the Mayfield

Lane access is looking west. The problem with new, proposed driveway is looking east. Mr. Lang noted that there is sight distance deficiency for people driving up the hill, as well as driving down the hill. Mr. McCormack stated that in the case of any shared driveway(s), the parties involved should first get an easement and set conditions, including for maintenance.

Nick Meyer approaches the podium. Mr. Meyer is an adjoining property owner who asked about the new driveway, and whether it can stay where it is or not. Mr. Kraus explained that it does not meet the County's regulations, is lacking sight distance, and was placed on an Arterial Road without County approval. A decision regarding the approval of the driveway has not (yet) been made. Mr. Meyer received a letter in regards to the driveway and wanted to know the purpose behind him being notified. Mr. Kraus said that he is able to state whether he would like the driveway to remain where it is or if it should be torn out. Mr. Meyer asked if a decision would be made at this meeting. Mr. Kraus explained that the driveway could be approved at this meeting or the case could be tabled till the next meeting. Mr. Meyer indicated that he is for the driveway remaining where it was.

Mr. Kraus said that several things need to be looked at for the driveway access. Is the board willing to take action on a case not knowing the true nature of the driveway (in terms of use)? It apparently has both commercial and residential uses. Mr. Kraus asked the rest of the board if the case should be tabled or not. Mr. Lang said there are not enough necessary facts to make a decision; at least 50% of driveway isn't used by Applicant of driveway. The ongoing activities of the trucks and semis on the adjacent property needs to have light shed on them before any decision can be made. Mr. Beiersdorfer said that the new driveway location appears to be better but that the Applicant should get with her neighbor and get some conditions in writing. Mr. Baudendistel said that an easement and agreement should be created. Mr. McCormack said that because the neighbor was not present, which was not anticipated by staff, it is difficult to make certain determinations.

Mr. Nick Meyer comes to the podium again. Mr. Meyer asked because of the driveway not being zoned or permitted appropriately, where would the trucks would be taken if the driveway wasn't allowed for use. Mr. Beiersdorfer said they would have to use Mayfield Lane for access, if the use were allowed to continue. Mr. Kraus informed everyone that if it was determined that the neighbor needed a rezone or conditional use, then there would be one, maybe two more public meetings held in association with the southern adjoining property owner's (Willis') use of his property.

Mr. McCormack said that because there is confusion about the trucking business, tabling the issue might be better so that the neighbors can be questioned about specific items relevant to the Traynor's driveway request (as well as the nature of the uses in the area). Mr. Kraus agreed because of some of the unknown factors involved in this situation, a decision shouldn't be made at this time.

to the northwest adjoining tract. In order to minimize the potential for accidents and delay to through vehicles, all adjacent driveways onto public roadways must be separated by the minimum distance(s) shown in Table 24.4 of the Zoning Ordinance. The first waiver request is derived from Article 24, Section 2408. *Waiver requests exceeding 20% must be reviewed by the Dearborn County Plan Commission and must conform to standards sets forth in Article 24 of the Zoning Ordinance and Article 3 (Section 305D) of the Subdivision Control Ordinance.* 4 letters to adjoining property owners were mailed, and 4 letters were confirmed as being received by adjoining property owners. Mr. Lehmann asked if the house to the north with the bare spot has a parking area or not, by the road. Mr. McCormack is unsure of exact purpose of this area. There were no other questions for Mr. McCormack.

The Applicant John Garvey approaches the podium. He stated that the reasons for the proposed driveway access include: 1) adding a side garage onto the left side of the house; and 2) adding a natural level walkout (basement area) onto the right side of house. Mr. Garvey stated that there is really only one spot to get the natural walkout he and his wife would like. There were no questions for Applicant from the board. The Applicant says he is willing to take out the existing driveway, fill in culvert, and make it look like it was never there.

Mr. Lehmann made a motion to close public discussion, seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion passed.

Mr. Kraus said that the board understands the nature of the requests.

Mr. Hoog made a motion to approve the first waiver to create an access point which does not meet minimum driveway requirements. Seconded by Mr. Lansing. All in favor. None opposed. Motion passed.

Mr. Hoog made a motion to approve the second waiver to create access point onto North Dearborn Road, seconded by Mr. Lehmann. All in favor. None opposed. Motion passed.

G. ADMINISTRATIVE

1. Proposed ordinance changes to the Dearborn County Zoning Ordinance

Mr. McCormack discussed the current driveway requirements and design, in Article 24. Staff is proposing making changes to Section 2430 because there is conflicting language as to whether the County's driveway standards are requirements or recommended items. In any event, Section 2430 needs to be clarified. Staff has also included a variance procedure through a Technical Review Committee process, similar to what has been done already elsewhere in Article 24 of the Zoning Ordinance.

Mr. Lehmann made a motion to forward the proposed ordinance, Article 24, Section 2430 to the Commissioner's office with an addition that agricultural driveways be designated or evaluated in the same manner as business / commercial driveways. Seconded by Mr. Beiersdorfer. All in favor. None opposed. Motion passed.

Mr. McCormack discussed staff's first draft of changes involving Article 20 of the Dearborn County Zoning Ordinance, regarding signage. There was discussion of how political and real estate signs (and similar types of signs) can be controlled, since signs can no longer be regulated in according to their content—as a result of a recent U.S. Supreme Court decision. In general, the biggest concerns for signs are the locations, types, and sizes of structures to be allowed, regardless of their content or intended or associated uses. Mr. McCormack noted that real estate signs are usually 6-8 square feet in size, similar to most political signs (which may be even smaller, in most cases). The conditions of signage in general was also discussed. Mr. McCormack would like the board to take the draft amendments to Article 20 under advisement for the next month—especially Item 3 of Section 2015 (and the rest of that particular Section) and come prepared to discuss and address modifications to this Article at the next meeting.

2. Financial Guarantee Report

Mr. McCormack noted that the updated financial guarantee would be sent out to the board within the next week or so. There is one subdivision where the guarantee needs to be renewed or where the remaining improvements need to be installed within the next month or so.

Mr. Beiersdorfer made a motion to adjoin the meeting. Seconded by Mr. Lehmann. All in favor. None opposed. Motion carried.

Meeting adjoined at 9:17pm.

Dennis Kraus, Jr., President

Mark McCormack, Secretary
Planning Director