

Lodi Township Planning Commission
November 27, 2007
Corrected Minutes

The meeting was called to order at 7:30 p.m. by Chairman Steeb.

Members present: Steeb, Crowner, Thelen, O'Connor, Swenson, Diuble, Veenstra

FREDERICK FARMS APPLICATION

Don Pennington Township Planner gave a brief summary of the application. He stated that Land designated for residential in the Township, is adequate. A change to residential from Ag zoning on this property is not warranted.

The following motion and findings of fact was made by Veenstra and supported by Swenson:

Whereas, a petition was received by the Township as part of an application submitted by Fairview Land Development, LLC (hereinafter "Petitioner") to re-zone 112 acres of land located in the NE quarter of Section 14 (parcel#13-14-100-002) from the Agricultural District (AG) to Low Density Multiple Family Residence District(R-3) as described in and pursuant to the Lodi Township Zoning Ordinance (hereinafter "Zoning Ordinance"); and

Whereas, notices having been duly mailed and published, a public hearing was held on September 25,2007, at which time the Petitioner's representative spoke for the petition, but members of the public spoke against, as did the Township's consultants; and

Whereas, a sampling of the public's comments received during the hearing included:

" R-3 is not transitional zoning..."

"Zoning to R-3 is zoning in the dark without planning and is crazy."

"Rezoning request should be disapproved because the property is not served by a Municipal water supply system and a municipal sanitary sewer system." and

Whereas, the Planning Commission reviewed Petitioner's Application, Impact Assessment Submittal, and additional information submitted during the public hearing; and

Whereas, the Planning Commission reviewed reports prepared by the Township Planner and Engineer, and heard presentations made by these consultants concerning their reports; and

Whereas, the Planning Commission in reviewing any petition for rezoning is required to review all of the evidence presented and make the findings of fact required by Section 58.05 of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission makes the following findings of fact as required by section 58.05 of the Zoning Ordinance:

- 1. Subsection 58.05A-Whether or not the requested zoning change is justified by a change in conditions since the original Ordinance was adopted, or by an error in the original Ordinance.**

The current Zoning Ordinance was adopted in 1973, and has been amended and updated as determined necessary by the Planning Commission and the Township Board. The Township has a long history of allocating considerable time and effort evaluating factors within the community to determine appropriate land use policies for orderly growth and preservation of resources within the Township. The General development Plan (GDP) is based upon significant analysis by the Planning Commission and the Township Board, which resulted in sound planning policies and principles being established and represented through the Zoning Ordinance.

The current GDP was adopted in 2002. While there have been some changes generally in the last five years (e.g., a significant downturn in the local housing market), there is no evidence of changed conditions with respect to the Property, and no evidence of an error with respect to the zoning or planning with respect to the property, so as to justify the requested zoning change. The Planning Commission finds that no information was presented suggesting that conditions have changed sufficiently to justify the requested zoning change.

SEMCOG estimates that Lodi Township has 2225 households as of October 2007 and projects that it will have 3046 households in 2030. The areas identified in the GDP for Suburban Residential and Rural Residential are more than sufficient to accommodate the 821 additional households that are projected to be needed. This proposed development of 450 units would account for 55% of the projected needs within the Township over the next 23 years. The Planning Commission finds that there is no need to identify additional future Suburban Residential areas within the Township beyond those already identified in the GDP.

The Planning Commission makes the following additional findings of fact regarding the existing and proposed zoning classifications of the property:

Conditional rezoning - The petitioner has offered a commitment to develop no more than 450 single-family residences on the subject property as an enforceable condition to the requested rezoning. The conditional rezoning option was adopted into the former state Township Zoning Act in 2005, and carried over into the Michigan Zoning Enabling Act. An amendment to the Lodi Township Zoning Ordinance has been approved by the Township Board to insert a new Section 58.02G, which states the policy of the Township Board with regards to conditional rezoning petitions as follows: "Conditional rezoning as authorized by Section 405 of the Michigan Zoning Enabling Act, shall be prohibited in Lodi Township." The Planning Commission finds that the offered condition is not in accordance with the Township Board's established policy. Even though the petitioner has stated that the intent of the rezoning petition into the R-3 district is to develop single-family residences, all permitted and conditional uses within the R-3 zoning district must be considered as part of the rezoning petition.

R-3 District-section 22.01 of the Lodi Township Zoning Ordinance pertaining to the R-3 Zoning District states:

This district is composed of those areas of the township planned in the Township's General development Plan to be served by a municipal water supply system and a municipal sanitary sewerage system whose principal uses are or ought to be single-family, two-family, and multiple family dwellings. The regulations of this district are designed to permit a higher density of population and intensity of land use in areas served by a municipal water supply system and a municipal sanitary sewerage system, and which abut or are adjacent to other uses, buildings, structures, or amenities that support, complement or serve the planned residential density and intensity. In addition to the dwellings permitted in this zoning district, there are permitted certain residential and public uses which have been strictly regulated to make them compatible with the principal residential uses of this district.

It is the intent of this district that development at the density and intensity of the principal residential uses permitted in this district shall only occur where the area is served by a municipal water supply system and a municipal sanitary sewerage system.

The site is not currently served nor planned to be served by municipal water supply or municipal sanitary sewerage systems. The Planning Commission finds that the possibility

of urban residential uses with full urban services would conflict with surrounding land uses, adversely impact the stability of agriculture, and not be appropriate for the site.

AG District -Rezoning of the subject 112-acre site into R-3 district would imply that the intent of the AG district is no longer appropriate or applicable for the subject site. The rezoning would imply that a land use change is warranted, the possibility of urban residential with full urban services are appropriate for the site, and that non-agricultural impacts to adjoining properties can be expected.

As noted in the Township Planner's report dated 11/19/2007, approximately 60 percent of Lodi Township's land area is designated as active agriculture. Lodi Township ranks fifth among Washtenaw Co. Townships that have the highest amount of active agricultural acreage. The results of the 2007 Lodi Township Citizen Survey also show that the "vast majority of farmers that farm 40 acres or more intend to remain farming for more than 10 years."

The Planning Commission finds that farming continues to be viable within Lodi Township, and the intent of the AG district is still appropriate and applicable to the subject site.

2. Subsection 58.05B-The precedents, and the possible effects of such precedents, that might result from approval or denial of the petition.

The urban nature of the R-3 district and the need for urban services and infrastructure in the R-3 district make the proposed rezoning contrary to the intent and character of the site and surrounding area, as described in the GDP. This precedent could result in more applications for similar rezonings that do not comply with the policies of the GDP and diminish the integrity of sound planning policies and principles contained within the GDP.

There are noteworthy reasons why the subject 112 -acre parcel is designated as "Agriculture" on Lodi Township's General Development Plan. Not only has the subject parcel been used for agricultural production for many years, but also it is within a large contiguous area that extends beyond the borders of Lodi Township and into adjoining Townships. This designated area generally has existing agricultural operations, Class II soils, large contiguous parcels and few non-agricultural land use infringements. The Planning Commission finds that:

A change from this agricultural designation into an urban residential use could set precedents leading away from the current stabilization and integrity of the entire agricultural community.

Approval of the petition could set a precedent that any Agricultural parcel could be rezoned for any other use if the owner of the parcel no longer wishes to farm it.

Denial of the petition would reinforce the strength of the General Development Plan, the Zoning Ordinance, and the Planning process.

3. Subsection 58.05C-The capacity of Lodi Township or other government agencies to provide any services, facilities, and /or programs that might be required if the petition were approved.

In March 2007, the Township prepared an estimate of additional township revenues and expenses for various development scenarios for the subject property. This estimate was submitted to the Michigan Department of Environmental Quality (MDEQ) as part of the Township's response to the petitioner's request to the MDEQ for a wastewater discharge permit. Anticipated Township expenses for basic municipal services will Exceed Township

revenues by at least \$207,000 to \$308,000 per year, depending on the price point of the housing units. The Petitioner now states that the intent is to develop no more than 450 single-family residences at a starting price of \$250,000. In this case, anticipated Township expenses will exceed revenues by more than \$200,000 per year. If land is developed consistent with existing (and planned) zoning, expenses will exceed revenues by only \$7000, to \$14,000 per year.

In addition, the chief of the Saline Area Fire Department has indicated a development of the size planned, along with other planned developments in the Township, would require an additional fire substation to be located in Lodi Township. The substation would cost Lodi Township approximately \$2,000,000 to build. It would cost approximately \$300,000 per year to staff this new substation.

The petitioner's estimate of the financial impact to the Township and other governmental units only stated the anticipated tax revenue. It did not include an estimate of the additional expenses that would be incurred as a result of this development. In addition, the Traffic Impact Study submitted by the petitioner does not adequately evaluate how roads within the surrounding areas of the Township would be affected by all possible uses and dwelling unit densities permitted by the R-3 district.

The petitioner stated in the Impact Assessment that, "it is anticipated that a community well could supply enough water to meet the residential demands of the 112 acre development." However, no information has been provided by the applicant to verify that existing capacity is available to serve that site without impacting nearby users of groundwater resources. Further, due to Washtenaw County concerns, Washtenaw County has designated this area as a "well first area." The petitioner only states that, "The viability of a community well to serve this development will be determined at the time of the project engineering."

The Planning Commission finds that the capacity of Lodi Township to provide any services, facilities, and /or programs that might be required will be impaired if the petition is approved. The Planning Commission further finds that no information has been provided by the petitioner to verify that sufficient water supply capacity will be available to serve all of the possible residential uses and densities allowed in the R-3 zoning district.

4. Subsection 58.05D -effect of approval of the petition on the condition and/or value of property in Lodi Township or in adjacent municipalities.

The requested R-3 zoning will affect land use stability by creating an infringement of non-rural land (smaller lot sizes) into an area planned for rural use. Designated rural areas need stability in order to justify making economic and physical investments for the future. When land owners see land use infringements, they may fear an increase in tax assessment. These perceived influences generally negatively impact farm operations and open rural areas both physically and economically. Land owners may come to believe that, "it is just a matter time" until land well be developed into a land use that is not in character with the intended policies of the area. Conflicting uses result, which help to destroy the integrity of the area. Such beliefs can result in farmers and land owners selling additional parcels of land. Maintaining stability within designate rural areas must be accomplished to ensure the vitality of these areas.

In March 2007, the Township prepared a market analysis for residential development, which was submitted to the MDEQ as part of the Township's response to the petitioner's request to the MDEQ for a wastewater discharge permit. The Township's analysis examined existing housing availability and demand for Lodi Township and the Ann Arbor region, and found that there is a large oversupply of new housing in virtually all price ranges.

Further, as noted in the Township Planner's 11/19/2007 report, "Even if (SEMCOG) population projections were to significantly increase or the market for additional residential units began to accelerate, the amount of land designated as "Suburban Residential" on the Lodi Township General Development Plan would be totally adequate to accommodate the increased need." The addition of unneeded housing units will further drive down the property values in the Township and surrounding communities.

The Planning Commission finds that approval of the petition would adversely affect the condition and stability of agricultural enterprises in the areas surrounding the site, and may cause the value of other property in Lodi Township to decrease due to the oversupply of housing in the area and the nature of higher density development in a rural area.

5. Subsection 58.05E-Relation of the petition to the adopted General Development Plan (GDP) of Lodi Township, and of other government units where applicable.

The GDP serves as the guide for future development and preservation of the unique character within the Township. The GDP deals with current and long-range land use needs, and in that context serves as a reference to guide developers and the Township officials in the carrying out of their responsibilities. By planning for logical areas to concentrate intensive development and areas to preserve natural resources, Lodi Township seeks to restrict urban development from inappropriate areas of the Township.

The petitioner has implied that the proposed rezoning conforms to goals and policies of the GDP and the Comprehensive Plan for Washtenaw County. However, these plans, plus the Ann Arbor Greenbelt Strategic Plan and the Saline Sustainability Circle Regional Planning Guidelines all call for the subject parcel to remain agricultural.

The petitioner presented justification for not placing the proposed development in an area either zoned for this purpose or planned for this purpose in the General Development Plan. The Petitioner stated, "A decision regarding the proper zoning for any property rests on the specific facts and circumstances applied to the subject property. Every property owner is entitled to an economically feasible use of his or her property." This opinion is not supported in the GDP.

The petitioner stated his opinion during a public Planning Commission meeting that areas planned for Suburban residential uses in the Township are less suited for the planned use than the subject site because of neighboring uses, such as churches, the manufactured housing park, and estate homes off private drives. The Suburban Residential designation in the GDP and R-3 zoning district are intended to provide for a mix of housing types that create a suburban character, and abut or are adjacent to other uses, buildings, structures, or amenities that support, complement or serve the planned residential density and intensity.

The Planning Commission finds that abutting residential and non-residential land uses in areas already designated for suburban Residential uses and densities in the GDP complement and support the planned residential uses and intended character of these areas.

The petitioner also stated that existing gravel pits in areas planned for Suburban Residential uses would inhibit residential development. However, all existing operations have approved reclamation and redevelopment plans that include planned residential development and are consistent with the goals and policies of the GDP.

The petitioner further stated that the proposed R-3 zoning would be appropriate transitional zoning between the commercial center at the Ann Arbor-Saline Road/ Pleasant Lake Road/ Travis Pointe Road intersection and the surrounding agricultural area. The GDP future land use

map does indicate a small area of Suburban Residential near the northwest corner of this intersection, but the Frederick Farms site does not abut the designated lands. The Planning Commission finds that this Suburban Residential designation in the GDP was intended primarily to recognize a limited area of existing small residential lots located just north of this intersection that were established years before the adoption of the GDP.

The underlying principles of planning and zoning are aimed toward maximizing the value of the community as a whole for the citizens as a whole. These principles have been upheld through numerous legal decisions. The GDP recognized existing development and planned for future development in appropriate places. Specifically, new higher-density development should take place adjacent to the cities of Ann Arbor and Saline, where the possibility of providing municipal sewer and water is better than in other areas. The Planning Commission finds that the limited designation of an area of Suburban Residential near the Ann Arbor-Saline Road/Pleasant Lake Road/Travis Pointe Road intersection was not intended to start a new cluster of development away from these two cities.

The Planning Commission further finds that:

The petition conflicts with the General Development Plan of Lodi Township, the Comprehensive Plan for Washtenaw County, the Ann Arbor Greenbelt Strategic Plan, and the Saline Sustainability Circle Regional Planning Guidelines.

The proposed R-3 rezoning is not in conformance with the Township's GDP regarding numerous issues, including but not limited to sewer and water infrastructure and density of housing units proposed for the subject site.

Sufficient land to accommodate anticipated residential growth has already been designated in the GDP.

Opening up new areas for additional higher density residential development before using the existing available lands is not sound planning.

NOW, THEREFORE, BE IT FURTHER RESOLVED that based upon the foregoing findings of fact and the evidence received in support of them, the Lodi Township Planning Commission recommends to the Lodi Township Board that the Frederick Farm Rezoning Petition to rezone parcel # 13-14-100-002 from the Agricultural District (AG) to Low density Multiple Family Residence District (R-3) as submitted by Fairview Land Development, LLC be **DENIED**.

Roll Call Vote:

Ayes Thelen, O'Connor, Crowner, Steeb, Veenstra, Swenson, Diuble

Nays none

Absent none

Abstain none

RESOLUTION DECLARED ADOPTED.

WAGNER WATERS CROSSROADS

Applicant is not present and did not request withdrawal of the application.

Motion by Diuble, seconded by Thelen, that application be denied based on the following findings of fact.

Wagner Waters Crossroads Findings of Fact

November 27, 2007

1. Wagner Waters, LLC, has applied for a special use permit for land at the southwest corner of Waters and Wagner Roads.
2. Wagner Waters, LLC, is a partnership of a church, a nonprofit dance group, and a married couple.
3. Wagner Waters, LLC, requests a permit to use the property for church services and related activities, for dances for which admission will be charged, and for a school for teacher training and community education classes.
4. Wagner Waters LLC has submitted plans to build a multi-use building for use by the partners if the Special Use permit is granted.
5. The land is currently zoned AG-Agricultural District on the Lodi Township Zoning map.
6. The Lodi Township General Development Plan indicates the land should remain zoned AG-Agricultural District.
7. Churches may be allowed as a Special Use within the AG-Agricultural District.
8. Community buildings ~~my~~ may be allowed as a Special Use within the AG-Agricultural District.
9. Schools are allowed as a Special Use within the AG-Agricultural District
10. Teacher training and community education programs do not meet the intent for school uses. These training programs would be similar to training activities any business would conduct for its employees. As such, the training activities would be a commercial use.
11. The Preliminary Site Plan meets the requirements of the Lodi Township Zoning Ordinance.

An amendment to delete recommended conditions from the original motion should the township board approve Wagner Waters Crossroads Special Use request was made by Veenstra and seconded by Thelen. The amendment passed 7-0.

The amended resolution to deny the special use request passed 6-1.

FUTURE CHANGES TO THE TOWNSHIP GENERAL DEVELOPMENT PLAN were discussed.

OCTOBER MINUTES WERE APPROVED

The meeting was adjourned at 9:45 p.m. There will be no meeting in December.

.

Respectfully submitted,

Margaret O'Connor