

Clearwater Township
Planning Commission
Special Meeting of September 20, 2011
As approved October 3, 2011

Call to Order, Pledge of Allegiance:

Chair Parzych called the meeting to order at 12:02 p.m., and opened with the Pledge of Allegiance.

Roll Call of Members and Recognition of Visitors:

Commissioners present: Belanger, Fields, Parzych, Johnson.

Township officials: Zoning Administrator Molby

Public: Lucy Gerlach, Virginia Lee, Ronald Robinson, David Kimball, Mary Kimball, Daniel Kimball, Joe Mariage, Al McShane, Larry Niederstadt, Pat Gray, Cliff Thompson, Len VonSee, Jeff West.

Approval of Agenda:

MOTION by Johnson, second by Belanger, to accept the agenda as presented. Motion carried.

Approval of Minutes:

MOTION by Johnson, second by Belanger, to accept the minutes of August 29, 2011 as presented. Motion carried.

Public Comment for Matters Not on the Agenda:

There were none.

Scheduled Public Hearing: on proposal to rezone Rapid City Road North Corridor from Plum Valley Road and West Plum Valley Road to Crystal Beach

Chair Parzych opened the public hearing by stating the rules. Each person speaking is limited to three minutes and must address all comments to the Chair. Speakers are asked to contribute new ideas to the discussion, not simply repeat already stated opinions.

Public Comment Portion

Speaking for:

Jeff West – said “if it looks like a duck, and quacks like a duck, then it’s probably a duck.” The majority of the homes there are already carrying on commercial ventures. Where is it appropriate to have your commercial area if not on a class A road? You don’t want delivery trucks and semis delivering on roads like Kellogg, for instance. The area already looks commercial of the many commercial ventures going on.

Larry Niederstadt – said he would prefer that the northern boundary on the eastern side be Zimmerman Road. Between Zimmerman and Plum Valley, there are already three businesses: the grocery store, the rock shop, and the gravel pit. On the western side, I’d rather it not go down Crystal Beach Road beyond the chiropractor’s office. Larry gave the Commission a written copy of his comments.

Jeff West – interjected that Trevor has recently bought the cabin behind his building and plans to expand his business into that property. He also commented that there is or was a taxidermist right next door. He clarified his understanding that the proposal included land to the western boundary of the abandoned railroad right-of-way.

Al McShane – said there seems to be a perception that rezoning from residential to commercial would automatically make the existing buildings commercial, but it would not. A person couldn't run a commercial operation there without upgrading to commercial code. The Michigan residential code parallels the zoning ordinance – a permit is required for any change in use. Changing the zoning does not change the use. Among some of the people living there, they kind of think they will become commercial. How often does the Zoning Administrator actually issue a permit for change in use? Molby – replied “Not often.” McShane – continued, saying people change use without getting permits. That's why we have the problem up there. If you have a house, any buildings you have are accessory to the residential purpose. Some people think they can build a residential accessory building, and then turn it into a store. That's not allowed. It requires a change in use permit, which also requires bringing it up to commercial code.

Lucy Gerlach – read from the minutes of the Township Board the last time this issue was considered (in 2008), stating that the Township Board voted to hire a professional planner to assist in the matter. Fields clarified that the Township Board authorized such professional assistance. The Commission did, indeed, contact several different planners, but had very little response. In that following summer, all the members of the Planning Commission enrolled in the MSU Extension Michigan Citizen Planner program, and all passed the final exam – thus bringing to the Commission an expertise that had not previously been there.

Virginia Lee – asked why the meetings are at noon, which must be difficult for working people. Parzych responded that we are trying different meeting times, trying to get more people to attend. We traditionally have held our meetings at 7:00 p.m. and we are lucky to get one or two people coming.

Sara Burlingame – stated she is a resident of the township and a realtor. She asked for clarification of what the purpose of the meeting is. Parzych explained that it is a public hearing on the proposal to rezone a portion of the Rapid City Road corridor. She commented that the commercial zone south of Rapid City is “pretty junky,” and that the last thing a visitor to the area needs to see is more junky commercial. She stated that it needed to be a beautiful drive to the south end of a beautiful lake. She believes that zoning the area Commercial-Light-Industrial will be destructive of that purpose. She referred to the Kalkaska County requirement for septic inspection at the point-of-sale, implying that it would somehow complicate a transaction if the area were rezoned.

Speaking against:

Virginia Lee – stated that we already have 40 available commercial properties south of Rapid City that are undeveloped. It is wrong to zone more commercial property when it is not needed. There are 124 lots in Plum Valley West, with wells and septic systems. When the oil companies did their hydrological studies of the area, they reported that there are virtual underground rivers in this area, all running toward Torch Lake. She believes this is a sensitive area that should never be commercial.

Lucy Gerlach – stated that she had never heard a compelling argument for the change; the people who live there should not have this change forced upon them without some compelling public

good, and she can see none. She commented that one reason for having zoning is to keep commercial establishments together, and we already have sufficient commercial areas south of Rapid City, in case anyone would actually want to come here and start a business, which she found hard to believe. But, if anyone should want to open a business here, we should encourage new enterprises to go into the already zoned district.

Cliff Thompson – speaking as a prior member of the Zoning Board and also as a licensed real estate broker with firsthand experience, stated that when you mix commercial and residential zoning, you devalue both. For that reason, he supports Larry's idea of making Zimmerman Road the northern boundary of the commercial portion on the east side of Rapid City Road. He stated that north of Zimmerman to the county line there is no commercial activity on the east side of the road. He also stated that the area just north of Kingsley's property has steep hills and insufficient level land for a successful commercial venture. People wouldn't be comfortable driving up steep hills to visit a commercial enterprise. Consider stopping the commercial zone just a couple of lots south of the Village Market. He also commented that there is one un-built lot directly across from the chiropractor's office that is likely to be attractive in the future for commercial activity, situated as it is across from and adjacent to existing commercial zoning.

Al McShane – said that when we look south of town, we see that we already can't manage commercial. We have good rules but we don't follow them. We don't have the political will to manage commercial – no reason the south of town district couldn't look nice.

Mary Kimball – said that her major concern is environmental,, she loves the trees. She is also concerned about the water; it was the man that worked for the oil fields that told her about the water. He went up in the hills behind her house and did his study; he told her there is an underground river down about 25 feet that runs right under her house. Her other concern is that although we've been told it won't change the taxes, she doesn't believe it because she's talked with people who did have that happen; when their property was rezoned commercial, up went their valuation and up went their taxes. Furthermore, when they want to sell, the buyer will have to get a commercial loan rather than a residential loan. Lastly, she said that if she'd wanted to live in the city she'd have moved to Traverse City, but because she wanted to be in the country, she drove back and forth to her work at Munson Hospital for forty years.

Sara Burlingame – said it is true that loans are hard to get, and a loan for a residence in a commercial zone loan is very hard to get. She commented that the Pine Circle subdivision has lots of families living there who thought they would be in a safe community, and won't want a commercial business, such as storage units or a car wash, right behind them. She asked that we consider the people who are already living there.

Al McShane – commented that by law, all auto repair shops are required to have oil and gas interceptors to keep oil and gas out of the soil. There are strict commercial regulations. By having illegal ones we've lost that environmental protection.

Virginia – stated that she has had over 30 years zoning experience; she was the township supervisor when we instituted zoning – and we were the second township in Kalkaska County to have zoning. She said that in the 1970s there was a “binge of subdivisions.” She went to Lansing to learn about subdivisions and get recommendations; as a result, Clearwater Township passed an ordinance or a moratorium stating the no more subdivisions would be approved until at least 80% of the existing ones had homes on them. Right now we have three that are practically

empty. She stated her intention to approach the Township Board seeking a moratorium on commercial zoning until at least 80% of the existing commercial properties are used.

Rachel Darnell – asked what happens to the businesses that are already there, the ones that are operating illegally, if the area is not rezoned? Parzych – responded that they will have to be notified.

Sara Burlingame – asked what is wrong with just allowing those places to continue as commercial and the rest as residential. Parzych – responded that that brings up the problems inherent in spot-zoning, which we are supposed to avoid.

Cliff Thompson – stated that the issue of existing businesses does not apply to the strip from Zimmerman to Crystal Beach.

Jeff West – noted that when Mr. Kimball was alive there was commercial. He doesn't believe that anybody is going to close anybody down. He asked whether we would be looking at enforcing the legal standards that should have been enforced years ago. Parzych – responded that that could be so, and conceded that it would be very difficult to do.

Rachel Darnell – inquired if there isn't a way to permit existing businesses to continue, but prevent them from continuing if the property is sold. Her concern is that she wouldn't support closing anyone's business. Jeff West – interjected that there is such a thing as a deed restriction.

Lucy Gerlach – asked how many places along there are now operating illegally, and to name them. Parzych – believes there are at least six, but declined to name them.

Al McShane – said that if you go to Kalkaska construction codes and inquire under FOIA for permits of commercial construction. With that list you would know who is operating legally; everybody else is not.

Sara Burlingame – asked whether we are trying to change the zoning because there are some who are operating illegally. Parzych – agreed that we are trying to clean up a mess that exists. She asked what those people who are operating illegally will have to do if we do not rezone the area. Parzych – noted that they would have to apply for special use permits. There was some discussion comparing the costs of one approach versus the other.

Chair Parzych closed the public portion of the hearing.

Commission Deliberation

Zoning Administrator Report

Zoning Administrator Molby – commented that there is an issue of balancing people's rights to do what they want to do with their own property and the good of the neighborhood. Some people want to be in business and others don't; some people want to be in a strictly residential area and not have to see any commercial enterprises. Our job is to try to get people to follow the requirements of the ordinance, to abide by the rules and live in peace. Some commercial ventures really are ugly looking, yet others are so excellent and environmentally friendly that they fit right. There is a national and state trend to attempt to get people to start businesses and get people employed.

Bruce Belanger – took exception to the statement that commercial and residential can't work well together. He said looking at the condominiums and apartments near the Wal-Mart shopping center in Traverse City, it's clear people want to be close to businesses so they don't have to

travel long distances. It's true that some of our commercial enterprises south of town have too many things out in front, but at the same time, if a potential customer can't see the merchandise how will that customer buy the merchandise. That doesn't mean you have to have a big mess. We got ourselves into trouble with our special use permits. When Covell wanted to put up a store in Alden, they wouldn't let him. Our township let him in, and improperly permitted the store, it's true. But that was one of the best things that happened around here. Business creates business. Yes, I like the woods, but commercial business needs to be on the main trunk, not on side roads. The real estate argument cuts both ways. On the east side of Rapid City Road, from Plum Valley to Zimmerman, there are only three or four 3 or 4 houses, the rest is commercial. On the west side there are mostly businesses. I don't have a problem going to Crystal Beach Road with commercial zoning, but going only to the east boundary of the abandoned railroad right-of-way, because that will create a buffer for the Pine Circle subdivision.

Huse Johnson – said he has long had a dream of providing jobs for people in this area, and the only way to do this is to have business. What I've heard today tells me that the people who live here don't want any change. The previous Township Board has done some nice things, putting in sidewalks and nice street lights, making Rapid City look nice. This town is not going to become a destination, it is just going to be a drive-through. I visualized a mini-mall with the Village Market at one end and maybe a Rite Aid at the other end. But, I'm tired of trying to convince people. The people here don't want any change and my dream was just that – a dream.

Tina Fields– noted that the question keeps coming back to us, several times in the last six years; this time because the Township Board has asked us to visit the matter again. There must be a reason that the question keeps coming back up. Things are going on there that are commercial, demonstrating that people want to conduct business in that area. Possibly it is because Rapid City Road is our only class A road and it is the main highway through town. It is rational to put business on the main road through town. Just across the county line is the Helena Township commercial zone. It seems reasonable to connect the two townships' commercial zones. There are also rational arguments from people who live there who don't want to be in a commercial zone. Very few people claim we don't need any more commercial area, even though we do still have some undeveloped commercial lots. We don't know why there are some commercial lots not yet in use. Along this stretch of Rapid City Road, we do have the appearance of a commercial center developing. I am sympathetic to changing rezoning on the east side to Zimmerman instead of to the county line; and on the west side to the eastern edge of the abandoned railroad right-of-way. People have commented that they don't want a bunch of industry here; that is why we no longer have an industrial zone. We have only two commercial zones: Village Commercial and Commercial-Light-Industry. A small assembly operation would fit; a stamping plant or heavy manufacturing plant would not. We want only stuff that is appropriate to our township, our sensitive environment, and our pristine waters. The new car wash built just across the county line, very close to our beautiful lake, is a self-contained unit designed specifically to protect the water table. I can vote for the changes suggested by Commissioner Belanger and Supervisor Niederstadt.

Adam Parzych – concurred with that choice.

Jeff West – interjected that he will be seeking a split of the railroad right-of-way down the center.

MOTION by Parzych, second by Belanger, to recommend to the township board that the Rapid City Road north corridor be rezoned to Commercial-Light-Industry, as follows: on the east from Plum Valley Road north to Zimmerman Road, and easterly to a depth of 500 feet or the rear property line, whichever is less; on the west from West Plum Valley Road north to the County Line, and westerly to the eastern edge of the abandoned railroad right-of-way. Motion carried three 'yea' to one 'nay.' (Yea: Belanger, Fields, and Parzych. Nay: Johnson.)

Break 1:23 p.m. – 1:31 p.m.

Old Business:

Medical marijuana language – Parzych learned from one of the Kalkaska County Commissioners that the Commissioners are drafting theirs and expect to have it completed in a month. So far, what we are seeing is in agreement with the strategies we have been discussing.

Closing Public Comment:

There was none.

Adjournment:

MOTION by Johnson, second by Belanger, to adjourn. Adjournment at 1:38 p.m.

Assignments:

- Fields to advise the Township Board of the results of this public hearing.

Next Meeting: Regular meeting, Monday, October 3, 2011, at 12 noon.

Respectfully submitted,



Tina Norris Fields
Secretary