

**ANN ARBOR CHARTER TOWNSHIP
PLANNING COMMISSION MEETING MINUTES
Township Hall – 3792 Pontiac Trail
March 6, 2023 7:30 P.M.**

I. ROLL CALL

Chair Kotila called the meeting to order at 7:30 pm. Per the Open Meetings Act members of the public could participate in person or participate via the ZOOM webinar platform. Members of the Commission must be physically present to participate as Commissioners at the meeting.

Present: Richard Bunch
Lee Gorman
Peter Kotila
Karen Mendelson
Linda Young

Absent: John Allison
Randy Perry

Also Present: Township Attorneys Alexandra Dieck and Sinead Redmond, Township Planner Sally Elmiger, Township staff Debbie Mariani, Supervisor Diane O’Connell, Building Official and Zoning Administrator Peter Pace

II. CITIZEN PARTICIPATION

Reserved time for citizen participation on agenda items only. Call the Township office for reserved time at 734-663-3418 before noon on the day of the meeting. Public comment regarding non-agenda items is at end of the meeting.

None.

III. APPROVAL OF MINUTES

February 6, 2023 Draft Ann Arbor Charter Township Planning Commission Meeting Minutes

MOTION by Mendelson, support by Young, to amend and approve the February 6, 2023 meeting minutes as follows:

- **Delete from Also Present: ~~Township Planner Sally Elmiger~~**

Motion carried by voice vote.

IV. COMMUNICATIONS

A. February 20, 2023, Draft Ann Arbor Charter Township Board of Trustees Meeting Minutes

Draft February 20, 2023 Ann Arbor Charter Township Board of Trustees meeting minutes were in the packets.

V. PUBLIC HEARINGS

A. CUP-01-23 Applicant is applying for an extension of the existing Conditional Use Permit to incorporate a Dairy Processing Plant at Washtenaw Food Hub and to amend the Commercial Kitchen Ordinance to increase the square footage limit from 10,000 square feet to 15,000 square feet, 4175 Whitmore Lake Road, 16 acres, parcel I-09-05300-004.

Applicant presentation:

Brendan Hayden, Washtenaw Food Hub Site Manager, was present on behalf of this application for an extension of the existing Conditional Use Permit to incorporate a dairy processing plant at Washtenaw Food Hub, and to amend the commercial kitchen ordinance to increase the square footage limit from 10,000sf to 15,000sf.

Mr. Hayden made the following points:

- The Food Hub was applying to incorporate a dairy processing plant in building #3, which had been remodeled some years ago, and which will be able to tie into the existing septic system.
- The owners of the dairy plant had purchased the creamery business from another local business owner.
- The ordinance limited commercial kitchen use to 10,000sf. Currently the Food Hub was using 9,133sf.
- The Food Hub was asking the Planning Commission to consider two things:
 - 1) Adding 887sf of Building 3 to the Conditional Use Permit, and/or
 - 2) Consider raising the ordinance limit to 15,000sf, or some amount more than 10,000sf to accommodate the whole of the portion of Building 3 that is already remodeled – or 1320sf – that would put the total commercial kitchen at the Food Hub at ~10,300sf.
- The Food Hub had been encouraged to ask for the ordinance change to allow commercial kitchens to 15,000sf, to allow for future expansion, or to include any other building that they might want to utilize to store food or use in any commercial kitchen activity.
- Building #3 appeared to be very large on the site plan, because it consisted mostly of fertilizer bays/unheated garages. The Food Hub was only making the request relative to the 1320sf portion of the building that had been remodeled. The two portions of building #3 had different roof lines, and were essentially 2 separate buildings.

Consultant comments:

Referencing her February 27, 2023 memorandum, Township Planner Elmiger said the Planning Commission needed to decide whether all or a portion of Building #3 should be included in the conditional use permit, and secondly to decide whether to revise the ordinance to allow more than 10,000sf as a commercial kitchen use.

- As just explained, the applicant was not applying to use the entirety of building #3.
- The applicant was asking that building #10 be included in this request, in order to use building #10 for food storage only. Building #10 and the remodeled portion of building #3 could be included if the commercial kitchen use was revised to allow 15,000sf.
- The applicant needed to describe the existing and/or proposed connection to the septic system, and identify it on the Site Plan. If the septic system will be used to dispose of any waste from the cheese-making process (such as whey), the applicant should supply

an opinion of the Washtenaw County Sanitarian that the septic system can accommodate the addition of the creamery to the existing activities on site. In addition, this septic system is enrolled in the County's Operation & Maintenance Program, which requires annual inspections to determine the system's functionality. The inspection report from 2022 could be provided to the Planning Commission for additional information.

- The applicant should provide the number of times per day for pickup from and deliveries to the creamery.
- The creamery should confirm the "namesake" ingredients. For cheese, that would be milk that is produced in Michigan or within 100 miles of the Township; this is an ordinance requirement.

Township Planner Elmiger supported the Conditional Land Use request to expand the major agricultural commercial kitchen at the Washtenaw Food Hub. The main impediment was the current size limit in the ordinance, and the Planning Commission should determine the scope of any increase. Other recommendations were summarized on page 10 of the February 27 memorandum.

Mr. Hayden gave the following additional information:

- He had been working with Washtenaw County, and had a letter stating that the septic system was operating in conformance with permit requirements. The Food Hub could accommodate the wastewater from the creamery, which would probably be less than 50 gallons per day, for washing, hand-washing, one bathroom for 2 people, and waste disposal. However, the creamery business had plans to divert the whey waste to farms etc. to keep it out of the septic system. Currently the site was putting about 950 gallons/day into the drain field; it was built to accommodate 1500 gallons/day.
- He had filled out the Washtenaw County form for the addition of the commercial kitchen use.
- The Food Hub had no plans to put a commercial kitchen or any plumbing in building #10. It would likely be used for a walk-in cooler; there was demand from small farmers for refrigerated and frozen storage. Cold storage did not require any plumbing for things such as hand washing, etc.
- The Food Hub had solar and industrial electrical infrastructure that allowed them to provide storage to farmers at a reasonable rate.

Diana Andres, creamery owner, provided the following:

- They would get milk from a dairy 40 miles from the Food Hub.
- They picked up milk once every 2 weeks right now, and once a week in the summer, utilizing a 250 gallon small tanker trailer, and that trailer was never full.
- They received 1-2 deliveries/month for labels, packaging, etc.
- A distributor would pick up from the dairy once a week; that distributor already comes to the Food Hub and would make their pick up during their scheduled trips.
- The only other traffic would be staff's personal vehicles.
- They did not anticipate growth that would require more traffic than just described.
- There were multiple options to dispose of the whey. While they were hoping to develop products to use the whey, in the meantime they were hoping to feed it to hogs or spread it on farm fields. At their current location they did treat the whey as waste,

totaling about 35 gallons/week. At the maximum, there might be 75 gallons of whey waste per week.

Building Official and Zoning Administrator Pace emphasized that building #10 was far from the septic system and if approved, could only be used for food storage. Building #3 was the ideal location on the site to expand actual commercial kitchen operations.

Chair Kotila opened the public hearing.

John Allison, attending remotely and speaking as a private resident, referenced his emails sent to the Commission stating his support of both resolutions being considered this evening – to approve the expansion to 15,000sf for commercial kitchens, and to approve building #3A and #3B for the creamery and building #10 for food storage only.

Chair Kotila noted that the Commission had also received written communication from Township Clerk Rena Basch (email, March 6, 2023) expressing support for the amendments to the Washtenaw Food Hub’s conditional use permit and the zoning ordinance pertaining to increasing the commercial kitchen space for agricultural processing.

Seeing that no other public indicated they wished to speak, Chair Kotila closed the public hearing and brought the matter back to the Commission.

Commissioner Gorman was in support of the requested amendment to the Food Hub’s conditional use permit, and also supported a zoning ordinance amendment allowing 15,000sf of commercial kitchen space.

Commissioner Mendelson agreed. Also, she did not think the proposed resolution needed to require the petitioner to get their septic permit before the resolution was approved.

Township Attorney Dieck suggested making approval contingent on getting outside agency approvals, as was the Township practice.

Commissioner Young agreed; she supported both resolutions.

Chair Kotila welcomed the new creamery to the Township, and supported the change in the conditional use approval. He also supported increasing the size of commercial kitchens to 15,000sf.

Township Attorney Dieck reviewed the RESOLUTION RECOMMENDING APPROVAL OF AMENDMENT TO CONDITIONAL USE PERMIT FOR MAJOR AGRICULTURAL COMMERCIAL KITCHEN FOR WASHTENAW FOOD HUB, and AMENDMENT TO ZONING CODE SECTION 74-611 AGRICULTURAL COMMERCIAL KITCHENS, both dated March 6, 2023. Changes based on tonight’s discussion included:

- The amendment to section 74-611 simply required changing the language relative to maximum size from 10,000sf to 15,000sf.
- The amendment to the Conditional Use Permit would be changed as follows:

- It came out in discussion that the estimate for wastewater for washing, etc., is 60 gallons/week. The whey wastewater would be an additional 75 gallons. Therefore under Standard 2, Finding 2, the total wastewater generated would be 130 gallons/week.
- The creamery will be in building #3, and food storage in building #10.
- Add conditions 5 and 6, providing language that:
 - 5. Applicant must obtain a change of use permit from the County Health Department.
 - 6. Applicant must provide correspondence from the County Sanitarian that the septic facility is in good shape and can handle the increase in load.
- Total square footages in building #3 and building #10 is given in Recital C.

MOTION by Gorman, support by Mendelson, to recommend adoption of ANN ARBOR CHARTER TOWNSHIP AMENDMENT TO ZONING CODE SECTION 74-611 AGRICULTURAL COMMERCIAL KITCHENS ORDINANCE NO. _____, March 6, 2023.

- **The recommendation is that the maximum size shall not exceed 15,000 square feet.**

Motion passed unanimously by voice vote.

MOTION by Mendelson, support by Young, to approve PLANNING COMMISSION, CHARTER TOWNSHIP OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN, RESOLUTION RECOMMENDING APPROVAL OF AMENDMENT TO CONDITIONAL USE PERMIT FOR MAJOR AGRICULTURAL COMMERCIAL KITCHEN FOR WASHTENAW FOOD HUB, DATE: MARCH 6, 2023, as amended during discussion this evening.

Motion passed unanimously by voice vote.

VI. NEW BUSINESS

None

VII. OLD BUSINESS

- **SP-02-21 – Research and Development Center – Applicant K. I. Properties Holdings, LLC is requesting a twelve-month extension of the approved preliminary site plan. Preliminary Site Plan was approved August 8, 2022 with approval from the Zoning Board of Appeals for a height variance on September 20, 2022. NW corner of Plymouth Road and North Earhart Place, 14.48 acres, parcels I -09-14-480-001, I -09-14-480-002, I -0914-480-003 and I -09-14-480-004.**

Chris Kojaian, Kojaian Companies, was present on behalf of K. I. Properties Holdings. Mr. Kojaian gave the following information:

- Preliminary site plan approval was granted August 8, 2022 for construction on 14.48 acres located at the northwest corner of Plymouth Road and North Earhart Place. The Zoning Board of Appeals granted a height variance on September 20, 2022. The 6-month period for the preliminary site plan had expired, and they were requesting a 12-month extension.
- The commercial debt market was at about 4.5% in August 2022; today it was at about 7.5%.

- There was strong interest in this property. However, it was difficult to quote construction costs and debt costs right now. Kojaian and K.I. Properties believed the debt market would stabilize over the next 6-12 months, and therefore they were requesting this extension.

Referencing her February 27, 2023 memorandum, Township Planner Elmiger gave the background and review for this request for extension. The ordinance required that the applicant show good cause for the requested extension, including: *The applicant has demonstrated that unforeseen economic, development or other events, conditions or circumstances justify the extension.*

Township Planner Elmiger advised that the reasons stated – the recent changes in the debt market – were sufficient to grant the extension request. If granted, the preliminary site plan will be effective until February 4, 2024, which is one year from the original expiration date.

Township Attorney reviewed the Resolution Approving Extension, and the following motion was offered:

MOTION by Gorman, support by Bunch, to approve PLANNING COMMISSION, CHARTER TOWNSHIP OF ANN ARBOR, WASHTENAW COUNTY, MICHIGAN, RESOLUTION APPROVING EXTENSION TO APPROVAL OF PRELIMINARY SITE PLAN, DATE: MARCH 6, 2023.

- **This resolution applies to SP-02-21 – Research and Development Center – Applicant K. I. Properties Holdings, LLC, NW corner of Plymouth Road and North Earhart Place, 14.48 acres, parcels I -09-14-480-001, I -09-14-480-002, I -0914-480-003 and I -09-14-480-004.**

Motion passed unanimously by voice vote.

VIII. ITEMS FOR DISCUSSION

A. Home Occupations – Category C (What Uses, Where Allowed and Applicable Standards)

Township Planner Elmiger led a continued discussion regarding the draft Home Occupations Ordinance. Documents included in tonight’s packet included:

1. Clean Copy Home Occupations Ordinance Draft
2. Red-lined Copy Home Occupations Ordinance Draft
3. February 27, 2023 Memorandum from Planner Elmiger RE: Home Occupation Draft Ordinance

Discussion included:

- Edits and refinements to language.
- Whether the paragraphs defining *Group Living* were helpful or confusing.
- The importance of providing examples, and whether examples were clarifying or confusing.
- How Category A and Category B home occupations were defined.
- 74-9.(1)(5) stated: *That the dwelling unit in which a home occupation is located is occupied by and only operated by persons of legal or equitable interest in the dwelling unit, i.e., an owner or renter, as provided in this Section.*

Should someone who was living in a residence but was not paying rent be able to operate a home occupation from that residence? Discussion focused on the purposes of this language relative to protecting residential neighborhoods and uses.

- How was a *home occupant* defined? By paying rent or being an owner? Or by receiving mail at the address?
- The Ordinance was attempting to show why some home occupations were appropriate in residential uses, and would apply to residential uses in all districts.
- 74-9(g) outlined the permitting process.
- All Category C uses from the previous draft ordinance had been eliminated.

After robust discussion, and as the hour was late, it was the consensus of the Commission to schedule further work meetings on this proposed ordinance as well as other potential ordinance changes, including Fences and Gates, Item VIII.B. on tonight's agenda. Chair Kotila will send out proposed dates for the work meetings.

B. Fences and Gates

This discussion was postponed.

IX. INFORMATIONAL ITEMS

None

X. PUBLIC COMMENT

Speaking remotely, John Allison thanked the Commission for their good work this evening.

XI. ADJOURNMENT

MOTION by Gorman, support by Mendelson, to adjourn the meeting at 9:35pm.

Motion carried by voice vote.

/cem