

MACOMB TOWNSHIP BOARD OF TRUSTEES
MEETING MINUTES AND PUBLIC HEARING
WEDNESDAY, JULY 11, 2007

LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS
54111 BROUGHTON ROAD
MACOMB, MI 48042

PRESENT: MICHAEL D. KOEHS, CLERK
MARIE MALBURG, TREASURER
DINO F. BUCCI, JR, TRUSTEE
JANET DUNN, TRUSTEE
ROGER KRZEMINSKI, TRUSTEE
NANCY NEVERS, TRUSTEE

ABSENT: JOHN D. BRENNAN, SUPERVISOR

ALSO PRESENT: Lawrence Dloski, Legal Counsel
Jerome Schmeiser, Planning Consultant
James VanTiflin, Engineering Consultant
(Additional attendance on file at the Clerk's Office)

Clerk KOEHS called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

ROLL CALL

1. Clerk KOEHS called the roll and the Board of Trustees was present except for Supervisor BRENNAN.

Motion by KRZEMINSKI seconded by MALBURG to select Clerk KOEHS as the Chairperson for this meeting.

Motion carried.

Motion by KRZEMINSKI seconded by NEVERS to refrain from calling Supervisor BRENNAN's name for any roll call vote for this meeting.

Motion carried.

APPROVAL OF THE AGENDA

2. The agenda was reviewed and there were no additions, corrections or deletions.

MOTION by DUNN seconded by BUCCI to approve the agenda as presented.

MOTION carried.

APPROVAL OF THE BILLS

3. Both bill runs were reviewed and there were no additions, deletions or corrections.

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MOTION by NEVERS seconded by KRZEMINSKI to approve both bill runs as presented.

MOTION carried.

APPROVAL OF THE PREVIOUS MEETING MINUTES

4. The minutes of the previous meeting held on June 27, 2007 were reviewed and any additions, corrections or deletions were discussed and made.

MOTION by DUNN seconded by BUCCI to approve the minutes of the meeting of June 27, 2007 as presented.

MOTION carried.

5. Consent Agenda Items:

A. Clerk's Department:

1. **Request for a Partial Site Plan Bond Release;** St. John's Health system, Parcel No. 08-20-200-031.
2. **Request for a Wall Sign Bond Release;** Global Vacations; Country Meadows Plaza, Parcel No. 08-32-100-022.
3. **Request for a Wall Sign Bond Release;** Contours Express, Waldenburg Plaza, Parcel No. 08-28-101-010.
4. **Request for Ground Sign Bond Release;** Christian Life Church, Section 25, Parcel No. 08-25-477-005.
5. **Request for Site Plan Bond Release;** Romeo Plank Crossing, Section 20, Parcel No. 08-20-200-046.

B. Water/Sewer Dept.

1. **Easement Encroachment Agreement;** Charles and Barbara Zablocki, 21250 Brent Ct., Stagsleap Subdivision.
2. **Easement Encroachment Agreement;** Raymond and Andrea Larue, 19493 Pinecone Drive, Pinewood Villas Subdivision.

C. Human Resources

1. **Request for a Family Medical Leave of Absence – Water & Sewer Department.**
2. **Request for Personal Leave of Absence – Fire Department.**

D. Department Monthly Reports:

1. Building Department
2. Fire Department
3. Macomb County Sheriffs Department

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4. Parks and Recreation Department
5. Water/Sewer Department

Clerk KOEHS reviewed the consent agenda and stated that any issue could be removed at the request of any Board member for separate consideration. There were no requests for the removal of any item on the consent agenda.

MOTION by KRZEMINSKI seconded by MALBURG to approve the consent agenda as proposed.

MOTION carried.

6. **Public Comments**

Public comments were invited for any item on the agenda or any issue not on the agenda. No one came forward at this time. The public session was closed.

PLANNING

7. **Rezoning Request / R-1 to C-2; Hall Road;** Located on the north side of Hall Road, 1/8 mile east of Heydenreich Road; Section 33; Macomb Retail Management - Petitioner. Permanent Parcel No. 08-33-400-014.

Mr. Jerome Schmeiser, Planning Consultant. reviewed this matter and stated that the Planning Commission has recommended that this request be granted. He further stated his recommendation for approval.

MOTION by BUCCI seconded by DUNN to approve the Rezoning Request for R-1 to C-2 for Permanent Parcel No. 08-33-400-014.

MOTION carried.

8. **Request for Extension of Time; Site Condos for Strathmore Phase II;** Located 1000 feet south of 26 Mile Road, 1050 feet east of Luchtman Road; Section 04; L&C 26 Mile Road Properties, Petitioner. Permanent Parcel No. 08-04-100-035.

Mr. Jerome Schmeiser, Planning Consultant, reviewed this administrative matter and stated his recommendation for approval.

MOTION by DUNN seconded by MALBURG to approve the request for an Extension of Time for the Site Condos for Strathmore Phase II; Permanent Parcel No. 08-04-100-035, to expire on October 26, 2008.

MOTION carried.

9. **Extension of Time; Regency Commerce Center Site Condominiums Phase II;** Located on the north side of 23 Mile Road approximately 1/2 mile west of Romeo

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Plank Road; Section 17; Antonio Cavaliere – Petitioner. Permanent Parcel No. 08-17-300-014.

Mr. Jerome Schmeiser, Planning Consultant. reviewed this administrative matter and stated his recommendation for approval.

MOTION by KRZEMINSKI seconded by DUNN to approve Extension of Time for the Regency Commerce Center Site Condominiums Phase II, Permanent Parcel No. 08-17-300-014 to expire on June 11, 2008.

MOTION carried.

NEW BUSINESS

10. **Proposed Amendments to Macomb Township Zoning Ordinance;** Sections 10.0202,10.0320,10.0320(C),10.2401,10.2403(B),10.2405(C),10.2405(D), 10.2405(H), and 10.2406(B).

Mr. Lawrence Dloski, Township Attorney, reviewed this matter and stated that these amendments will bring our ordinance into compliance with the new Municipal Zoning Law that was approved by the legislature earlier this year.

MOTION by KRZEMINSKI seconded by MALBURG to approve the amendment to the Zoning Ordinance as follows:

Township Of Macomb
Macomb County, Michigan
Ordinance No. 10-37
Proposed Amendments of the Township of Macomb
Zoning ordinance
Title

An ordinance amending the Township of Macomb Zoning Ordinance, being Ordinance No. 10 of the Macomb Township Ordinances, as amended,

THE TOWNSHIP BOARD OF THE TOWNSHIP OF MACOMB, COUNTY OF MACOMB, MICHIGAN ORDAINS:

Section 1. AMENDMENTS

The Zoning Ordinance for the Township of Macomb, being Ordinance No. 10 of the Township of Macomb Ordinances, is hereby further amended as follows:

ARTICLE II, DEFINITIONS, SECTION 10.02 SHALL BE AMENDED TO ADD THE FOLLOWING:

(a) "Agricultural land" means substantially undeveloped land devoted to the production of plants and animals useful to humans, including, but not limited to,

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forage and sod crops, grains, feed crops, field crops, dairy products, poultry and poultry products, livestock, herbs, flowers, seeds, grasses, nursery stock, fruits, vegetables, Christmas trees, and other similar uses and activities.

(b) "Airport" means an airport licensed by Michigan Department of Transportation, Bureau of Aeronautics under Section 86 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.86.

(c) "Airport approach plan" and "airport layout plan" mean a plan, or an amendment to a plan, filed with the zoning commission under Section 151 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.151.

(d) "Airport manager" means that term as defined in Section 10 of the Aeronautics Code of the State of Michigan, 1945 PA 327, MCL 259.10.

(e) "Airport zoning regulations" means airport zoning regulations under the Airport Zoning Act, 1950 (Ex Sess) PA 23, MCL 259.431 to 259.465, for an airport hazard area that lies in whole or part in the area affected by a zoning ordinance under this act.

(f) "Conservation easement" means that term as defined in Section 2140 of the Natural Resources and Environmental Protection Act, 1994 PA 451, MCL 324.2140.

(g) "Development rights" means the rights to develop land to the maximum intensity of development authorized by law.

(h) "Family day-care home" and "group day-care home" mean those terms as defined in Section 1 of 1973 PA 116, MCL 722.111, and only apply to the bona fide private residence of the operator of the family or group day-care home.

(i) "Greenway" means a contiguous or linear open space, including habitats, wildlife corridors, and trails, that links parks, nature reserves, cultural features, or historic sites with each other, for recreation and conservation purposes.

(j) "Improvements" means those features and actions associated with a project that are considered necessary to protect natural resources or the health, safety, and welfare of the residents of a local unit of government and future users or inhabitants of the proposed project or project area, including roadways, lighting, utilities, sidewalks, screening, and drainage. Improvements do not include the entire project that is the subject of the zoning approval.

(k) "Intensity of development" means the height, bulk, area, density, setback, use, and other similar characteristics of development.

(l) "Legislative body" refers to the board of trustees of the township.

(m) "Local unit of government" means the township.

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(n) "other eligible land" means land that has a common property line with agricultural land from which development rights have been purchased and is not divided from that agricultural land by a state or federal limited access highway.

(o) "Population" means the population according to the most recent federal decennial census or according to a special census conducted under Section 7 of the Glenn Steil State Revenue Sharing Act of 1971, 1971 PA 140, MCL 141.907, whichever is the more recent.

(p) "State licensed residential facility" means a structure constructed for residential purposes that is licensed by the state under the Adult Foster Care Facility Licensing Act, 1979 PA 218, MCL 400.701 to 400.737, or 1973 PA 116, MCL 622.111 to 722.128, and provides residential services for 6 or fewer persons under 24-hour supervision or care.

(q) "Undeveloped state" means a natural state preserving natural resources, natural features, scenic or wooded conditions, agricultural use, open space, or a similar use or condition. Land in an undeveloped state does not include a golf course but may include a recreational trail, picnic area, children's play area, greenway, or linear park. Land in an undeveloped state may be, but is not required to be, dedicated to the use of the public.

(r) "Zoning board" means a township zoning board created under the Township Zoning Act, 1943 PA 184, MCL 125.271 to 125.310, that existed on the effective date of the Michigan Zoning Enabling Act, MCL 125.3101.

(s) "Zoning jurisdiction" refers to the area encompassed by the legal boundaries of the township outside the limits of incorporated cities and villages.

Section 10.0202 Definitions of home occupation and site plan are deleted and replaced with the following:

Home occupation means an activity carried on by an occupant of the dwelling unit provided that it is incidental and secondary to the use of the dwelling unit for residential purposes, including use of a single-family residence by an occupant of that residence to give instructions in craft or fine arts within the residence.

"Site plan" includes the documents and drawings required by the zoning ordinance to insure that a proposed land use or activity is in compliance with local ordinances and state and federal statutes.

ARTICLE III, GENERAL PROVISIONS, shall be amended to read as follows:

Section 10.0320 Home Occupations shall be amended by adding the following subparagraphs after subparagraph G, and shall read as follows:

H. No indoor or outdoor advertising of the home occupation shall be permitted.

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I. The hours of operation for a home occupation shall be limited to the hours of 9:00 a.m. to 8:00 p.m. seven (7) days a week.

J. No commodity may be sold upon the premises.

K. No person may be employed other than a member of the immediate family residing in the premises.

Section 10.0320.C. shall be deleted in its entirety and replaced with the following:

There shall be no change in the outside appearance of the structure or premises, or other visible evidence of the conduct of such home occupation.

Section 10.2401. Special land use permit review procedures, subparagraph B.4.a. shall be deleted in its entirety and replaced with the following:

(a). Notice of the public hearing shall be published in a newspaper of general circulation in the township.

(b) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

(c) Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the township.

(d) If the name of the occupant is not known, the term, "occupant" may be used in making notification under this subsection.

(e) The notice shall be given not less than 15 days before the date the application will be considered for approval and shall do all of the following:

(i) Describe the nature of the request;

(ii) Indicate the property that is the subject of the request;

(iii) Include a listing of all existing street addresses within the property; street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(iv) State when and where the request will be considered.

(v) Indicate when and where written comments will be received concerning the request.

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(f) The notice shall indicate that a public hearing on the special land use request may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located within the township.

Section 10.2403.B. Powers and Duties is deleted in its entirety and replaced with the following:

The zoning board of appeals shall hear and decide questions that arise in the administration of the zoning ordinance, including the interpretation of the zoning maps, and may adopt rules to govern its procedures sitting as a zoning board of appeals. The zoning board of appeals shall also hear and decide on matters referred to the zoning board of appeals or upon which the zoning board of appeals is required to pass under the zoning ordinance. It shall hear and decide appeals from and review any administrative order, requirement, decision or determination made by an administrative official or body charged with enforcement of the zoning ordinance. For special land use decisions, an appeal may be taken to the Zoning Board of Appeals only if provided for in the zoning ordinance. The concurring vote of a majority of the members of the zoning board of appeals is necessary to reverse an order, requirement, decision, or determination of the administrative official or body to decide in favor of the applicant on a matter upon which the zoning board of appeals is required to pass under the zoning ordinance, or to grant the variance in the zoning ordinance.

Section 10.2405.C. Subsections 1, 2, 3 and 4 shall be deleted in their entirety and replaced with the following:

1. Why compliance with the strict letter of the restrictions governing area, setback, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for a permitted purpose or how conformity with such restrictions would be unnecessarily burdensome.

2. How a grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district.

3. Could a lesser relaxation than that applied for give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

4. How relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Section 10.2405.D. is deleted in its entirety and replaced with the following:

D. Notice of the public hearing for variance, interpretation of the zoning ordinance or appeal of an administrative decision, shall be provided as follows:

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- a). Notice of the public hearing shall be published in a newspaper of general circulation in the township.
- (b) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.
- (c) Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the township.
- (d) If the name of the occupant is not known, the term, "occupant" may be used in making notification under this subsection.
- (e) The notice shall be given not less than 15 days before the date the application will be considered for approval and shall do all of the following:
 - (i) Describe the nature of the request;
 - (ii) Indicate the property that is the subject of the request;
 - (iii) Include a listing of all existing street addresses within the property; street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.
 - (iv) State when and where the request will be considered.
 - (v) Indicate when and where written comments will be received concerning the request.
- (f) The notice shall indicate that a public hearing on the appeal may be requested by any property owner or the occupant of any structure located within 300 feet of the property being considered for a special land use regardless of whether the property or occupant is located within the township.
- (g) A decision on the appeal shall not be made unless notification of the public hearing on the appeal has been made in accordance with this section.

Section 10.2405.H. subsections 1, 2, 3, 4, and 5 are deleted in their entirety and replaced with the following:

1. Compliance with the strict letter of the restrictions governing area, setbacks, frontage, height, bulk, or density would unreasonably prevent the owner from using the property for permitted purpose or would render conformity with such restrictions unnecessarily burdensome.

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2. A grant of the variance applied for would do substantial justice to the applicant as well as to other property owners in the district, or a lesser relaxation than that applied for would give substantial relief to the owner of the property involved and be more consistent with justice to other property owners.

3. Relief can be granted in such fashion that the spirit of the ordinance will be observed and public safety and welfare secured.

Section 10.2406.B., Procedures for Text Amendments, and subparagraph C., Procedures for Map Revision and Rezoning are deleted in their entirety and replaced with the following:

1. The Township clerk shall give the following notice of the time and place of the Township planning commission meeting at which text amendment(s), map revision(s) and/or rezoning(s) will be heard:

(a). Notice of the public hearing shall be published in a newspaper of general circulation in the township.

(b) Notice shall be sent by mail or personal delivery to the owners of property for which approval is being considered.

(c) Notice shall also be sent to all persons to whom real property is assessed within 300 feet of the property and to the occupants of all structures within 300 feet of the property regardless of whether the property or occupant is located in the township.

(d) If the name of the occupant is not known, the term, "occupant" may be used in making notification under this subsection.

(e) The notice shall be given not less than 15 days before the date the application will be considered for approval and shall do all of the following:

(i) Describe the nature of the request;

(ii) Indicate the property that is the subject of the request;

(iii) Include a listing of all existing street addresses within the property; street addresses do not need to be created and listed if no such addresses currently exist within the property. If there are no street addresses, other means of identification may be used.

(iv) State when and where the request will be considered.

(v) Indicate when and where written comments will be received concerning the request.

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(f) Notice of the time and place of the public hearing shall also be given by mail to each electric, gas, and pipeline utility company, each telecommunication service provider, each railroad operating within the district or zone affected, and the airport manager of each airport, that registers its name and mailing address with the clerk of the township for the purpose of receiving the notice of public hearing.

(g) The notices required under this section shall include the places and times at which the proposed text and any maps of the zoning ordinance may be examined.

(h) If an individual property or ten (10) or fewer adjacent properties are proposed for rezoning, the township shall give a notice of the proposed rezoning in the same manner as set forth above.

(i) If eleven (11) or more adjacent properties are proposed for rezoning, the Township shall give a notice of the proposed rezoning in the same manner as set forth above, except that notice does not have to be sent by mail or personal delivery to the owner of property for which approval is being considered, nor to all persons to whom real property is assessed within 300 feet of the property nor to the occupants of all structures within 300 feet of the property, additionally, no individual addresses of properties are required to be listed.

2. Publication and effective date.

a. The notice of ordinance adoption shall be published in a newspaper of general circulation in the Township within fifteen (15) days after adoption.

b. The ordinance and/or amendment(s) shall take effect upon the expiration of seven (7) days after publication as required in Section (a) or at such later date after publication as may be specified by the Township Board of Trustees.

SECTION 3. SEVERABILITY

If any section, paragraph, clause or provision of this Ordinance is for any reason held to be invalid or unconstitutional, the invalidity or unconstitutionality of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance.

SECTION 4. PUBLICATION

This Ordinance shall be published in full in the *Macomb Daily* a newspaper of general circulation in the Township of Macomb, within fifteen (15) days after its adoption.

SECTION 5. EFFECTIVE DATE

This Ordinance shall take effect seven (7) days from and after the date of publication of a true copy in a newspaper circulating within the Township of Macomb, as provided by Section 4.

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CERTIFICATE OF TOWNSHIP CLERK

I hereby certify that the foregoing constitutes a true and complete copy of an Ordinance duly adopted by the Township Board of Macomb Township, Macomb County, Michigan, at a meeting held on the 11th day of July, A.D., 2007.

I hereby further certify that the following Township Board members were present at said meeting:

BUCCI, DUNN, KOEHS, KRZEMINSKI, MALBURG, NEVERS and the following Township Board Members were absent:
BRENNAN

I further certify that Member **KRZEMINSKI** moved for the adoption of said Ordinance, and that motion was supported by Member **MALBURG**.

I further certify that the following Macomb Township Board Members voted for the adoption of said Ordinance: **KRZEMINSKI, MALBURG, BUCCI, DUNN, NEVERS, KOEHS** and that the following Macomb Township Board members voted against adoption of said Ordinance: **NONE**

Michael D. Koehs, CMC, Clerk
Macomb Township

MOTION carried.

HUMAN RESOURCES

11. Request to Attend Michigan Public Employer Labor Relations Association Fall Conference

Mr. John Brogowicz, Human Resources Director, reviewed this matter and stated his request for Ms. Kubes and Ms. Arft from his department to attend this training conference. He further stated his recommendation for approval.

MOTION by BUCCI seconded by DUNN to approve the Request to Attend Michigan Public Employer Labor Relations Association Fall Conference.

MOTION carried.

FIRE DEPARTMENT

12. Request Authorization to Award Bid for Construction of Training Tower.

Chief Robert Phillips reviewed this matter and indicated the benefits that would result for our Fire Fighters from the continuous training at such a facility. He further stated his recommendation for approval.

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MOTION by BUCCI seconded by KRZEMINSKI to award the bid for the construction of the Fire Training Tower to WHP Training Towers in the amount of three hundred eighty seven thousand two hundred forty three dollars (\$387,243.00).

MOTION carried.

13. Request Training on Vacant Home

Chief Robert Phillips reviewed this matter and stated that, pending the signing of a hold harmless agreement between the property owners and the township, he would recommend approval. He also indicated that there would be no burning or open flame at this site.

MOTION by KRZEMINSKI seconded by NEVERS to approve the training request on the vacant home property as requested.

MOTION carried.

WATER AND SEWER DEPARTMENT

14. Request to Approve Pay Certificate #2; Pump Station #7 Replacement; SDA Job No. MA05-026 and MA06-010.

Mr. David Koss, Water & Sewer Superintendent, reviewed this matter and stated that this job was progressing and he further stated his recommendation for approval.

MOTION by KRZEMINSKI seconded by DUNN to approve Pay Certificate #2 for Pump Station #7 Replacement; SDA Job No. MA05-026 and MA06-010.

MOTION carried.

BOARD COMMENTS

15. Supervisor Comments:

None

16. Clerk Comments:

None

17. Treasurer Comments:

None

18. Trustees Comments:

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None

ADJOURNMENT

MOTION by BUCCI seconded by KRZEMINSKI to adjourn the Board meeting at 7:26 p.m.

MOTION carried.

Respectfully submitted,

John D. Brennan
Macomb Township Supervisor

Michael D. Koehs, CMC
Macomb Township Clerk