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RECORD OF PROCEEDINGS

Minutes of

Meeting

Etna Township Zoning Commission

DAYTON LEGAL BLANK, INC., FORM NO. 10148

Held March 8 2006
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Work Session with Planning Consultant

The Etna Township Zoning Commission met in the Etna Township Hall on March 8, 2006 for the purpose of conducting a special. The meeting will be audio taped for the township records.

The meeting was called to order at 7:00 p.m. by Chairman Kerner with the following members present: Mrs. Dunlap, Mrs. Taylor, Mr. Colburn, Mr. Stepp, Chairman Kerner, and Clerk Laura Brown. Mr. VanDyne was out of town.

Mike Kerner discussed HB299 regarding impact fees and SB18 is law and in courts now. The prosecutor's opinion regarding the three districts is in your packets.

Mr. Colburn moved that we adopt the agenda. Stepp seconded. Roll call: Motion passed 5-0.

Phil Laurien with Delaware Regional Planning discussed the opinion from the prosecutor. He disagrees with 100% of the prosecutor's opinion. Don Brosius and Delaware County Prosecutor's office have reviewed these districts both of whom have civil backgrounds. They have been adopted in half a dozen communities and he has never seen comments like these. Phil Laurien thinks the prosecutor does not understand what we are trying to do. He feels it is good that the prosecutor has given us an opinion and he has labeled the paragraphs that he disagrees with. It is good to have the opinion upfront so we can clear the air.

Planned Commercial District - An overlay district is the 519.021(C) which is where you designate the territory and then someone just has an administrative review. He does not think that is what we want to do for a planned commercial district. Phil took a physical tour of Etna Township this afternoon. After looking at the zoning map with all the pink and grey, we are over zoned for non-residential uses. What he would have rather seen us do was do planning first and zoning second. The residential uses could specifically say these areas are in R1, R2, etc that is fine but when you start up zoning for industry have impact with traffic, noise, big tall buildings etc. We have a huge amount of commercial-industrial. They have stripped out our roads. He would have rather seen it put on the comprehensive plan and have left them zoned agriculture.

Phil would like to see us do a master plan for the community, a vision for the future. The problem is we have already zoned this land for higher zoning, if you go back and try to change that it is down zoning. What we might be able to do is offer higher density residential along Route 40 rather than industrial. Put them into planned districts and basically float the cloud. The two step process. We will not call the planned commercial district an overlay because if it were an overlay it would be the 519.021(C) float the cloud. He would rather see us do a planned commercial district make it a 519.021A. The problem is all the pink (GB) areas already zoned General Business. They are in the second step of the process which is administrative and is almost like floating the cloud. Once you have water and sewer you will have PUD's and if you are not competitive you will lose the land to your neighbors. You can do nothing and get eaten alive or try to fight back with the district he gave us.

The Liberty Township example he gave us is a two step process. It can be two step or simultaneous one step. The simultaneous one step is a preliminary and final. It cost more because he risks referendum. If he did the preliminary first he is giving you enough information to give him zoning first which is the referendum risk is over. It is less confrontation on the two step process. Liberty Township has the big box limitation. Phil would feel comfortable quickly craft a model for us using Liberty Twp.

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Tina Taylor asked if it was possible since we have so much General Business and go through specifying what they can have in General Business. Phil does not like to down size a property owner. If you do that you erode the creditability of the township. We have to grab a hold of that and get control of it. Phil Laurien stated we could go back and revise the current General Business code rather than taking it away from people and make some new stipulations in it like we did with the 65,000 square foot limit and then add a planned commercial district. Phil stated this needs to be strategize between the Trustees, Zoning Commission, Don Brosius and Delaware Regional Planning. He feels this is a fairness issue not a legal issue and that may be the fair way to do it. Take the General Business and upgrade it and make it more specific, specify which particular uses you want and what we do not want. The township can put in a limitation on big box retail that is tied to access or to utilities because 519.02 allows the township to regulate the height and bulk of buildings. 519.02 is for straight districts and 519.02.1 is for planned districts. Straight districts must be uniform throughout the zoning, so what is fair for one is fair for all. In a planned district you can say the density in this district is two units per acre but there is no minimum lot size it is as we approve the plan. Phil believes we need to have Don Brosius review after it is completed. Liberty Township is a planned commercial district. He likes the idea of doing planned commercial but a lot of it is already zoned so the idea of approaching it from the General Business District is a good idea. He suggested talking with Don Brosius and even some of the property owners. Straight zoning is not specific the minimum standards become the maximum. Specify in the General Business District with the NAICS Codes.

Phil Laurien reviewed the two Planned Commercial Districts and the overlay District. Phil Laurien will add agricultural where it is needed and he will forward this back to us. Gary Burkholder stated that the Trustees approved to forward the text to Don Brosius for legal review.

Phil Laurien stated they will send package to Don Brosius for review. We can amend the general business district and will specify uses and perhaps to the standard of the uses. We can regulate height, bulk, setbacks, and buffering requirements between commercial and residential. It is in the Liberty code that the setback for residential district is 1/3rd the height plus the width of the biggest wall. So if you have a wall the 200 feet long and 40 feet high it is 240 divided by 3 so it is an 80 foot setback which works well with a big box by it. This is in sections 11 and 12 on page 7 of Liberty Township model.

Phil Laurien stated that big box provides taxes for municipalities and for county commissioners. The townships get the traffic. It provides jobs and retail if you do not have them. The township has to weigh all of the things. Big Boxes are there because the traffic is there. They come after the roof tops come. When you make the decision you are going to have impact on the roads. The Zoning Commission has tried to find a good reason for retail and can not find a benefit to the township. Phil Laurien stated the chart we provided at the last meeting showing the different size buildings is a good chart, 65,000 is a big store. A Kroger's store the size of the one in Reynoldsburg probable has 150-200 employees and they are paying income tax. If they own the utilities they will make money on water and sewer. As a township we do not get those benefits. The big box gives a lot of sales tax.

Phil Laurien feels we need a master plan before the Zoning Resolution. The township needs a plan for the future. He is not sure we can slow it down until we get a master plan. Townships do not have growth management legislation from the state; we are not provided the legislative authority to have caps or moratorium. We may have an opinion that the township can propose a

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moratorium but it will be temporary and on a specific shortage or impact. For example shortage of water; it can't just be for roads. Traffic impacts alone are not a reason to deny a rezoning it is an Ohio law. It overloads the road, school's can not handle it, and utilities can not handle it. Phil is not sure that the township has all these conditions. He is not an expert to advise us but he knows we have the water and sewer capacity.

Vince Colburn asked Phil if John Doe walks in the door and wants to purchase a hundred acres in Etna Township. You tell me where and what you want me to put on it. What would benefit Etna Township the most? Phil said to keep Farming it, farming pays for itself and does not require any services. When he can not keep farming it he has to have some viable use. If we have land that is zoned agriculture and we have water and sewer. It is up to Etna Township what we want to offer him. We need to have a master plan. Behind the commercial he recommends to buffer it with higher density residential and step it down to lower residential so the residents living right behind the Wal-mart do not have a wall twenty feet off their back yard. If they are two units per acre maybe they will have single story ranch condominiums at five per acre and next to the Wal-mart garden style apartments at ten and you step it down and buffer it. This is done in the master plan, you can never be attached in your plan because it has no legal authority it is not a zoning map it is just a guide. You can change you plan any time you want to it is a living document for the vision of the township that can change. The township is having a meeting on April 12th with the Trustees and Zoning Commission to work on a plan and the vision. Mike Kerner stated on both the eastern corners of the interchange he would like to make a zoning available that only brings office buildings and motels because they bring money into the community. Phil stated if it is already zoned general business it will come down to fairness to the property owners. The Zoning Commission researched what the property is currently zoned.

Phil Laurien suggested that the township have the strategy meeting. First implement the two Planned Unit Development and the overlay districts. Second work on the commercial district like the Liberty Township example using the NAIS Codes and consider beefing up the general business district. This should take a couple of months to finish. Then check with Scott to see if he is available with Delaware Regional Planning to help with the Comp Plan and map. Don does not need to be involved in the comp plan until it is finished. After the comp plan is finished then work on the Zoning Resolution. When we adopt the new Zoning Resolution he suggested we have Don Brosius involved.

Tina Taylor moved to adjourn the meeting at 8:52 p.m. Stepp seconded. Roll call: Mrs. Dunlap, yes; Mrs. Taylor, yes; Mr. Colburn, yes; Chairman Kerner, no; and Trent Stepp, yes. Motion passed 5-0.

Approved APR 05 2006 Laura Brown
Laura Brown, Clerk

Approved as corrected/amended _____

Michael A. Kerner
Mike Kerner, Chairman