

**VILLAGE OF SPRING LAKE
PLANNING COMMISSION**

**MINUTES
REGULAR MEETING
September 22, 2015 7:00 PM**

**Barber School Community Building
102 West Exchange Street
Spring Lake, MI 49456
49456**

1. CALL TO ORDER

Chairwoman Miller called the meeting to order at 7:00 p.m.

2. ROLL CALL

Present: Boon, Kauchek, C. Miller, VanStrate, and Yasenak.

Staff Present: Jennifer Howland (Village Planner), Maryann Fonkert (Deputy Clerk) and Chris Burns (Village Manager)

Absent: Bohnhoff and Van Leeuwen-Vega

3. APPROVAL OF THE AGENDA

Motion by **Kauchek**, seconded by **Boon**, to approve the agenda. All in favor motion carried

Yes: 5 No: 0

4. APPROVAL OF THE MINUTES – August 25, 2015 regular meeting

Motion by **Yasenak**, seconded by **VanStrate**, to approve the Minutes of the August 25, 2015 regular meeting. All in favor, motion carried.

Yes: 5 No: 0

5. PUBLIC HEARINGS

A. Rezoning Request: 425, 427, and 431 East Exchange Street

The Planning Commission will hold a public hearing for the request from St. Mary's Catholic Church to rezone parcels 70-03-15-479-009, 70-03-15-479-010, and 70-03-15-479-011 from the Single Family Residential District (SFR-B) to the Public and Semi-Public District (P). The three parcels are located at the northwest corner of Exchange Street and William Street, adjacent to the campus of St. Mary's Catholic Church.

Chairwoman **Miller** introduced this agenda item and asked Village Planner **Howland** to give an overview. **Howland** provided an overview of the project.

Motion by **Kauckeck**, seconded by **VanStrate**, to open the Public Hearing. All in favor, motion carried.

Yes: 5 No: 0

Debra Holdman, 509 East Exchange, asked what St. Mary's was planning on doing with the 3 parcels.

Howland said that there are no applications at this time for how they plan to use the property but expect they will use it to expand their campus.

Motion by **Yasenak**, seconded by **Boon**, to close the Public Hearing. All in favor, motion carried.

Yes: 5 No: 0

The **Commission** felt that the rezoning was in keeping with the proposed rezoning.

Motion by **Yasenak**, seconded by **Boon**, to recommend approval to rezone 425 East Exchange Street (parcel #70-03-15-479-009), 427 East Exchange Street (parcel #70-03-15-479-010), and 431 East Exchange Street (parcel #70-03-15-479-011) from SFR-B, Single-Family Residential District to P, Public and Semi-Public District for the following reason(s):

- a. The proposed rezonings are supported by the Village of Spring Lake Master Plan.

Yes: 5 No: 0

B. Conditional Rezoning Request: 214 South Fruitport Road

The Planning Commission held a public hearing for the request from All Shores Wesleyan Church to conditionally rezone parcel 70-03-14-377-007 from the Single Family Residential District (SFR-A) to the Public and Semi-Public District (P) in accordance with Section 405 of the State of Michigan Zoning Enabling Act. The parcel is on the east side of South Fruitport Road.

Chairwoman **Miller** asked for 5 minutes for the Planning Commission to review additional information that had just been received.

Chairwoman **Miller** introduced this agenda item and asked Village Planner **Howland** to give an overview. **Howland** provided an overview of the project.

Motion by **Kauckeck**, seconded by **Boon**, to open the Public Hearing. All in favor, motion carried.

Yes: 5 No: 0

Joel Bouwens, LSL Planning, said he was representing All Shores Wesleyan Church and they were at the meeting for a conditional zoning application and, as set forth in the statute, granting rezoning would only be upon those conditions that have been outlined to protect the neighborhood. Bouwens said this proposal grew from the Villages desire to extend the multi-use pathway and as a result of conversations between Village and Township Leaders, MDOT

and Ottawa County Sheriff's Department this plan was developed and approval was given for the plan. Bouwens said the law suit to stop it was dismissed and they could have, at that point, proceeded but the Wesleyan Church decided that this was one of those complex situations and rather than the up and down sort of approval of the ZBA or a court, they would come here and set forth those conditions to have a dialog about what would be good for the community. After reviewing it and looking at it, they concluded that this proposal would be very beneficial to the community because it would separate bike and pedestrian traffic, preserve old growth trees on M-104, it would locate the bike path at a safer location on Fruitport Road, provide a safer entrance to the multiuse bike path, enhance public opportunities for water front views and access to the bayou and make Spring Lake a more walkable community. Bouwens said the first reason this should be approved is traffic safety. Those individuals most responsible for traffic safety in this community would be M-DOT and the Sheriff's Department. Bouwens said Sheriff Gary Rosema wrote an extensive letter to the Village strongly endorsing this project. The MDOT representatives that were present will also speak to the fact that this is a much safer proposal for the community and if you look at it from a Fruitport Road prospective, you should understand that Fruitport Road is a major street and is built to a wider profile then is typical for your local public street. Bouwens said it was interesting to see how closely this proposal meshes with the Master Plan for the community and if you look at the prioritized strategy of the land use plan for this facility, the first priority for areas to improve their community is quality of life which includes a walkable and sustainable attractive community, a waterfront environment which talks about increasing and enhancing public access, that's number 2, and number 5 of the top 5 is neighborhoods and it says "to be vigilant with sidewalk repairs and the upkeep of homes in neighborhoods" and it talks about the value of public facilities such as schools, churches and restaurants being in a walkable distance and discouraging rental homes. **Chairwoman Miller** ceased Mr. Bouwens presentation due to the three (3) minute time limit.

Jeff Beswick, Varnum Attorneys at Law representing 16 of the plaintiffs in the law suit, said the neighbors have desired a forum on this issue for some time and they appreciate the chance to participate. Beswick said they submitted a detailed position paper to the Planning Commission last Friday and to summarize a couple of points; first, good zoning practices do not support this proposed rezoning whether it's conditional or includes a bike path or not. The proposal would mix two inconsistent uses and traffic in residential neighborhoods is not a good idea as proposed and described in the materials that were submitted. Second, the Master Plan does not support the proposal and specifically indicates that service will not be provided to All Shores Wesleyan Church property from South Fruitport Road, and it also shows in the depiction of the long term zoning of these properties that all of them would continue to be SFR-A, Single Family Residential A, not public or semi-public. Beswick said that including the bike path in this proposal is just sugar coating an ill-advised proposal and the big issue is dumping traffic into a residential neighborhood which is not a good idea. Beswick said they would totally distinguish the All Shores rezoning proposal from the St. Mary's one because in the St. Mary's situation the property was Master Planned for Public/Semi Public and in this case it's not, in the St. Mary's situation it would create an integrated whole of a Public/Semi Public district in a single block and in this case it is just the opposite, the proposal would bisect with a spot zone in a residential neighborhood, so the two are totally different.

The following residents spoke out in opposition of rezoning 214 S. Fruitport Road.

- Bryce Vanover - 230 S. Fruitport Rd
- Wally Obits - 818 River St
- Brian Obits - 740 Winter St

- Richard Brown - 808 River St
- Judy Mikrut - 209 Douglas Court
- Ken Widing - 618 River
- Tim Foster - 114 S Fruitport Rd
- Debra Holdman 209 Douglas Ct
- Lisa Stoner - 825 River St
- Sharon Rathbun - 300 S Lake
- Liberty Boltema - 219 S Fruitport Rd
- Rita Braun - 121 S Fruitport Rd
- Cal Braun - 121 S Fruitport Rd
- Darcy Dye - 114 N Fruitport Rd
- Elizabeth Wheeler - 120 N Fruitport Rd
- Sandy Miller - 120 S Fruitport Rd
- Nancy Boltema - 219 S Fruitport Rd
- Vernon Miller - 120 S Fruitport Rd

The following residents spoke out in favor of rezoning 214 S. Fruitport Rd

- John Nash
- Danielle DeBone - 518 E Exchange
- Katherine Nash - 15643 View Dr
- Nick DeBone - 518 E Savidge
- Mike Kendra - 217 N Park St
- Karen Benson - Attends All Shores Wesleyan Church

David Jirousek, LSL Planning, said they were hired by the applicant's Attorney to provide an objective review of this application. Jirousek said their observations have been that the speeds on M-104 are very high and the speed zone being right in the location of the church is dangerous because the west bound traffic hasn't slowed down by the time they hit the speed zone and your east bound traffic is accelerating before they hit the 55 mile an hour sign. Jirousek said there is no doubt that the left turn movements at the two exit points of the church are dangerous and unprotected and there are no other alternative access points. Of the five or so other churches in the Village, all of them have access points to alternative roadways, so this is really the only situation where you have exit points on one roadway; all the others have a second or third fronting road that serves the property. Jirousek said when we look at a rezoning like this we look at Master Plan consistency, changing conditions, compatibility of nearby uses and capacity of the land to handle the use and traffic. Jirousek said they do believe this use is consistent with the Master Plan, and the Master Plan did contemplate some service to the property although this was mainly an issue of jurisdictional boundaries. Jirousek said regarding changing conditions that traffic is increasing; population in Ottawa County has grown from 238,000 to 276,000 from the time the Master Plan was written to today's projection. Jirousek said in terms of compatibility, a driveway itself is not incompatible, it's the way it's designed and what it serves. Jirousek said the compatibility factors that they look at are visual impact, noise, light, hours of operation, type of use, and the characteristics of use, frequency, and traffic issues. Jirousek said they feel that these factors have been addressed and there are some significant self imposed conditions to achieve compatibility with significant landscaping treatments offered, no lighting, no signage, limited to the current church use and infrequent heavy use. Jirousek said they see the pathway as a very key benefit as well and it is their opinion that the conditional rezoning can be compatible, and lastly, capacity; the land and the streets; in the church they have observed anywhere from 200 to 250 cars in the parking lot and

with this proposal there would be 4 exits, 2 left turn movements out of the currently existing exit on M-104, a north exit on South Fruitport and a south exit on South Fruitport Road out of the proposed driveway so you have half of the 200 to 250 cars which would be divided into these 4 new exit points. Jirousek said he measured South Fruitport Road and it's approximately 35 feet wide and typical road sections of that nature are 30 feet or even less with traffic calming. Jirousek said it is a wide street that can handle this type of traffic and the separation between the proposed access point and M-104 is 560 feet which is something we would recommend on a 55 mile per hour road such as M45. So between the spacing and the width of the road, they feel the road can handle this type of traffic.

Julie Burns, Operations Director representing All Shores Wesleyan Church, thanked the Planning Commission for their consideration of their request for conditional rezoning. Burns said All Shores has enjoyed being a part of the Spring Lake Community for over 50 years and values helping people in need and has given hundreds of thousands of dollars to individuals and organizations in the community and always look for ways that they can invest in the community. So when they saw the surveyors out in front of their property, they asked what they were doing and the surveyors said they were surveying for the bike path extension. Burns said they wondered then, if they could help the community with this project, so they offered their south most property with the beautiful view of the bayou for the bike path extension. Burns said from the initial discussions with the Township, and then the Village, Ottawa County Sheriff and MDOT, they were encouraged to pursue the purchase of the property on South Fruitport Road for the purpose of a driveway and the bike path connection. Burns said this option allowed the mature trees at the north edge of their property to remain providing a more appealing view from the east entering into the Village and they acknowledge that the increase in traffic on M-104 over the years, specifically in the summer on Sundays has added to the already difficult exit from their property. Burns said the Fruitport Road driveway/bike path became a solution for church traffic endorsed by Ottawa County Sheriff, MDOT and both municipalities. Burns said they have experienced an environment of mutual collaboration by the Village and the Township to enhance and benefit the whole community and they have voluntarily withheld construction under their current driveway permit and additionally entered into the conditional zoning process out of respect for the neighbors and the process which will formalize the conditions of their current permit and look forward to their existing property with the intention of welcoming the community to enjoy it with them. A small park and play area has been designed and funds generously donated to enhance the bike path experience. Burns said a community garden plan has been discussed and they welcome ideas that would further benefit the community. Burns said with the encouragement of both the Village of Spring Lake and Spring Lake Township they pursued the zoning request to support the whole community and look forward to many years of partnering in Spring Lake to make it the best West Michigan community to live, worship and thrive.

Jennifer **Howland** read a letter from Kristi Bukema, 618 River St who was opposed to rezoning 214 S Fruitport Rd. and a letter from Lilly Durinda Bontrage who was in favor of the rezoning of 214 S Fruitport Rd. These letters were received too late to include in the packets to the Commissioners. **Howland** also mentioned a letter from Jill and Ashley Grumm, 207 S Fruitport Road and 211 S Fruitport Road but did not read it since it was not relevant to the rezoning issue.

There being no further comments. Motion by **Kauchek**, seconded by **VanStrate**, to close the public hearing. All in favor, motion carried

Yes: 5

No: 0

Howland went over what was typically looked at for Master Plans when it's being looked at for rezoning request. **Howland** said there are not any specific ones in the Village Zoning Ordinance or Master Plan to consider but there are some standard ones that are covered by staff's memo and LSL Planning's memo. **Howland** said one of the first things to look at is consistency with the Master Plan and Future Land Use Plan. **Howland** said the Master Plan identifies the parcel as having a future land use of "LDR" or "Low Density Residential" which is in keeping with the current SFR-A zoning of the property. **Howland** said there is a section in the Master Plan that talks about "No River Street extension or Fruitport Road Curb Cut." It states, "The potential emerging question is traffic access to the [church] property. Left turns out of the property located in Spring Lake Township onto M-104 are problematic. The Village Master Plan does not contemplate any service to this land outside the Village boundaries through use of Fruitport Road or River Street unless this property becomes part of the Village." **Howland** said this was mentioned by LSL referencing a difference of opinion if it were annexed into the Village or not. **Howland** said that is a challenging comment to have in a Master Plan when the differentiation of the decision is based on jurisdiction so that is not very common. **Howland** said the applicant's narrative also talks about how they believe the proposed use conforms to the Master Plan. **Howland** went on to say that another thing to look at is reasonable use of the property as it's currently zoned. Property owners are entitled to expect that there will be a reasonable use of their property but it's not necessarily reasonable to expect any use desired if it conflicts with broader public objectives. The property is zoned and continues to be used as a single family home so it's not a takings issue where you don't have any use of the property as it currently is zoned. **Howland** said another consideration is more appropriate locations, whether there is a more appropriate location for the use in the Village. **Howland** said that throughout the Village parcels in the Public District are commonly adjacent to residential zoning districts and its common practice to have uses within that Public District intermingle with residential districts. **Howland** said, lastly, potential detrimental effects of a proposed change in zoning on adjoining and surrounding land uses; the conditions offered by the applicant appear to be designed to address any potential detrimental effects of a public use of the property as best as physical improvements can make.

Yasenak said he appreciated **Howland's** comments but he was around when the Master Plan was drawn up and what was being interpreted now was not the sentiment that was there then. **Yasenak** said it was specifically not to have the access be approved as it was not part of the Village and it would create a burden for the Village which he believed was still the case and he represented the Village and he didn't think it was in the best interest of the Village and that's where he has to be on this situation.

Kauckeck thanked everyone that spoke that evening and those that sent letters to express either for or against this particular issue. **Kauckeck** said looking at this as a representative for the Village, he looked at this from the residents' point of view that are going to be affected, having bought a piece of property with an expectation that the property and the property adjacent to their lot was zoned residential with no expectation that an access way would be put in someplace. He also questioned whether or not there would be a diminution of the value of their properties, which remains to be seen in the future and really can't be determined at this time, but they did have an expectation when they bought the property. **Kauckeck** said there has been comment made about protecting the trees on M-104 but in order to put the driveway through they will have to take out all the trees behind that piece of property between the church and the existing house which is going to create vacant space for the houses it adjoins.

Kaucheck said they have talked about Sundays but he has yet to see a church that doesn't have daily use such as food pantry, prayer meetings and Boy Scouts so that tells him there will be traffic using this particular piece of property all during the week, not just on Sundays.

Kaucheck said he was worried about the elderly that do use it with their motorized scooters to go up along River Street to Fruitport Road and then over to Orchard Market and they do it early in the morning when there is a tremendous amount of bus traffic going down River Street because none of the school busses use M-104 because of the traffic. **Kaucheck** said it was about more than safety, it was also about the value of the property to the property owners that bought with expectations and he said he had to be against this.

Boon said a few thoughts that ran through his mind were what the accident rate out there is, the percent of eastbound verses westbound traffic on Sunday morning, and close calls for Deputies.

Boon said he happens to live right in the Village on Meridian and he has seen the kind of traffic that the residents are talking about. **Boon** said the high school used to be right around his neighborhood and he used to have high school kids coming down Meridian every morning 5 days a week. **Boon** said he was torn because he could see the positives of having this traffic routed away from everybody exiting on to M-104 and he could see the negative impacts to the neighborhood because he has lived through those impacts. So without some additional answers he said he was going to hold his yea or nay and he would like to see this matter tabled.

VanStrate said he thought it would really impact the residents and in the summertime he has seen people going to the beach cut down Fruitport Road, fly down River Street to Lake Street and to Exchange Street and he thought it was one more addition to those streets. **VanStrate** said that he commended the Church for their proposal but being on the Planning Commission he felt they had to go by the Ordinances and this was not zoned for that use. **VanStrate** said they were against it before and he was against it now.

Chairwoman Miller said that her responsibility as a member of the Planning Commission for the Village was to uphold the Master Plan and respect the citizens of the Village. **Miller** said she remembers the discussions on Land Use, Section D, and it was to prohibit the access, not because it wasn't Village property, it was to prohibit that access and they discussed the wear and tear on the streets and at the time the lack of sidewalks. **Miller** said she was also questioning why, when the Judge's recommendation was to go before the ZBA this was brought to the Planning Commission. **Miller** said she lives across the street from Harvest Bible Church and, at times, has had a really hard time getting out of her driveway. **Miller** said the church was not in the Village so she doesn't necessarily feel she needs to support the church but that she should support the residents of the Village. **Miller** said she also looked at this as spot zoning even though it is conditional it is still spot zoning and they are really encouraged not to do that. **Miller** said she looks at this completely different then St. Mary's request because St. Mary's already has a whole entire block and is already zoned so to take a few additional parcels she said she doesn't have an issue with but she does have an issue with zoning something to have access to property in the Township. **Miller** said that if they were to approve this they would be setting precedence for spot zoning, disregarding Village citizen's opinions and disregarding the Master Plan that they had put a lot of work into, and it doesn't support sound zoning principals. **Miller** also said she was still questioning why this was not brought to the ZBA and why it was brought to the Planning Commission so she was definitely not for the rezoning.

Howland said they had additional information she wanted to make sure they know is available in the room with a representative from MDOT that can answer any questions related to traffic and Attorney, Ron Bultje to represent the legal questions especially the one regarding Planning Commission verses the ZBA process.

Yasenak asked **Howland** if she was trying to get this item passed. **Howland** said no, that she was an objective person and her role as a Planner is to go through what the Master Plan and Zoning Ordinance says. **Yasenak** said it seemed like she was offering contrary opinions. **Howland** said she was just giving information. **Chairwoman Miller** said that Howland was just offering an explanation on the ZBA portion.

Attorney, Ron **Bultje** explained that his job was not to advocate one way or another but to make sure that whatever recommendation that comes from the Commission is based on sound reasoning. He said he had a significant concern that a number of the reasons that have been offered at this point are not proper reasons. **Bultje** explained that this is not spot zoning; this is adjacent to Church property and even though that property is in the Township that is not the end of the earth. **Bultje** said they still look at that and look at the compatibility from a planning stand point. **Bultje** said he would not want the Planning Commission to make their decision, whatever it is, to be based on spot zoning. **Bultje** also said he didn't know what was said when the Master Plan Committee looked at the issue of access for the Church but it didn't really matter because they have the written word and the Master Plan says there won't be access to Fruitport Road as long as the Church is in the Township. **Miller** said that is what it says if you read it that way but she did not read it that way. **Bultje** said that the "Village Master Plan does not contemplate any service to this land outside the Village boundaries through use of Fruitport Road" so in other words the Master Plan does contemplate that possibility if the property does become part of the Village and he felt that was a reasonable interpretation and he didn't think that whether the church was in the Village or in the Township was a legitimate reason for that and it would have no difference on the traffic that the residents would encounter. **Bultje** explained that with regard to how this came to the Planning Commission rather than the ZBA, which the only way this matter could get to the ZBA was for someone who felt aggrieved by the driveway permit that was issued and appealing it. **Bultje** said the church wasn't aggrieved; the church had no standing to appeal the matter to the ZBA and the Village wasn't aggrieved, the Village issued the permit so the only way it could get to the ZBA was by the residents appealing, but the residents instead chose to go to court and the defense on behalf of the Village, was the residents should not be allowed to go to court because if they are opposed to the driveway permit they should have exhausted their administrative remedies which was to appeal to the ZBA and the court agreed with that. **Bultje** said the church would rather not have an appeal fighting about the driveway permit and instead would come with a rezoning request and put conditions on themselves, which is their right, as it is the right of the residents to appeal to the ZBA so both parties did what they did and went to the proper places. **Bultje** said there was nothing wrong with this being in front of the Planning Commission and who better to make this decision then the elected officials. **Bultje** said he would be happy to answer any questions and

his job was too primarily make sure that whatever decision the Commission makes they have proper reasons for it and it is defensible and he thought some of the reasons given have not been defensible.

Kauck asked if he purchased a piece of property, based on an expectation, given that at the time it was zoned as Single Family Residential, and then in the future there was a proposal to change it which would in fact create a diminish of his property value, potentially, because you won't know until the property is sold, would that in fact be a good reason for denying the request.

Bultje said certain expectations are fair to consider, some of them are not necessarily relevant like buying property and liking the slow way of living with less density and less traffic but that changes over 40 years. **Bultje** said he agreed that to put in an incompatible land use such as a gas station in the middle of a residential area would probably be inconsistent with the Master Plan and he thought it would surprise residents. **Bultje** said that one of the things that concerns him was that the principles submitted by the attorneys for the neighbors are replete with the idea of pocket parks, green areas, community areas, sitting areas and relaxing areas, all of which would be served and enhanced by this conditional rezoning and it comes with a price of traffic at times. **Bultje** said getting back to **Kauck's** question, it is not uncommon to have churches and schools in residential areas and they have had a fair amount of expert information from MDOT and the Sheriff's Department and have not heard anything about diminishing property values and we have to make our decisions based on the record. **Kauck** said he was putting it in the record then.

Motion by **Kauck**, seconded by **Yasenak**, to recommend denial to rezone 214 South Fruitport Road (parcel #70-03-14-377-007) from SFR-A, Single-Family Residential District to P, Public and Semi-Public District for the following reason(s):

- a. The proposed rezoning is not consistent with Single Family Residential use.

Yes: 4

No: 1 (Boon)

6. STATEMENTS OF CITIZENS ON ITEMS NOT ON THE AGENDA

There were no further statements from citizens

7. ADJOURNMENT

There being no further business, the meeting was adjourned at 8:45 p.m.

Jennifer Howland, Village Planner

Maryann Fonkert, Deputy Clerk