

Ray Township Planning Commission
Meeting Minutes
Tuesday, July 12, 2016 at 7:30 p.m.

Location: Ray Township Hall
64255 Wolcott, Ray, Michigan 48096
Present: Tom Hancock, Chairman
Tom Penzien, Vice Chairman
Lori Lascoe, Secretary
Cynthia Banach
Joe Jarzyna
Justin Lease
John Zoccola

Also present – Robert Seibert, Township Attorney, Lisa Hall, Building, Planning and Zoning Director; Jack Dailey and Jerry Schmeiser, Township Planners; 16 residents.

1. CALL TO ORDER – PLEDGE OF ALLEGIANCE AND ROLL CALL

Chairman Hancock called the meeting to order at 7:30 p.m. and the Pledge of Allegiance was recited.
Present: Hancock, Penzien, Lascoe, Banach, Jarzyna, Lease and Zoccola.

2. APPROVAL OF MINUTES – June 14, 2016 – MOTION by Ms. Banach to approve the minutes from June 14, 2016 as presented, supported by Mr. Jarzyna. Motion carried.

3. APPROVAL OF AGENDA – MOTION by Ms. Lascoe to approve the agenda as presented, supported by Mr. Jarzyna. Motion carried.

4. SCHEDULED PUBLIC HEARINGS –

- a. Special Land Use for Banquet Facilities, Charity Events and Special Events, Cliff Kukuk, petitioner. Parcel: 05-19-100-005, 15360-29 Mile Rd., Ray Township, MI 48096.**

Chairman Hancock summarized the procedures for Public Hearing and reviewed the guidelines and rules that would be followed tonight.

MOTION by Mr. Jarzyna to open the Public Hearing for Special Land Use Permit for Banquet Facilities, Charity Events and Special Events, Cliff Kukuk, petitioner, supported by Ms. Lascoe. Motion carried.

Attorney, Harry Ellman, 28470 W. 13 Mile, Farmington Hills, MI 48334, Mr. Kukuk's representative, appeared before the Board. Mr. Ellman explained the history of Mr. Kukuk's attempt to achieve approval from the Township to hold his charitable events on his property. Because of the specific type of these events, Mr. Kukuk was told he had to seek a special land use permit for banquet facilities, bringing him to this final hearing. Mr. Ellman said this process has been very taxing on Mr. Kukuk mentally and physically. Mr. Kukuk is ready to give up, but has contracts in place that he must honor. Mr. Ellman explained Mr. Kukuk has been a respected resident for 25 years. Mr. Ellman explained for the last 5 years, he has had weddings held on his property, not for profit, but charitable, for those in financial need. He said Mr. Kukuk has always received the necessary approvals and always kept the health, safety and welfare of the community in mind. Mr. Ellman stated Mr. Kukuk does not have more than 8 events per year; he did not have a problem until last year. Mr. Kukuk has three more events scheduled this year and two next year. Mr. Kukuk would like permission to hold these events on a limited basis.

Cliff Kukuk, 15360 29 Mile Rd., spoke at this time. Mr. Kukuk explained when he applied months ago for this permit he never intended to make his home a banquet facility. He said he would have never done that to his neighbors. He met with Supervisor Bohm and had an agreement and understanding with the Township Supervisor that an ordinance was being worked on so he could continue the charitable events on his property. He notified the Township every time an event was held. Mr. Kukuk explained for 19 years when the events were held there was never an issue with his

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fundraisers. He explained to the Commission he is not here to make money, it's for charity. For the weddings held he said it was for helping people that cannot afford more expensive affairs. Mr. Kukuk explained he offers his home as a venue for events. He said he is having a hard time handling the pressure at this point. He has tried to not disturb his neighbors. When the letter of notice went out to turn his home into banquet facilities he had numerous emails, calls, etc. He does not want to turn his home into a banquet facility. Mr. Kukuk explained there is no problem with parking and sound or inspections. He said he does have contracts he must fulfill. He has spent a lot of money trying to meet all application fees. Mr. Kukuk stated that the planners say this is a unique request and he needed to apply for the permit this way. Mr. Kukuk feels all requests have been met. He is not doing anything illegal or hiding anything. He wants to help people. Mr. Kukuk wants to get through the five events he has upcoming, and finish the obligations he has with the people he has deposits from.

Commented [J1]: Stated that the

Public Comments:

Attorney Robert Davis, 10 S. Main St., Mt. Clemens, representing Stephen and Rosanne Burson, 15462 29-Mile Rd., neighbors adjacent to the Kukuk property, addressed the Commission at this time. Mr. Davis referred to his letter submitted to the Board dated July 5, 2016 opposing the requested special land use for the Kukuk property and summarized the Burson's concerns. His clients' concerns include: 1. The social media posting for the hiring of people for Mr. Kukuk's wedding and banquet events. (including wait staff and bartenders) 2. The property closes its own driveway during events and routes traffic to designated parking areas. The driveway of the Burson's is used for turnaround for misdirected vehicles. 3. Noise concerns. 4. Value of the Burson's home is uncertain and impacted by the current and proposed use at this property. 5. Blocking the driveway is not a safe practice for emergencies. The use generates large volumes of trash, and set out early, before scheduled pick up times. 6. Trespassing of clients on their property is a concern and a liability situation.

Mr. Davis said for these reasons, and those in his letter, his clients oppose approval of the Special Land Use. (Letter attached per attorney request.)

MOTION by Mr. Jarzyna to close the Public Hearing, supported by Ms. Lascoe. Motion carried.

Mr. Dailey presented the overview of the Township Planners' report regarding this matter:

Applicable Sections of the Zoning Ordinance relating to the Special Land Use Request are cited below for reference:

The "**Districts Tables**" cite Banquet Facilities as a Permitted Use in two Commercial Districts; B-1 and B-2 and the Davis Mixed Use District. Banquet Facilities are permitted as SLU (Special Land Use) in the R-1, RT, RM, RMU, R-SFL, SFM and SFH Residential Districts; and the I-1 and IR Industrial Districts as referenced on the Zoning District Table; see p. 3-3 of the Zoning Ordinance.

Recommendation of John Dailey and Jerome R. Schmeiser, Township Planners:

As the Planning Consultants for Ray Township, we have reviewed the application for the special land use permit for "Banquet Facilities" to be located on Parcel #: 05-19-100-005; 15360 29 Mile Road; Cliff Kukuk, Applicant. Our recommendation is based on our opinion of how the use of subject property for Banquet Facilities comports with the special land use standards itemized in Section 2202 of the Zoning Ordinance. You will find below our opinion of how the proposed use conforms with each of the six standards.

STANDARD NO. 1

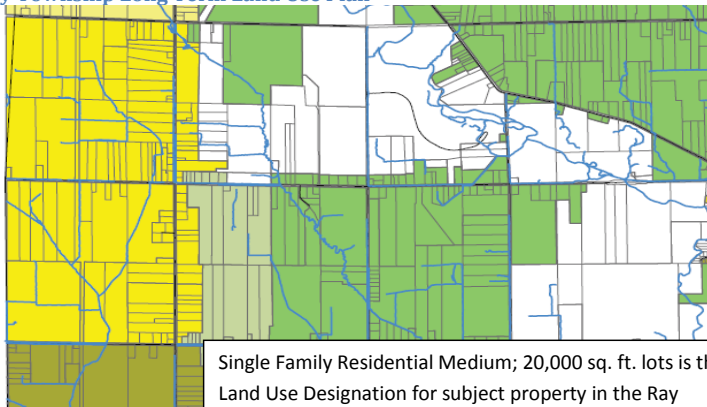
1. The proposed special approval land use must be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

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Comments of Dailey/Schmeiser relative to Standard No. 1: The Application for SLU to use subject parcel for banquet facility as discussed above would not be harmonious with the appropriate and orderly development of the surrounding neighborhood and/or vicinity, since the area is planned and zoned for residential development with minimum lot sizes of 20,000 sq. ft.

It can be seen from the land use plans for both Ray and the adjoining Sections in Washington Township graphically depicted on the following pages that there was never an intent or policy to integrate banquet facilities or other non-residential activities unrelated to farming into the R-1 Zoning District or Single Family Residential Medium Planned areas.

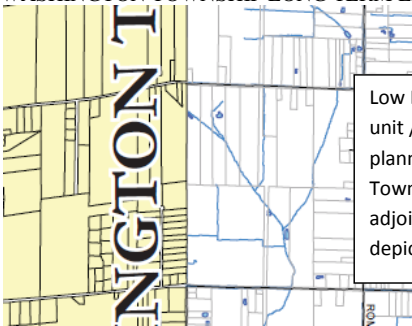
Ray Township Long Term Land Use Plan



LEGEND











- | | | |
|---------------------------------------|---|----------------------------------|
| Agricultural Residential 90,000 | Single Family Residential Transition 60,000 | Mixed Use Residential |
| Single Family Residential Low 30,000 | Single Family Residential Medium 20,000 | Multiple Family |
| Single Family Residential High 15,000 | | Multiple Family - Senior Housing |
| | | Manufactured Housing Community |

WASHINGTON TOWNSHIP LONG TERM LAND US PLAN



Low Density Residential @ 1.5 unit /Acre is the exclusive planned land use in Washington Township along 29 Mile Road adjoining Ray Township as depicted in the graphic.

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	LARGE LOT RESIDENTIAL APPROX. 2 ACRES		MULTIPLE FAMILY
	LOW DENSITY RESIDENTIAL - 1 UNIT / ACRE		MANUFACTURED HOUSING COMMUNITY
	SINGLE FAMILY RESIDENTIAL - 1.5 UNIT / ACRE		COMMERCIAL
	MODERATE DENSITY SINGLE FAMILY RESIDENTIAL - 2 UNITS/ACRE		INDUSTRIAL
	HIGH DENSITY SINGLE FAMILY RESIDENTIAL - 2-3 UNITS / ACRE		PUBLIC / RECREATION

The Ray Township Master Plan Report in discussing the general area of the subject property that has been designated in the Residential Plan for "Single Family Residential-Medium Density" made note of the following:

Low Density (1.0 to 1.4 units) This designation extends from 27 Mile Road to 30 Mile Road within the eastern portion of the Township. The development within this land use category should attempt to maintain the Township's rural character. This area will ultimately have sewer and water infrastructure, therefore densities closer to the 1.4 unit per acre are more likely. Until such time, lot sizes should remain approximately three (3) acres in size to accommodate septic systems and wells.

Ray Township Master Plan, Sec. 8-11

The request for SLU that is before the Commission would be more consistent and appropriate in other areas of Ray Township that the Planning Commission in its worthwhile deliberations during the preparation of the Master Plan set aside for such uses. The areas set aside for uses including banquet halls include the B-1 and B-2 Commercial Districts. Banquet and Assembly Halls are also permitted in The Industrial District (I-1), and the Industrial Residential (IR) Districts as Special Land Use.

The Master Plan provides for 465 acres to be set aside for Industrial Land Use in the vicinity of Romeo State Airport in Sections 6 and 7. In addition the Commission as part of its Master Plan created a special district within Sections 35 and 36 for light industrial and related uses. The area consisting of approximately 228 acres was given an "Industrial-Residential" designation and a separate Zoning District established in the Township Zoning Ordinance to accommodate this concept; (IR District)

The IR designation was designed to provide an alternative location for small scale industrial uses as well as selected commercial uses that may be approved as a SLU including Banquet facilities.

STANDARD NO. 2

2. The use must be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.

Comments of Dailey/Schmeiser relative to Standard No. 2: The Application for SLU to use subject parcel for a banquet facility as discussed above would be out of character with the District. The movement of commercial vehicles as defined in the Zoning Ordinance is out of character with a Residential District. Turning movements in and out of the parcel would be drastically different for the subject parcel than for adjoining parcels since commercial vehicles would be entering and exiting subject parcel in contrast with adjoining parcels where only residential vehicles are in use.

STANDARD NO. 3

3. The proposed use must be designated so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any excessive nuisance emanating there from which might be objectionable to the occupants of any other nearby permitted uses.

Comments of Dailey/Schmeiser relative to Standard No. 3: The Application for SLU to use subject parcel for a banquet facility as discussed above would be out of character with the District and adjoining parcels with respect

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to issues of noise, fumes and lights. While landscape buffers may mitigate some of the negative impacts from lights; the limited width of the subject parcel will result in serious negative impacts from noise generated by the proposed use on the adjoining residential properties. The proposed parking for up to 200 automobiles is less than 300 feet from the existing house to the east. The site plan as referenced above indicates there can be no doubt there will be negative impacts on that residence from fumes, and noise that should not occur in a residential area that has been planned, zoned and developed for single family living prior to the request for Special Land Use.

STANDARD NO. 4

4. The proposed use must be such that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value. **No Comments Applicable or Related to the Request.**

STANDARD NO. 5

5. The proposed use must be so designed, located, and proposed to be operated that the public health, safety, and welfare will be protected.

Comments of Dailey/Schmeiser relative to Standard No. 5: The Application for SLU to use subject parcel for a banquet facility as discussed above could not be reasonably designed to be operated in such a manner that the public health and safety would be adequately protected. As noted under No.3 above; the size of the parcel and the proximity of adjoining residential structures is so close that negative impacts from lights and noise could not be expected to be reasonably mitigated through site design.

STANDARD NO. 6

6. The proposed use must not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Comments of Dailey/Schmeiser relative to Standard No. 6: The Application for SLU to use subject parcel for banquet facility as discussed above would operate as a deterrent to future land uses permitted with said zoning district. The R-1 Zoning District does not permit as a matter of right, banquet facilities or open air entertainment. The purchasers of real estate in an R-1 District should have every reason to expect that future land uses adjoining their residential parcel shall be used as permitted in the zoning ordinance. A banquet facility is NOT a permitted use and there are no mitigating circumstances with respect to parcel size, physical features, or other adjoining land uses that should allow the use as requested to be located on subject parcel.

In summary the proposed Special Land Use request for “Banquet Facility” to be located on Parcel #: 05-19-100-005; 15360 29 Mile Road; Cliff Kukuk, Applicant should be DENIED based on the following:

- The Request for banquet facility fails to meet all of the Standards listed in 1-6 of Section 2202 of the Zoning Ordinance.
- The Township Planning Commission and Township Board has provided through its planning program a Master Plan adopted in 2010 and a Comprehensive Zoning Ordinance adopted 2011, sufficient parcels outside of the R-1 District available to the proposed use within zoning districts that would accept the proposed use as a permitted use.
- It is not uncommon in rural areas for property owners with acreage and a homestead to periodically host family events such as graduations, birthdays and special celebrations at holidays. However, in the subject matter the applicant as has used the parcel for more than just infrequent family events. A Special Land Use approval would allow the parcel to be used for more than limited family events. There is nothing unique about this parcel that would set it apart from numerous other parcels zoned R-1 in Ray

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Township to allow for favorable consideration for a Special Land Use approval for a Banquet Facility. There is also nothing that sets this subject parcel off to allow it to function as a banquet facility without having negative impacts on adjoining residential properties and other nearby residential properties.

Chairman Hancock read correspondence from the following: Lyle Winn, Anderson Eckstein and Westrick Engineering; Stephen and Roseanne Burson, 15462 29 Mile Rd.; Harold DeMan, Ray Township Fire and Rescue; Bob Beckett, Building Official, Ray Township; Macomb County Health Department; Dana Rose Coleman, Planning & Zoning Administrator, Charter Twp. of Washington; Robert Hoepfner, Macomb County Dept. of Roads; Tamara Kenskeny, Property Manager, Macomb County Public Works Dept.; and Tom & Denise Jurek. (correspondence available upon request).

Mr. Penzien said all the correspondence and comments are for a banquet facility, but the petitioner said he doesn't request a banquet facility. However, this is an application for site plan review for banquet facilities. Mr. Penzien said the site is a great site for to hold parties in Ray Township for pleasure, as many other sites in Ray Township, but there are no contracts or charges for parties as graduation parties, at the homes of other residents. This approval should not be given for a business entity or banquet facility.

- Commented [J2]: However,
- Commented [LH3]:
- Commented [J4]: Strike site plan and insert Special Land Use

Mr. Hancock inquired about the Dream Away Festival to be held this weekend. Mr. Kukuk said it is his daughter's yoga event For Feed the Hunger. It is a retreat to be held, a one day retreat.

Motion by Ms. Banach to deny the application of Cliff Kukuk, Applicant, for a Special Land Use Permit for Banquet Facilities, Charity Events, Special Events, parcel 05-19-100-005; 15360 29 Mile Rd; Cliff Kukuk, Applicant; based on the following:

- The Request for banquet facility fails to meet all of the Standards listed in 1-6 of Section 2202 of the Zoning Ordinance.
- The Township Planning Commission and Township Board has provided through its planning program a Master Plan adopted in 2010 and a Comprehensive Zoning Ordinance adopted 2011, sufficient parcels outside of the R-1 District available to the proposed use within zoning districts that would accept the proposed use as a permitted use.
- It is not uncommon in rural areas for property owners with acreage and a homestead to periodically host family events such as graduations, birthdays and special celebrations at holidays. However, in the subject matter the applicant as has used the parcel for more than just infrequent family events. A Special Land Use approval would allow the parcel to be used for more than limited family events. There is nothing unique about this parcel that would set it apart from numerous other parcels zoned R-1 in Ray Township to allow for favorable consideration for a Special Land Use approval for a Banquet Facility. There is also nothing that sets this subject parcel off to allow it to function as a banquet facility without having negative impacts on adjoining residential properties and other nearby residential properties.

Roll call vote:

Ms. Banach yes
Ms. Lascoe yes
Mr. Penzien yes
Mr. Jarzyna yes
Mr. Lease yes
Mr. Zoccola yes
Mr. Hancock yes

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Motion supported by Ms. Lascoe. Motion carried. – Special Land Use Request failed - vote of 7-0.

MOTION by Mr. Zoccola, supported by Ms. Lascoe for a 5 minute recess at this time. Motion carried.

5. New Business – none

6. Old Business – a. Master Plan Narrative Revisions

Mr. Zoccola stated the Supervisor presented suggested changes to the Master Plan for consideration; also one correction to the commercial section. Adding a historical district to the master plan as a suggestion. Discussion continued concerning the changes proposed. Mr. Dailey said the Commercial Section was corrected, as indicated, as noted in the attached document. Concerning the Township creating a Historic District in the vicinity of the Township Hall, Mr. Dailey said the current zoning law in place should be sufficient based on current trends in development. It is protected with the current zoning now.

MOTION by Mr. Jarzyna to resend to the Board the Master Plan with modifications, supported by Mr. Zoccola. Motion carried.

7. Presentation – none

8. Report of the Township Board Representative – none

9. Report of the Zoning Board of Appeals Representative – none

10. Correspondence – a. Bruce Township Master Plan Notice

Mr. Hancock read into the record a letter from Bruce Township indicating the notice of public hearing for the adoption of the 2015 draft Bruce Township Master Plan, and adoption of their Master Plan at their 6/15/16 meeting.

MOTION by Ms. Lascoe to receive and file the Bruce Township letter regarding adoption of their Master Plan, supported by Mr. Lease. Motion carried.

11. Comments Planning Consultants; report from Planning Consultants

Mr. Dailey briefly presented the report for July, 2016, welcoming any questions or comments from the Planning Commission.

Mr. Dailey presented a letter from the Engineer, Mr. Winn, regarding lowering the site bond for Mr. Sape (the developer for the site at 27 Mile/North Avenue). Mr. Dailey said all inspections have been met, and the question at hand is the amount of the bond. Discussion took place concerning the amount of bond, or the releasing the funds. Mr. Dailey suggested a \$10,000 bond. It was questioned if the Planning Commission had that power to make that call, since they did not set the bond. It was discussed that the Engineer set the bond at \$73,000, how can it be reduced by the commission. Discussion continued regarding bond determination. It was decided to send the information to the Board for determination of a policy.

MOTION by Ms. Banach to request the Township Board to establish a policy to release funds at the recommendation of the Engineer, for the site plan cash bond incremental refund policy. Supported by Mr. Jarzyna. Motion carried.

12. Public Comments -

Terry Goike – 21122 32 Mile Rd. – Ms. Goike inquired about the proposed historical district as she missed the last Board meeting. Mr. Zoccola answered it was proposed to be the area surrounding the mill, the township hall area and the parking lot. Ms. Goike said she would be interested in discussing as she is part of the historical society.

Mr. Penzien asked if the Commission could request assessor Kelly Timm give us an update on Wetland Mitigation regulation. Discussion continued regarding wetlands and agricultural property. Mr. Penzien requested an opinion from the Assessor on this subject.

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MOTION by Ms. Lascoe to adjourn the meeting at 9:22 p.m., supported by Mr. Jarzyna. Motion carried.

Tom Hancock, Chairman

Lori Lascoe, Secretary

Date

Respectfully submitted,

Marcia Jamroz, Recording Secretary