

Ray Township Planning Commission  
Meeting Minutes  
Tuesday, June 14, 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 - Lisa Hall, Building, Planning and Zoning Director; Jack Dailey and Jerry Schmeiser, Township Planners; 4 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 – May 10, 2016 – MOTION by Ms. Lascoe to approve the minutes from May 10, 2016 as presented, supported by Mr. Jarzyna. Motion carried.**

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

**4. SCHEDULED PUBLIC HEARINGS – none**

**5. New Business –**

**a. Request for Site Plan Approval for “Wetland Restoration”; Omo Farm, LLC/Niswander Environmental – Clinton River Wetland Mitigation Bank #3 Parcels #05-24-20-010, 05-24-200-017; 59.92 acres located with frontage on 29 Mile Rd. and New Haven Rd., ¼ mile west of Omo Rd.; Steven F. Niswander, Applicant.**

Township Planner, Jack Dailey explained the purpose of this request, as noted on the application for site plan approval, is for Wetland Restoration. The subject parcel is zoned R-1 Agricultural Residential. Section 21-01 Site Plan Submission Requirements within the Zoning Ordinance provides that a site plan shall be submitted for review by the Planning Commission for any site used for mitigation purposes (i.e. wetland mitigation).

- I. The subject property consists of two parcels that contain a total of 59.92 acres of presently undeveloped agricultural land. The two parcels are identified as:
- 05-24-200-017 is a 15.402 landlocked parcel without road frontage.
  - 05-24-200-010 is a 42.751 acre parcel that is adjoined to parcel -017, and is provided with 721 ft. of frontage on the north side of New Haven Road and 1,351 ft. of frontage on the south side of 29 Mile Road. The maximum depth of the parcel along the west line is 2,016 ft.

New Haven Road is a two-lane paved county road; while 29 Mile Road is a two-lane gravel surface county road. The surrounding area consists of agricultural parcels with scattered site residential structures on acreage parcels. All adjoining parcels are Zoned R-1 (Residential-Agricultural). The Township Master Plan has subject property planned for Agricultural Residential with 90,000 square foot lot minimum.

The intent of the project is to create 49.9 acres of wetland in order to sell credits to developers or possibly local units of government. The entire parcel would be planted so as to create a forested wetland in perpetuity. The site will be divided into three drainage cells which in effect will provide 50 acres of storage for water on-site. There will be no stockpiling of earth; there will be six structures per acre not including rock piles or sand piles. Existing drainage swales will be maintained; no water from site will be discharged onto adjoining parcels.

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A Wetland Permit will be required from MDEQ. The expected result of this development will be to significantly improve down-stream drainage. In addition, other positive results of project include the management of nuisance and invasive species through the removal of all such species prior to development, and the planting of only native grasses and trees; up to 300-400 trees per acre will be planted. The land would remain taxable as farm land as qualified AG use. Upon completion, a bond will be posted with the State of Michigan to assure that the land will remain eligible for credits that may be sold to mitigate wetland removal within the watershed. The bond posted, with the State of Michigan should suffice as the development bond.

Mr. Dailey noted the Township Engineer in his letter of response to the Notice of Public Hearing has recommended that the plan should be approved subject to four conditions:

1. Show the future right-of-way for 29 Mile Rd. and New Haven Rd. All proposed improvements (berms and wetlands) must be located outside the future right-of-way.
2. It appears that the only site access will be via 29 Mile Rd. The petitioner should clarify that this is in fact the case, and that it applies to all construction traffic as well as final site access.
3. Clearly show the flow directions for each of the drainage swales, from the beginning of each swale to the outlet.
4. Based on the plans submitted, drainage patterns will be altered so that all site drainage will flow through cell 15 to the Lenox Twp. Wetland bank site, and into the Ray-Lenox drain. Drainage should improve for surrounding properties. However, it is suggested an escrow be established to address any drainage issues that may arise from the construction activities, and suggested an escrow amount of \$10,000.

Note: Mr. Winn subsequently notified the Township Offices through Lisa Hall that the additional \$10,000 would NOT be necessary since other required bonds would suffice.

This concluded the Planners' recommendations.

Applicant, Mr. Steven Niswander, PhD., of Niswander Environmental appeared before the Commission. He explained he and his wife Angela were the owners of the property. A purchase agreement will be in place shortly he explained, pending approval in July. They are a wetland environmental firm. He stated they are one entity and one group. Mr. Niswander added they find properties and restore them back to wetlands. This is their third wetland mitigation bank. This is their legacy and passion and explained what they do.

Drainage issues were addressed and the impact on adjacent properties. Mr. Niswander said this is the first thing they look at, the north to the south, and right now there are a lot of surface ditches. He said all the ditches will be maintained as they are today. He said he has met with Macomb County and the adjacent properties will not be adversely affected. He addressed the forested wetland, and wetland restoration; the goal is to get a forested environment. They will be creating a wildlife environment. Financial assurance was discussed. Mr. Niswander stated it stays in place as long as they have credits in place for 10 to 20 years. If the project fails, the DNR takes over. Mr. Niswander explained he had no problems with the Engineers' concerns. The wetland permit is in process with the County. Soil erosion permit and drainage permit is coming. He will be meeting with the County for gated access to the North and proper posting of the property. Mr. Niswander said he agreed with the bond requirements, and will need a DEQ wetland permit from Lansing. A construction schedule is included to start the first part of August.

Mr. Zoccola inquired how this site was selected.

Mr. Niswander responded that the Clinton River Water Shed was the determining factor.

Discussion continued regarding wetland site determination, preservation and credit determination.

Mr. Penzien inquired about the 59 acres and the Assessor's letter, clarification of the acres and credits terms. Discussion continued regarding the use of the property for hunting. Mr. Niswander said they have no intention of selling this property for a hunt club. There may be a day, but there is no hunting or trespassing on the site proposed at this time.

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Mr. Penzien said there may be many parcels in Ray Twp. that could be converted to DEQ wetlands. He asked what could happen to those tax revenues.

Mr. Niswander said they are putting up a significant amount of money to make sure this works.

Mr. Jarzyna inquired about the west/east drain, and over time if there is a problem, who do those people contact. Mr. Niswander said they would be responsible.

It was discussed how they will get rid of the invasive species. Mr. Niswander said they go in right away and manage, with continual management and maintenance.

Credits were discussed additionally for clarification with Mr. Niswander. It was noted credits are determined by the acre; a paper transaction. Mr. Niswander stated we build and monitor the property. He said it takes five to six years to make it fully functional.

Mr. Jarzyna asked if it becomes a hunt club, would it come back to us. Mr. Niswander said we want it to stay as open space forever. Not a lodge, with multiple members. We want to avoid that kind of situation.

Mr. Zoccola asked if it will be fenced it, Mr. Niswander stated it will be posted, not fenced in.

**MOTION by Mr. Penzien to approve the request for a Site Plan for the “Omo Farms Wetland Bank” on Clinton River Wetland Mitigation Bank #3 Parcels: 05-24-200-010 & 05-24-200-010 & 05-24-200-017; 59 acres located with frontage on 29 Mile Road and New Haven Road, ¼ mile west of Omo Road subject to the following conditions of the Planners’ Report:**

- 1. That the parcels shall be combined into one as per the recommendation of the Township Assessor.**
- 2. A Wetland Permit will be obtained from MDEQ.**
- 3. A SOIL EROSION AND SEDIMENTATION CONTROL Permit shall be obtained from the Office of Macomb County Public Works Commissioner.**
- 4. The recommendations of the Township Engineer shall be made part of this approval, to INCLUDE:**
  - a. The future Right-of-Way for 29 Mile Road and New Haven Road must be shown on the final drawings. Further all proposed improvements (berms and wetlands) must be located outside the future Right of Way.**
  - b. There is one access to the site off 29 Mile Road. If any additional access is necessary for construction traffic permits must be obtained from the Macomb Department of Roads.**
  - c. The flow directions for each of the drainage swales must be clearly shown from the beginning of each swale to the outlet.**
- 5. The Applicant must produce evidence that the bond has been posted with the State of Michigan to guarantee that upon completion the State of Michigan is satisfied that as developed the the land will remain eligible for credits that may be sold to mitigate wetland removal within the watershed.**

The motion was supported by Ms. Lascoe.

A roll call vote was taken:

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

**Motion carried – 7-0**

**5.b. Planning Commission Packet Delivery –**

Mr. Hancock asked the Commission their preferences for Planning Commission packet delivery.

Ms. Banach said she would like one packet delivered with all documents at once on the Friday before the meeting date.

Ms. Lascoe and Mr. Jarzyna concurred. Mr. Penzien and Mr. Lease said they would like to have items received throughout the the week from Lisa as they have been coming to review beforehand.

After discussion, it was decided to continue to send out items as they have been distributed; and the complete packet will be distributed on the Friday before the meeting.

For clarification purposes, it was noted the Planners' normally try to include their recommendation in the packet, but to make it up to date for the Board, and due to unforeseable circumstances, sometimes it may come at a later time.

**6. Old Business – none**

**7. Presentation - none**

**8. Report of Township Board Representative – none**

**9. Report of the Zoning Board of Appeals Representative –** It was reported there was approval of a historical house in the road right of way.

**10. Correspondence - none**

**11. Comments Planning Consultants; report from Planning Consultants –** Mr. Dailey briefly presented the report for June, 2016, welcoming any questions or comments from the Planning Commission.

**12. Public Comments – none**

**MOTION by Ms. Banach to adjourn the meeting at 8:34 p.m., supported by Ms. Lascoe. Motion carried.**

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Tom Hancock, Chairman

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Lori Lascoe, Secretary

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Date

Respectfully submitted,

Marcia Jamroz, Recording Secretary