

Holly Township
Planning Commission – Regular Meeting
Minutes of March 9, 2009

Call to Order: Chairperson LaLaine Kilbourn called the March 9, 2009 Regular Meeting of the Holly Township Planning Commission to order at or about 7:00 p.m. at the Holly Township Hall, 102 Civic Drive, Holly, Michigan, 48442.

Roll Call:

Commissioners Present:

LaLaine Kilbourn, Chairperson
Rick Stevens
Steve Ruth
Bill Angus
Ted Gurski
Mark McHalpine

Commissioners Absent:

George Barton

Staff Present:

Administrator Laura DeVault

Others Present:

Brian Oppmann, Carlisle Wortman
Attorney Greg Need, Adkison, Need & Allen
Robert Jacobs, Silverman Company

Karen Stickel, Hubbell, Roth & Clark
Timothy Affolder, Genisys Credit Union
Larry Lilly

- **Chairperson LaLaine Kilbourn moved to excuse Commissioner George Barton from the meeting. Commissioner Ted Gurski supported the motion. A voice vote was taken; all those present voted yes; the motion carried.**

Approval of Minutes:

- **Commissioner Ted Gurski moved to approve the February 9, 2009 minutes, as written. Commissioner Mark McHalpine supported the motion. A voice vote was taken; all those present voted yes; the motion carried.**

Communications:

1. Holly Code of Ordinances Community Sewer System Ordinance
2. Holly Township Code of Ordinances, Chapter 32 Zoning Ordinance, Article IV Supplementary Regulations, Section 32-162 (e) (2) Grange Hall/Fish Lake Overlay District.
3. Letter dated February 19, 2009 from Atlas Township re: Master Plan Update Draft Distribution.

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New Business:

1. Proposed text amendments to the Township of Holly Code of Ordinances to Chapter 32 Zoning Ordinance, Article II Amendments and Enforcement, Section 32-36 Performance guarantee required and Article VI Site Plan Review, Section 32-238 Expiration of approval.

Attorney Greg Need noted the language his office prepared requires performance guarantees be posted prior to commencement of any work pursuant to a site plan or issuance of a building permit. There is quite often in a site plan construction of roads, sewers and other items that don't require building permits and performance guarantees may not be posted before that work begins.

Administrator Laura DeVault stated in the last two motions for site plan approval previous to the most recent meeting, she would specifically refer to Riverside Phase 5A and Phase 3. It was included in the motion that performance bonds would be required. They didn't submit the cost estimates and dollar amounts at that time. After site plan approval, when we do the administrative work, Karyn Stickel from Hubbell, Roth & Clark (HRC) and Brian Oppmann from Carlisle/Wortman, would review the cost estimates and then determine if they thought they were adequate or not. Then based on their recommendations, we would set a dollar amount and have them bonded. We discussed that at the pre-construction meeting prior to construction of the project they are required to submit those prior to a building permit being issued. So there's a little bit of a play time between when those cost amounts are submitted and approved and when they're deposited with the Township.

Mr. Brian Oppmann noted this is a much preferred method and how most communities handle it. The confusing part for the administration in administering these site plans is that in the preamble it reads that this should be handled at the Planning Commission level. HRC and Carlisle/Wortman are not so concerned with creating cost estimates or reviewing those and usually those aren't provided until after approval of the site plan.

Commissioner Ted Gurski questioned whether there was something in the language that sets a time limit for completion. At the Planning Commission level it has been done that when 40% of the houses get done, they put up a traffic light or something similar. He questioned whether that was how it is done now.

Mr. Oppmann stated a development agreement is usually where timing and things like that are handled, not really at the Planning Commission level. Usually the Township's consultants and the developer's consultants work on an agreement and it's up to Mr. Need's office and their attorneys to work out the specifics such as the timing of when certain improvements are to be made.

Commissioner Gurski questioned how it would be monitored.

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Mr. Oppmann stated the Township administration would monitor it. In essence, it would be the building and zoning administrator, with the help of the consultants.

Commissioner Gurski questioned, if something wasn't done on step one, would it be a reason to hold up a site plan coming before the Planning Commission.

Mr. Oppmann noted you can't hold up violations. Just because there may be a violation of a development agreement in place on a previous phase doesn't mean you can hold up future phases.

Commission Gurski questioned whether someone was required to put up a performance bond for a safety path and if it would be a violation if they didn't get completed before moving on to another phase. Some things tend to not get completed with different projects around the township. He doesn't know whether there have been performance bonds in the past, who enforces them and why we tend to just move past it.

Administrator DeVault noted the Township wouldn't issue any building permits or certificates of occupancy.

Chairperson LaLaine Kilbourn questioned whether that should be handled by the code enforcement or the building department or legally pursued in court if they're not complying.

Administrator DeVault noted the Township has been able to manage administratively. There have been occasions where she does it cooperatively with the attorney.

- **Chairperson LaLaine Kilbourn moved to set the Public Hearing for the text amendment to the zoning ordinance sections as noted for the performance guarantee issue. Commissioner Ted Gurski supported the motion. A roll call vote was taken. Angus: Yes; Kilbourn: Yes; Stevens: Yes; Gurski: Yes; McHalpine: Yes; Ruth: Yes. The motion carried with a 6/0 vote.**

Old Business:

1. Amended Motion for Special Use Permit Application by Silverman Development Company for a Planned Development Option in the Grange Hall/Fish Lake Overlay District and Conceptual Site Plan Application Known as the Riverside Commons for part of parcel #01-28-301-005, parcels #01-28-101-008, 01-28-101-009, 01-28-101-010, part of parcel #01-28-101-013, parcels #01-28-101-014, 01-28-126-012, 01-28-126-013, and 01-28-326-002.

Administrator DeVault indicated the Planning Commission can tell which draft of an amended motion they're referring to at the bottom of the first page under 4(b). It would read compliance

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with the recommendations of the Township engineer, per letter dated October 31st, 2008, per two letters dated December 8th, 2008; the recommendations of the Township planner, per review dated December 5th, 2008, and so on to the next page.

Attorney Need stated this adds additional clarification to the motion of December 8th, 2008. It addresses clearly what property is included and what property is excluded. There was confusion as to whether the credit union was in or out. Ultimately we had a letter from Mr. Jacobs requesting that it be taken out and the concurrence of the credit union for that. There was an issue because the motion referred to the original application. The site plan does show a boundary of the overlay district and the Planning Commission's approval only applied to the overlay district land. As it turned out, the site plan also shows land along Riverside Drive that is not part of the overlay district. This motion clarifies that that was not approved.

We wrestled with the proper process to go forward. There is no current proposal before you for any of these phases, but it is ultimately intended that that happen. He has discussed this with Mr. Jacobs, who is here, and there was an agreement that we would require a master development agreement for the special land use, but not now. That will be required whenever the next phase comes in, at which point these items will all be addressed. This is a unique animal because we approved a special land use that sits on a piece of land that's the subject of a former cluster development, but not all the land that was in the cluster development is. We have to sort out what's being approved where.

We have some uncompleted items from the original approval and the development agreements that have been negotiated for the various Riverside phases. This would indicate that those will all be wrapped into this master development agreement. They're addressed either as part of the Riverside Commons approval or as part of the original cluster approval. Because the credit union is being excluded, there will need to be an easement between the credit union property and the balance of the project at some point. It's not a major item but it's something that needs to be addressed.

The Township ordinance requires that the permit is null and void after a year unless they make application for a building permit. That may not happen within the next year due to our economic climate. So Mr. Jacob's client, Silverman, has requested that that actually be changed to two years, with the opportunity to be extended if you decide to do that at a later date. That would seem to make some sense.

Again, the intent was not to change the approval. The intent was the approval was granted in December, it continues. This clarifies what was approved and sets forth a process to address these types of loose ends along the line, both to protect the Township, as well as to allow for the ease of administration. He discussed these with Mr. Jacobs, who can speak for himself, but with the exception of the traffic study which will be discussed later and a couple minor items, they basically do not have objection to this language.

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Administrator DeVault responded to Chairperson Kilbourn that the parcel numbers on the agenda were the correct parcel numbers. There are two parcels that read “part of”. One would be the parcel where the credit union will be constructed. The second one is a very large parcel. Part of it is north of the overlay district boundary line. That will be under the original Riverside cluster approval.

Chairperson Kilbourn questioned, referring to Attorney Need’s workshop presentation to the Planning Commission and the Board of Trustees this evening, how the Planning Commission can tie performance on the other phases and site plans to the development.

Attorney Need stated those former phases are being superseded in part and cluster approval is being superseded by this approval for various parts of the Riverside development. When Riverside was approved in 2003, there were certain representations and requirements involved in the development. Some of the development is now before the Planning Commission in this development so it’s appropriate to carry those forward. It’s not a circumstance where we’re talking about a totally unrelated issue or Silverman had another piece of property on the other side of the township. It clearly would be proper to provide a condition when we’re talking about substantially the same property.

Chairperson Kilbourn indicated she doesn’t have a problem saying a master development agreement has to be entered into between the Township and the developer. She doesn’t believe the Planning Commission has jurisdiction. She wouldn’t mind saying a master development agreement has to be entered into, but she has a concern saying the master development agreement then consists of A through H. If a master development agreement is between the developer and the Township, she questioned whether that would be between the two of them to set up the specifics instead of the Planning Commission.

Attorney Need stated the Planning Commission grants special land use approval. One of the conditions of a special land use approval is this kind of master development agreement. The Planning Commission needs to establish the record to begin with. The actual document will be approved by the Township Board. The Township supervisor and clerk have signed the previous development agreements for the other Riverside phases. Master is meant to encompass the entire project. In the original Riverside development there were separate development agreements for each phase.

Chairperson Kilbourn questioned, if the developer has not fulfilled the Township’s requirements on previous agreements, why the Planning Commission is stating there’s going to be a master development agreement where they can do the same thing and not follow any guidelines as they did in the prior development agreements.

Attorney Need stated the prior development agreements addressed phases within the development. This is meant to encompass everything. One of the issues under the items that

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were not completed before has to do with the transfer of property between the Silverman entity and the Pulte entity. The question is who is responsible for that; Silverman or Pulte. That is a gray area that could have been avoided had we had a master development agreement in 2003 when this project was first being discussed. That's why there should be a master development agreement today, to avoid that kind of ambiguity. The Township could seek to enforce the development agreement, but at this point our intention is to use this process of having a master development agreement to set forth a time frame process to address those not included items, whether they be Silverman obligations or Pulte obligations or another developer's obligations.

Commissioner Steve Ruth noted in item A, the very first sentence, it says we granted approval for a special land use and conceptual site plan. He questioned whether that implied the site plan, if brought forth exactly the way it was presented that evening, would have to essentially be approved and would not be able to be changed. It says conceptual site plan; he doesn't believe the conceptual site plan should have been part of the approval.

Attorney Need stated on December 8th, 2008, the Planning Commission granted a special land use approval and conceptual site plan approval. It is the concept site plan that, among other things, has the incorrect designation of including property that's not really part of the overlay district. It also shows property outside the overlay district, although there is a proper boundary shown at least with regard to the northern property.

Commissioner Ruth noted the conceptual site plan included certain types of buildings in certain locations. He questioned whether that would still stand if this is adopted.

Attorney Need indicated the conceptual site plan stands, except as it's modified by this motion. They will amend their application exhibits to show the overlay district and take out the property to the north and the Riverside Drive property. The only other item on the site plan is there was a designation that there were 192 rental homes that were approved. In reality, only some of those are in the overlay district and part of the application. This seeks to clarify that designation that the density that was approved was everything south of that line. It includes seven buildings. The ones north of that would be subject to a future request or however Silverman chooses to do that.

Commissioner Rick Stevens noted Mr. Jacobs is present and his name has come up tonight. He's sure Mr. Jacobs would speak up if something were said that Mr. Jacobs didn't agree with. He asked Mr. Jacobs if he was in agreement with everything that's been stated so far.

It is a big project for our little town. One of the lessons the Township has learned is there should be committees set up, a talking committee that meets once a month for big projects; possibly Mr. Jacobs, with the supervisor, planning chairman or someone else. It's an ongoing project, a big project, and will probably be coming back before the Planning Commission when the economy picks up; in five years you may want to change things again. Those kinds of things

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should be into the pipeline with a general discussion beforehand. He asked if Mr. Jacobs was in agreement with what Mr. Need has been discussing.

Mr. Robert Jacobs stated he was in agreement. He noted Mr. Need and himself have discussed many of the issues and the problems that are associated because of the complexity of what has taken place over a number of years and the need for clarification.

He believes that Mr. Garon has had and continues to have dialogue with everyone on an informal basis and has been keeping everyone informed. He trusts this is something that will take place in the future. This would be an important project for Silverman and something they would like to be successful. It is important that that kind of dialogue continues.

As Mr. Need said, there were only two clarifications needed. One relates to when a traffic study would be appropriate. The other one is relative to some clarification of language where Silverman is asking that they have two years in which to commence building and obtain a permit, and/or apply for and obtain an extension from the Planning Commission.

Mr. Oppmann indicated Carlisle/Wortman is in support of the language. There is one item on the second page speaking about a traffic study. Carlisle/Wortman is mentioned as a reviewing body of that. They would defer to the engineers who are the experts on traffic studies. Carlisle/Wortman would like a copy of the study, but they're not experts in reviewing traffic studies. Carlisle/Wortman can be stricken from that. Other than that, they're in approval. It will be much easier for everyone to administer.

Ms. Karyn Stickel, Hubbell, Roth & Clark (HRC), stated they have reviewed the language and don't have an issue with it. She knows the applicant had issues with the traffic study. HRC would like to see the traffic study for the whole site now. They understand it's not known exactly what's going to go on the site. In that case they generally require a traffic study that would show a worst case scenario based on the approved special land use and what could go on there. They would like to see it all up front because they need to know the full impact on the traffic before HRC gets started so they don't get going into the project and then realize there are many improvements needed HRC didn't know about. When they see all those numbers up front, worst case scenario, they can assess it better.

Commissioner Bill Angus questioned what improvements a traffic study would impact.

Ms. Stickel indicated a traffic study would predict whether additional lanes, turn lanes, passing lanes, et cetera, would be required.

Commissioner Ruth questioned who would be responsible for the cost of adding extra lanes and lights.

Ms. Stickel stated the applicant would be responsible.

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Chairperson Kilbourn noted according to Attorney Need's letter and HRC's letters dated October 31st 2008 and December 8, 2008, they want the traffic study beforehand, up front.

Ms. Stickel indicated they had done a review on October 31st and said they needed a traffic study. Silverman provided traffic information. HRC's traffic engineer reviewed it and said additional information was needed.

Mr. Jacobs stated it isn't that they don't want to prepare a traffic study. There was a study prepared at the time of the development of the cluster, and it was a full traffic study. Subsequently, a modified study was submitted. At this time this would require in the first phase that we provide a full traffic study. If there's a prospective user for a thousand square feet, it not only wouldn't be cost-effective, but it would be impractical because we don't know at that point in time what a full traffic study would entail. We have certain uses; if all of these uses came into play, there is no question a full traffic study would be warranted. But there has to be some point which triggers it; maybe it's so many square feet, maybe so many uses. To have and generate a 50 or \$100,000.00 traffic study if you have a 2,000 square foot user doesn't seem to be realistic. It may serve as a barometer as what could be or what may not be, but it certainly doesn't seem to meet the needs until we have reached some level. He would ask the Planning Commission to consider what that level may be.

Chairperson Kilbourn noted this would be an overall traffic study for the overall site. One specific user is only part of the overall site. We need an overall traffic study before we get started, a worst case scenario. Then as each use comes in, it will be reviewed against the whole.

Commissioner Mark McHalpine stated a site plan has been brought in with a traffic study with a grocery store and clinics and apartments and assisted living. If you have the plan for that, obviously you know you have a plan for traffic.

Commissioner Ruth questioned whether a traffic study should be done now at the potential cost of \$100,000.00 if one restaurant is going to be put in and nothing else for ten years.

Chairperson Kilbourn stated they wouldn't have to redo the traffic study.

Mr. Jacobs stated they would.

Chairperson Kilbourn noted you would say this parcel you will use X number of the overall but you wouldn't have to generate the whole future. It is the cost of doing business. Everyone else has done a traffic study for the Planning Commission and not questioned it.

Commissioner Angus questioned whether the traffic study came to bear on the roads within the project or only on the public infrastructure.

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Mr. Jacobs stated it varies only on ingress and egress and internal flow and stacking. To do a full-blown study, we have to assume the worst case scenario and all of the levels of service that may be there. And at the time we do this, it may be fine if these things all took place. In this economy, we don't know what is happening. We're very hopeful, we're trying, we're advertising; we're doing everything possible. But at the same token, we don't know what's going to be there and it may be outdated by the time it's done. It may not be practical. He's suggesting that could be revisited at the time there is some critical mass that is going to be in there; for example, if we're going to do something over X number of square feet.

Commissioner Angus questioned whether he had an idea of the trip point for the critical mass.

Mr. Jacobs stated if there were a major tenant like a grocery store with a 40,000 to 75,000 square foot, it could start to get into a critical mass. If a nursing home is developed or apartments, that would certainly be a critical mass.

Chairperson Kilbourn indicated the original traffic study that was done was done for a residential development. They have now changed their course of action to something far more traffic intensive if they put in everything shown in the conceptual site plan.

Commissioner Angus suggested if a traffic study was done tomorrow and it says upon build-out of this project Grange Hall Road needs to be three lanes all the way through to the bowling alley and it doesn't build out for seven years, the county may come in and add a lane next year on their own, all of a sudden their traffic study is meaningless. Why make them do a study today and then seven years from now it's meaningless?

Commissioner Gurski noted the engineer should have input on this because the Planning Commission goes by the planner's report and the engineer's report. The engineer's report specifically says they need a full traffic study. He questioned whether that was the case or whether there was some leeway where in trying times, trying to get somebody to build something, is there a need to have a traffic study if you're just going to have a Taco Bell and a Rite-Aid Pharmacy.

Ms. Stickel stated it is the decision of the Planning Commission. If they're just going to be adding this one thing, at what point do you say now do a traffic study. Without seeing what the uses are, she can't say at what point they would need it. Their major concern is their preliminary numbers for this is two and a half times more trips than the residential plan that was submitted, that's quite a few more trips than a residential plan. That's quite a bit more traffic.

Commissioner Gurski questioned if this were to drag on for years, whether they would still require a traffic study.

Ms. Stickel stated large phase developments require a full traffic plan up front.

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Chairperson Kilbourn noted this is something the Township requested.

Commissioner McHalpine stated this is something that can be tripped when the first building application comes forward.

Mr. Need noted the December motion incorporated the HRC letter. If you want to change it, the paragraph would have to be changed.

Commissioner Stevens asked Ms. Stickel what the Oakland County Road Commission's position was. He questioned whether the road commission analyzes a project and says, look, you need to have a center lane or turn lanes. The road commission may do a traffic study, themselves.

Ms. Stickel noted the road commission generally doesn't look at the number of trips generated unless there is a request for a traffic light.

Commissioner Stevens questioned whether the road commission knows a development is going in and whether they analyze it.

Commissioner Mark McHalpine excused himself from the meeting at 8:00pm.

Mr. Jacobs noted a traffic study was done before. He indicated times have changed and conditions have changed. That's exactly why they are asking for this kind of relief. He's just looking for the comfort level that putting in a 1,000 or 2,000 square foot building like a Taco Bell or a shoe store, they won't need a full-blown traffic study that may not have any application to the project at that moment in time or until the next phase.

Commissioner Angus stated a traffic study should be done prior to a grocery store site plan.

Chairperson Kilbourn indicated a traffic study should be done prior to any commercial. It's different than the traffic study that was done for the residential.

Mr. Oppmann reminded the Planning Commission of the types of uses that were proposed on the plan; a bank type user, pharmacy, sit-down restaurants, like an Appleby's type restaurant, et cetera. Now think of the general square footage of those uses and on up into a larger retail building or farther out than that. He understands Mr. Jacobs' point that if a shoe store comes in, they're one user and they only need 1,000 square feet, that's one thing. Think about the magnitude of a pharmacy which is 10 to 12,000 square feet. If you're trying to look for ways to meet halfway on this, think about the types of uses that they asked for and that ultimately the Township approved and the type of square footage that those users take.

Commissioner Angus questioned why the credit union wasn't required to have a traffic study.

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Chairperson Kilbourn stated the Silverman project is a special land use in an overlay district and a large scale district. The credit union was not a rezoning, it was a permitted use and not a special land use.

Mr. Timothy Affolder, Genisys Credit Union, stated the road commission determines whether there are left turn lanes, widening of lanes, extension of lanes. The credit union has to widen the lane down to the corner of Fish Lake Road, make a lane that continues all the way back by most of the other shopping center so that there can be a left-turn lane. To do a traffic study for a small branch like this or even a small restaurant, that's what the road commission does. You could do the traffic study, HRC could review it, but the road commission makes their own decision. He and another gentleman argued why they should have to widen the lane all the way to the corner and move all these structures for one 2500 square foot building with the road commission for two hours. That's what the road commission wants. The road commission makes the decisions on the county roads. They're making the credit union tear out the curb on the north side of the road and put a taper lane all the way back up so that whenever the traffic gets up to the point where the driveway turns in, there will be a left-turn lane at that point.

Commissioner Angus questioned whether they would have to redo all the storm sewers.

Mr. Affolder indicated they would have to.

Commissioner Stevens indicated a traffic study should be done. If a restaurant went in, the road commission would dictate if the road needs to be widened or a third lane put in, et cetera. They are a safety valve for not having a traffic study done up front for a commercial development. There should be a traffic study for a full-blown development because things will pick up hopefully. Legitimately the Township deserves a traffic study. In the meantime, we've got one for residential, we've got the road commission to tell us what needs to be done similar to what happened with the credit union. We can work with that for now.

Chairperson Kilbourn stated the traffic study would come first before the road commission got involved.

Mr. Jacobs noted there is one exception to that. When they come up for site plan approval for a stand-alone phase, ingress and egress on a county road would require curb cuts. The road commission will be involved in that. They will also determine whether additional lanes and other things are needed at that time.

Ms. Stickel indicated at that time the road commission would see one development at a time, they will not see the full development.

Chairperson Kilbourn stated she doesn't believe there is any hardship in requiring a traffic study upon doing the first site plan.

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Commissioner Ruth questioned whether the first site plan is the point you want to kick off a major study with nothing else there except one little building.

Chairperson Kilbourn stated this has been requested by the Township and it is in Mr. Need's letter. There is some leeway to slightly change it. But if two of our paid experts suggest it, a traffic study should be done.

Commissioner Stevens noted we wouldn't be doing away with it; we would just be changing the timing of when it is done.

Administrator DeVault stated she had some discussions with the road commission. They would look at a preliminary site plan and the conceptual site plan. Ms. Stickel could verify that also. Not only would they look at the first site plan that was submitted, but they would be interested to see what the conceptual site plan is.

Mr. Jacobs suggested something could trigger a traffic study, such as over X number of square feet. He's concerned if they have a small user, they have to do a traffic study, then a number of years pass before there is another user.

Commissioner Gurski questioned how they can adapt the language to be somewhere between what the township engineer wants and has already been approved, which requires a traffic study, and what we'd like to do to help the gentleman move on with his project and try to resolve this issue.

Attorney Need stated he could come up with the language. "Somewhere between that and that" is pretty tough to put in the language. This was approved subject to the HRC letters. That's the status quo. Legally and clearly you can amend it. If you want to use a threshold that when a certain number of square footage is developed that triggers a full traffic study, that's a quantifiable standard we can put in the language.

Commissioner Gurski noted all their motions are based on the attorney's report, the engineer's report and the planner's report.

Attorney Need stated they're consultants and the Planning Commission can accept or reject their advice. As stated in his memo, there are strong reasons why you should consider this type of motion. He's not saying each and every one of these items is absolutely vital. If he's given some direction as to what a trigger would be, he can come up with the language to do that.

Commissioner Gurski indicated he would have a hard time going against HRC's recommendation. There are probably more things that should be looked at. Normally the Planning Commission sticks to the ordinances, the Master Plan and the recommendations from the professionals. To try to help this gentleman out, he wonders if there's a point where HRC

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and the developer could meet and the Planning Commission could get another letter from HRC on changes.

Ms. Stickel stated she is not a traffic engineer and doesn't feel comfortable saying this is the threshold. She can have the traffic engineer review it.

Attorney Need noted they could certainly approve the motion and defer the traffic study requirement to another meeting to allow HRC's traffic engineer an opportunity to speak with Silverman Company.

Chairperson Kilbourn questioned whether they could approve the motion as written and then at a later point, when a traffic engineer has had time to look at it, a further amendment can be made.

Attorney Need stated they could do that. The effect of deferring anything leaves the status quo in place. The status quo is a traffic study is requested by HRC.

- **Commissioner Bill Angus moved to amend the approval of December 8th, 2008 relative to Riverside Commons, specifically part of parcel 01-28-301-005, less the subject of a separate site plan for Genisys Credit Union, parcels 01-28-101-008, 01-28-101-009, 01-28-101-010, part of parcel 01-28-101-013, parcels 01-28-101-014, 01-28-126-012, 01-28-126-013, and 01-28-326-002, the amendment to incorporate the language on the recital that was provided this evening dated March 9th, 2009, Revised Amended Motion for Special Land Use Approval, lad2.doc, with the following exceptions: The requirement for traffic study will be determined at a future date; and adding to paragraph 6 application for a building permit within two years from December 8, 2008 or request and receive an extension. Commissioner Ted Gurski supported the motion.**

Commissioner Ruth asked the Planning Commission whether everyone still agreed with item number 5, second sentence.

Chairperson Kilbourn referred to the rental homes and requested confirmation that it was only the building in that one area that was approved.

Mr. Oppmann stated it only referred to what's inside the overlay district. Anything shown on the original plan outside of that boundary is not included in the discussion.

- **A roll call vote was taken. Ruth: No; Stevens: Yes; Angus: Yes; Gurski: Yes; Kilbourn: No. The motion carried by a 3/2 vote.**

Chairperson Kilbourn stated Brian Oppmann's initial report dated December the 5th 2008 for this site plan says, "Prior to granting of a Special Land Use, we would recommend that the applicant provide explanation and/or documentation on the following items". Four are listed. Then it has,

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“Many items have been identified ... during site plan review”, et cetera. The opinion is a recommendation for approval with these stipulations for the Silverman plan. She asked Mr. Oppmann whether her statement was correct.

Mr. Oppmann indicated her statement was correct.

Chairperson Kilbourn requested Mr. Oppmann to use the words “recommend” or “not recommend” on his recommendations for clarification.

Chairperson Kilbourn stated to Ms. Stickel the letter of December 8, 2008, which the Planning Commission has two, the summary says, “Based on the above comments”, in our traffic review, additional traffic information should be provided prior to a recommendation for a special land use approval, additional information called out in our previous letter. She questioned whether this was basically a recommendation, that HRC recommends approval, taking into consideration a traffic review, traffic study and issues that were called out in HRC’s previous letter.

Ms. Stickel noted it says that we request additional traffic information prior to a recommendation for the special land use.

Chairperson Kilbourn questioned if the Planning Commission approved per HRC’s report and they had to provide a traffic study, whether HRC would have a problem with that.

Ms. Stickel indicated HRC would not.

Chairperson Kilbourn commented to Mr. Need that on the back of his November 6, 2008 letter it states, “However, the Commission could grant approval for an area less than the original request. If approval is granted I suggest, at a minimum, the conditions include”, and notes four conditions. She questioned whether that was a recommendation.

Attorney Need stated it was.

Chairperson Kilbourn noted for the record that when the Planning Commission made the initial approval, they had recommendations from the planner, the engineer and the lawyer.

2. Site Plan Application by Timothy Affolder, Genisys Credit Union, 2525 Telegraph Road, Suite 204, Bloomfield Hills, Michigan, 48302-0288 for part of parcel #01-28-301-005, amended motion to deviate from Grange Hall/Fish Lake Overlay District parking requirements.

Chairperson Kilbourn indicated this motion is being redone to clarify that while we gave them approval for the additional parking spaces, pending the Board’s approval -- which last month the Board did approve to give the Planning Commission the right to grant variances in that regard -- this is to clarify they meet the requirements to give them the parking variation.

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Commissioner Gurski stated the motion would read to allow more than 40% and questioned whether there was a maximum; and if the applicant wanted 100% in the front, whether that would be fine.

Mr. Oppmann noted it's subject to the site plan submitted dated November 10, 2008. There is a specific number.

Commissioner Stevens questioned the applicant whether they were still planning to proceed on tearing down the building and putting up the credit union on the same time schedule.

Mr. Affolder stated they have not started on engineering. They weren't going to move forward with engineering until they knew they had an approved site plan. They will be tearing the building down soon though.

Chairperson Kilbourn questioned what delay Mr. Affolder perceived the Planning Commission or Township did and at what point would he have built this year.

Mr. Affolder stated he doesn't make decisions as to when things get built. The program was they were going to originally submit for site plan approval by August. Then the overlay district came up for the Silverman project, which delayed their application. Then they came in in December and here they are. If this is granted tonight, they have site plan approval tonight. They wouldn't move forward on any plan to spend engineering money and other things until they received site plan approval. Every month things are delayed, it pushes things off. They only closed on escrow Thursday and that was subject to tonight's decision.

Chairperson Kilbourn expressed her personal apologies to Mr. Affolder.

Mr. Affolder stated the owner wonders why it took so long. Part of it is Silverman changed their program on the other property, which included the credit union parcel and changed their whole site plan. The credit union couldn't submit until they had their work done. By the time they did submit and tonight, which is March, a lot of time has passed. He's not saying it's anybody's fault; circumstances tend to drive and push things. They are closing escrow and it would only be subject to them getting approval tonight. They could change that, they could decide that we'll go ahead and build both projects. That could happen. He's not saying it won't. They're a bit surprised by the road commission's demands that will add a lot of cost to the project. Economic times drive everything. They're concerned about getting all the Ts crossed and the Is dotted. That's what he's in the process of doing. He was told he doesn't have to come tonight, it's just a formality, but he doesn't take anything for granted.

Commissioner Ruth noted there is no requirement for them to ever build.

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Mr. Jacobs indicated as soon as this resolution takes place, they will own the property and they will have a great deal of incentive to go forward.

Commissioner Ruth questioned, for anything in the future, whether a start date could be required.

Attorney Need stated Holly Township's ordinances have various requirements for start dates. Once you get your approval, you have to pull your building permit within a certain period of time or approval is void. Once rezoning is done, it's done forever until the Township changes it.

Commissioner Stevens noted the Township appreciates the credit union will be tearing the building down soon.

Mr. Affolder stated they don't want the liability of the vacant building.

- **Chairperson Kilbourn moved to approve a deviation to the Code of Ordinances, Chapter 32 Zoning Ordinance, Article IV Supplementary Regulations, Section 32-162 (e) (2), Grange Hall/Fish Lake Overlay District, General Design Standards, to allow more than 40% of the off street parking to be located in the front yard for the approved Genisys Credit Union site plan, submittal dated November 10th, 2008 by Timothy Affolder for part of parcel 01-28-301-005 as the applicant has demonstrated they meet the four point criteria of subsection (a) through (d). Commissioner Steve Ruth supported the motion. A roll call vote was taken. Kilbourn: Yes; Angus: Yes; Gurski: Yes; Stevens: Yes; Ruth: Yes. The motion carried by a 5/0 vote.**

3. Bylaws.

- **Chairperson Kilbourn moved to table Bylaws until next month when other Planning Commissioners are present, as there may be additions the commission will want to add to the bylaws. Commissioner Rick Stevens supported the motion. A voice vote was taken; all those present voted yes; the motion carried.**

4. Green Infrastructure Draft Map Review.

- **Chairperson Kilbourn moved to table Green Infrastructure Draft Map Review. Commissioner Ted Gurski supported the motion. A voice vote was taken; all those present voted yes; the motion carried.**

5. Master Plan Update.

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Mr. Oppmann indicated Oakland County Planning provided a report on the proposed Master Plan Update. He attended a meeting last month of the Oakland County Coordinating Zoning Committee, which is a subcommittee of the Board of Commissioners that reviews master plans and zoning ordinances. Overall, they were favorable towards the document and essentially recommended approval, even though that's not really what they do. State law requires them to make sure it's consistent with neighboring master plans. If you read their conclusion, it is not inconsistent.

Carlisle/Wortman has asked the clerk and supervisor to assemble their comments and give them to Ms. DeVault so she can get them to the commission or send them to everybody electronically so concerns of Board members can be reviewed. Things will slow down in the next few months. He will likely not be here in May, but Mr. Carlisle will be. He prefers to start it in June so we can have a few months to hammer a few things out. There will have to be a public hearing. Comments will have to be compiled and discussion held regarding them. There will be a few long meetings to do this. Any necessary changes will be made, the document will be revised. Once it's to a point where it's acceptable to everyone on the Planning Commission, a public hearing will be scheduled. Public comment will be gathered. Then comments will be compiled from the minutes. Then we have to meet again and say what we are going to tackle, what are we not, then fix it, make a recommendation and send it up for the Board to ultimately make the final approval of the document. By fall the Board could actually approve it.

Chairperson Kilbourn questioned whether he received Ms. DeVault's letter and whether the comments will be addressed.

Mr. Oppmann stated it will be looked at with everything else.

Planning Commission members noted Ms. DeVault had done a lot of work and indicated it was a very good job.

Public Comment:

Mr. Larry Lilly, 110 Clarence Street, stated this is one of the best meetings he's ever been to here. The seminar on zoning was great. The Township was provided information on it. He thinks all the information is to protect the Township. He's been coming to public hearings for a good many years and hasn't received any of the information. When there's a public hearing, especially the one with the mining companies and everybody else, you should have all this information prior to it and give residents information. He supports them 100 percent.

We have 10,000 residents here and you have all this information to protect the Township. You should have this information and protect 10,000 residents. We're not getting it. You have a public hearing and get a few comments and then a couple weeks later you rezone it. You've been doing it. You did it again with the mining. It shocked him. You have a hole in the ground.

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You say you have to approve it. You don't have to. Take a stand. You say they're going to sue you, that's all he's heard tonight, or, if you go to court, you got to say this. You got to stick up for the residents. If they sue, we will still support you. But at least you are protected. You have to protect the residents. I don't want to hear anybody saying, well, we had to do this, this is the law. That is not true.

Somebody went out and got a list with 60 signatures from residents who lived there. You didn't even talk to them, you just changed it. That's wrong. Same with the information you have here, protect the Township. Protect the residents, because you didn't do it with the mining companies.

Commissioner Angus questioned whether Mr. Lilly believed there was a need to protect the individual that brought in the application.

Mr. Lilly stated the Township has been protecting the mining operations for ten years. It's wrong what the mining operations did. You have all kinds of problems. The problem has been going on for ten years. He's been going to the meetings for ten years. The Township never followed up. All these people come in here and they have serious problems and the Township didn't support them. But yet you have all of this to protect you, whatever you decide. You didn't decide for the people, you decided on your own.

Commissioner Angus noted the attorney stated tonight if it meets all the requirements in the ordinance, by law you must approve it.

Mr. Lilly stated it didn't meet the moral conduct condition.

Chairperson Kilbourn noted the attorney stated regardless of what the public said, if it meets everything, we have to, by law, approve it. That's what the Planning Commission had to do.

Mr. Lilly noted Commissioner Ruth asked the Planning Commission to table it. The Planning Commission should have tabled it until they could check, double-check and triple check everything that's going on out there and have a meeting with the residents and support them. What you're doing here tonight is protecting yourself. You didn't protect them. You should have tabled it and then checked.

Chairperson Kilbourn stated during a public hearing usually the planner will speak and give an overall view. The supervisor and her have been talking about having some material prepared ahead of time for residents when they come to a public hearing, so that is something that will be coming.

Mr. Lilly questioned whether the Planning Commission would think they would take the Township to court with all the problems out there.

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Mr. Oppmann stated Ms. DeVault has a public record of everything that's filed with the Township. When somebody gets a notice, they can call her, and most of them do. Ms. DeVault provides the information. They can pull up plans, study them, look at them. But the Township, by law, is not obligated to send out copies of site plans to everybody within 300 feet. The Township does everything legally correct at this point.

Mr. Lilly questioned how many people come down and ask for information and prints. He believes he is the only one. It should be here, there should be a package.

Reports:

Commissioner Stevens: No report.

- **Chairperson Kilbourn moved to amend Township of Holly Code of Ordinance Amendment, Chapter 32 Zoning, Article 4 Supplementary Regulations, Section 32-162 Grange Hall/Fish Lake Overlay District and 32-163 Architectural and Design Standards to be amended page 2, item 2 to state where it says “with the exception of those permitted principal uses and structures and special uses in General Industrial, Limited Industrial and Mobile Home Park Zoning District Designation, to change “mobile home park” to “manufactured home park”. Commissioner Bill Angus supported the motion.**

Mr. Oppmann stated he wanted to make sure a change like this is minor and he would like to make sure that Mr. Need will not feel like we have to go through the proper process.

Commissioner Stevens indicated he didn't believe it's a good idea to be doing things that are not on the agenda.

- **A voice vote was taken; three present voted yes, one opposed, Commissioner Ted Gurski abstained. The motion carried with a 3/1 vote.**

Commissioner Angus: No report.

Commissioner Gurski: No report.

Commissioner Ruth reported he sent everyone aerial views of the mining area. Randy Ford is going to evaluate property lines. It appears there is an intrusion on several people's property.

Mr. Lilly stated when the mining permits are up for renewal, the Township should make sure they invite everybody.

Commissioner Gurski noted everybody is always invited.

Administrator DeVault reported the Township has been speaking to a business owner who operates a day care center in Fenton. She's looking to relocate in Holly Township. She's had

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several discussions with her. She's chosen a location at the intersection of Grange Hall and Fish Lake. Mr. Oppmann and Ms. DeVault will meet with her this Friday. She's going to present her site plan and her special use site plan application, along with her fees. There will be a Public Hearing and the item is New Business on your next agenda. It's in the retail center at the southwest corner. That will be an amended site plan. It's approved as retail right now. This is a special use, it is not retail in nature.

The Township clerk, the Township supervisor and her have been having weekly meetings to discuss planning and zoning items, administrative and legislative items. They have invited the chairperson to attend with them. They had been meeting on Friday and the supervisor was meeting with the chairperson on Thursday. They had decided to consolidate it into one meeting. They already had their first meeting and they will continue to do that on a weekly basis.

The clerk and the supervisor met with Dick Carlisle and the chairperson and there will be monthly pre-Planning Commission meetings with Brian Oppmann ten days prior to the Planning Commission meeting to go over items that are going to come up on the proposed agenda so we're all on the same page prior to sending out the materials to the Planning Commission.

Adjournment: Chairperson Kilbourn, hearing no other business, adjourned the meeting at 9:10 p.m.

Zo Turner, Recording Secretary
Holly Township