

CALL TO ORDER

The regular meeting was held on Monday, April 8, 2024 of the Benton Charter Township Planning Commission was called to order at 6:00 pm.

Members Present: Chairperson Trina Rodez, Marletta Seats, Joe Taylor and Carolyn Phillips
Members Absent: Matt Davis
Staff Present: Andy Dean, Loyall Bennett, Deeann Scalf
Also present: Shane Franks

SILENT INVOCATION: None.

APPROVAL OF MINUTES: No changes or corrections on the Meeting Minutes from March 25, 2024 Meeting, Mr. Taylor motioned and support of approval by Ms. Rodez. Motion passed.

AGENDA AMENDMENTS: None.

OLD BUSINESS:

1. Millburg Equipment Company LLC., at 2241 Lorenzo Ave. (Property ID#: 11-03-0005-0010-02-2) and 2099 Paw Paw Ave. (Property ID# 11-03-0005-0013-00-5) is seeking a special use permit for expansion of the sand mining operation from 1812 Riverside Road. Site plan as submitted on property zoned A-1 Single Family Dwelling District.

Mr. Dean requests the Planning Commission to keep this matter tabled until further findings and more information is obtained by Millburg Equipment. Mr. Taylor this is already tabled, so it would go until the next meeting unless they un-table it to discuss then have to retable it again. Mr. Taylor questions the Building Department since the Application is incorrect and was not filled out completely, and the Application states “the Zoning Official will verify if the Application is complete”. It states based on completion is necessary to schedule a Hearing, but there was a Hearing anyways, yet that Application was not filled out. Mr. Dean that could be a correct statement, yes. Ms. Phillips it is tabled for additional information, they can always make a motion to leave it on the table until receive further information without un-tabling it. Ms. Seats it is automatically left on the table, unless it is brought up, then there is no motion to table it, then that item becomes a mute item or dead item. So, something has to be done, whether we make a motion to un-table it or postpone it until a certain date. But if it is not dealt with at the next meeting, then it becomes a dead issue. Ms. Phillips made a motion to un-table it, Ms. Rodez seconds the motion. Ms. Rodez, Ms. Seats, Ms. Phillips all yes, Mr. Taylor no. Two thirds agreed to table Millburg Equipment Application. Ms. Phillips made a motion to postpone for additional study. Ms. Seats requested a timeframe be set. Mr. Taylor we can set a timeframe, it could be the next meeting, it could be next month, or two (2) months, whatever we state. Ms. Phillips requested it be postponed for sixty (60) days at least. Mr. Taylor makes a motion to postpone the Millburg Equipment Co. Application for sixty (60) days. Ms. Seats supports.

NEW BUSINESS:

- 1. Shane Franks (PO Box 1111, BH 49022) is seeking a vehicle dealership license at 1340 Territorial in order to sell production reefer trailers and FEMA tool containers manufactured on-site; Storage containers on site in the E-Restricted Industrial district as shown on a submitted site plan (Property ID#: 11-03-0800-0001-09-1). (public hearing)**
- 2. Zoning Ordinance Text Amendments Relating to Floodplain Recognition and Federal Insurance Coverage. (public hearing)**

Planning Commission Meeting is now recessed at 6:07 p.m. to hold two (2) Public Hearings.

Mr. Dean there was a Staff Review done on this Project back in January 2024, when it was first on the schedule. Applicant Shane Franks has placed containers in-front of the building at 1340 Territorial Road, we have asked him to specify the limit and the location of the storage of those containers on the parcel while they await the Manufacturer of those containers into the conditioned tool spaces for FEMA. That include as Madam Chair described as reefer units, air-conditioned units as handled produce and such. Trailers manufactured on-site for Government solar, and FEMA work. The purpose of this Memorandum is to evaluate the request pursuant to the Site Provisions of Section 18-161 through 18-189. The Owner has presented a State of Michigan Dealers License with his Application. Zoning was approved for this location, in order to tale the Application to the in-place conditions of the Facility and noted what was being sold. Automobiles are said to not be intended for sale, new or used at this Facility. Because the Use does not fall within the Use Car Lot Section of the Ordinance, nor does it fall cleanly within the Storage Lot Provisions 26.212 through 26.216. We have asked the Applicant to provide a Site Plan for the property (which is in your packet) to show how the trailers will be staged and stored on the property. As for a limit on the number of units and the condition of those units. And as for a definition of the type of vehicles that will be handled on the property so it is not to give car sales on all kinds of sales without regulation. According to the Ordinances for used cars, automobiles generally or to have a Storage Lot would require a Special Use for a Storage Lot. Background subject of this property is Zoned E Restricted Industrial. The trailers are being converted and altered inside the building, and Industrial Use is allowed at the Facility. We find that the Applicants submittal is sufficiently complete for Review pursuant to the requirements. We will require a Site Plan for this request to show the locations of the vehicles, limit the number on-site, for staging and for future uses. Criteria for the approval of the request with the limits in place for numbers to show the expanded parking with the Berrien County Drain Office approval being applied. Showing future uses and parking for employees and customers, it would be considered appropriate for approval.

Mr. Dean discussion items relating to that approval might be possible change in use, possible addition of other uses, status of the Shooting Range, and the future threshold of needing to come back for Planning Commission Action. In your packet, there is a Site Plan attached. Mr. Bennett states the Site Plan specifies no more than ten (10) containers, shows the location on the Site Plan for storage of those said containers. Mr. Bennett believes we can take the Shooting Range right off of this, as it does not apply to this Special Use Permit Application. If in the future it applies, Shane Franks should come back to discuss further for the Shooting Range specifically, so we can address that item individually.

Ms. Phillips is Mr. Franks here tonight? Mr. Franks yes. Ms. Phillips one of my concerns is you claim to have a FEMA Contract. How long is your FEMA Contract for? Who all will you be selling these containers too? Mr. Franks they go to many different locations, like United Rental, Sunbuilt Rentals, we are building tool cribs from semi-trailers into tool cribs. So, it is popular right now in the Southern States, as the Government right now is building Solar Farms. The Tool Companies buy the trailers from them, then they will outfit them with the tools, and park them on jobsites and lease them to Companies building the Solar Farms. Mr. Franks so we are just building the trailers and they sell them to the Rental Companies and they handle things on the backend of who they sell them too, whether it is FEMA or Texas or Arkansas State or whoever. As we are just building the trailers. Ms. Phillips so you are bringing them in, as I have seen, and stacking them out front until you move them into your work Facility? Mr. Franks correct. Ms. Phillips you started working on those before you came to ask us for permission, am I correct on that? Mr. Franks I was working on them in Benton Harbor at my Shop, but with the growth, we could not fit them all over there, so I needed more space. Ms. Rodez what are your hours of operation? Mr. Franks typically 7:00 a.m. to 4:30 p.m.. Ms. Phillips how many employees. Mr. Franks three (3) to five (5) employees. Ms. Rodez so will there be a need for this continually? You will not run out of people to sell them to? Mr. Franks yes, an ongoing need. Will not run out of individuals to sell them too, no. Ms. Rodez you do not have any other uses in mind for the property? Mr. Franks not right now, no. Mr. Taylor advised this item was tabled back in January, therefore, we are in the same instance with the last item. Mr. Bennett advised the Applicant did not show up in January, so by default it was tabled. So, what the Building Department did is ran it as New Business Special Use, since it was tabled by default. We sent out Notices to the Neighbors, Notice to the Paper as Public Notices again. That is why it is under New Business and not Old Business on the Agenda tonight. Since nothing was done in the January 2, 2024 Meeting, it was put as New Business tonight. Ms. Seats so if there was a motion to table, then it needs to be handled differently. No one remembers how it was tabled exactly. Mr. Bennett advised the

Meeting Minutes from January deflected it was by default tabled, but he does not know if a formal motion was in place too. Ms. Rodez remembers the situation now, and that is correct it was by default. Mr. Taylor then was the Application corrected? Because it was not filled out properly. Mr. Bennett I think we feel in the Building Department that it was sufficient evidence provided on the Application in order to move forward with a Meeting. Mr. Taylor it is just like the Mining incident though, it was brought to their attention that things were not filled out completely, before bringing the requests to the Board. Mr. Bennett if there was not sufficient evidence to move forward with a request, we would not of done so. And we would of submitted it back to the Applicant to correct and fulfill the Application. But since we felt their was sufficient evidence, with what was on the Application we moved forward with a Planning Commission Meeting. Mr. Taylor with the credit accessor, gave us incomplete Applications. Mr. Bennett for the future, we will have all Applications filled out completely before bringing anything to the Planning Commission Board. Mr. Taylor you can not bring anything to a Hearing incomplete, so things need to be complete, for them to be able to do their job as a Board. Mr. Bennett here forward this will be addressed. Mr. Dean we will make sure the Forms are filled out in their entirety.

Ms. Rodez Zoning Ordinance requests. Mr. Dean Zoning Ordinance Text Amendments relating to the Floodplain Recognition and Federal Insurance Coverage (everyone has a copy of that). There are two (2) items red lined in the handout I gave prior to the start of this Meeting. In Section 82-298 is the delineation of the floodplain hazard overlay district. There is some verbiage in there that will be adding to the Text Amendment for the Township Ordinance. And then also additional Building and State Building Code will be in Section 82-300, line item five (5) will be the other Text Amendment Ordinance. It is more or less a formality that we go through this every few years in order to stay active and registered with FEMA and the Floodplain Recognition and Federal Insurance Coverages that we have with the Floodplains in the Community, Taxpayers and their abilities to get Insurance.

PUBLIC HEARING COMMENTS, CONCERNS, QUESTIONS OR REQUESTS (Franks or Zoning Ordinance Items Only):

Mr. Taylor on Section 82-298 is that for all of Berrien County, or just Benton Charter Township? Mr. Dean that will be for all of Berrien County, Township Ordinance. It pertains to Berrien County, but Benton Charter Township Floodplain Districts. Ms. Seats this would mirror whatever Berrien County puts into place for the entire County then? Correct? Mr. Dean correct. Ms. Seats what Section No. is this for? Mr. Dean Section 82-298. Ms. Seats there are no Section No.'s on the handout. Mr. Dean apologized as this document came from the Attorney, so he is unsure why the Section No.'s do not show up. But he will find out for them. Ms. Phillips it is only mending the Sections that are highlighted in red, correct? Those are the numbers that should go in there. Mr. Dean correct. Ms. Phillips this has to go before the Board anyways, so those numbers will be put in there before that takes place (The Township Board).

PUBLIC HEARING BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS: None.
Public Hearing is now adjourned at 6:25 p.m.

Ms. Rodez The Planning Commission will reconvene. Ms. Phillips does not want to table it, or discuss it any further, until more information is presented. Mr. Taylor would you like to table this issue until you receive further information? Ms. Seats the issue is whether it was tabled or not tabled at the original Meeting is the issue. Can we ask additional questions or concerns to Mr. Franks at this time? Mrs. Phillips the issue is can he get that Michigan Dealer License to sell those? Mr. Franks when we purchase these trailers there is a sales tax that we have to pay for and we are trying not to pay that two (2) or three (3) times during this process. The number keeps piling up, but they are not selling any vehicles, nor do they plan to. We are just buying trailers and containers. That is our goal. Ms. Phillips the Zoning allows him to consume work on those trailers with that State License or Dealer License. Mr. Bennett stated the Zoning does not allow it to fit cleanly in one category or the other. That is why we are asking for the Special Use Application to be considered. I do have a copy of what was supplied for the Michigan State Zoning, Dealer and Municipality License approval from Mr. Franks on this piece of property. It is a generic Dealer Application, if the Board would like to take a look at it. Mr. Taylor based on Mr. Franks having a Dealer License by Law that he can have trailers on the site with the Dealer's License it does not stop you from having them. It is just the Township Ordinance, is that correct? Mr. Bennett yes that is correct. Mr. Franks with the containers, they will never have more than ten (10) on the exterior of the building. The Plans Drawings show what

they are trying to accomplish. The building inside you can only fit like four (4) inside with a rotation. Mr. Taylor so on the outside you have no more than ten (10), and on the inside you have no more than four (4) rotating out. So you build then set to move them outside. Mr. Franks that is correct. We have a local guy that does all the transports quite efficiently. Mr. Bennett because those trailers are stored outside, technically could fall into the storage category. That is why it is not a clear-cut case for the Zoning on this Project. That is why we are addressing it to give them the storage on the outside. Mr. Taylor today based on the Building Department you are recommending the Shooting Range be taken off the table at this time? And only discuss what Mr. Franks will go on outside of the Facility and that particular business at hand. Mr. Bennett correct, just the specific business we are discussing about the storage containers, yes. Everything else is come back later at a different date, if they want to. Fill out a new Application and start the process over again. Ms. Phillips so for the criteria, there is nothing in place as far as if things do not happen the way we are discussing. What would be the requirements for Mr. Franks to come back to the Planning Commission or Board, that would be the concern. Everything else that he is implying, will that require a Special Use Permit? Mr. Bennett if the Applicant does not hold true to his Application, then we could vote to revoke the Special Use Permit, if the Applicant does not hold up to his Permit. I recommend we hold him to a ten (10) container storage unit maximum outside, no new trailer sales, no new vehicle sales on the lot. I say that we put specific regulations into effect, so that he stays true to the Application at hand. Mr. Taylor would you suggest a yearly investigation of the Special Use if it was granted? Meaning, that each year you go out and look if Mr. Franks has done his due-diligents. Mr. Bennett that is not out of the realm at all. I think Businesses should have a yearly inspection from some Department, whether it is the Fire Department or the Building Department. Mr. Taylor that way you can hold him accountable. Mr. Bennett definitely, I do not disagree with that. Ms. Seats the New Vehicle Dealer License, is that specific to that particular property, or is it broad enough to take this License somewhere else and open up a New Vehicle Dealership? As it is a State License. Since it is a Special Use for that particular building, but now that it states you are a New Vehicle Dealer, what does that mean by obtaining this License through this particular Application? We know what the Zoning Issue is, but what about the broadness of the License? We can determine what happens at that Facility, but as far as the License is it in your future to open a Dealership at this location? Mr. Franks the Application with the State of Michigan is for that particular piece of property. Someone could do that, if it met the same criteria as that area they move too. But he is not planning to do either of those. Ms. Seats you could start selling cars with this New Dealer License that you have, this is just in a particular Zone. Mr. Franks these trailers have titles. Mr. Bennett we could always put a stipulation on that he can not open one in Benton Charter Township if he moved locations. Ms. Seats based on the Special Use Permit request, we could make that stipulation, because we can not with the State License. Mr. Franks we are fine with it only applying to that specific address. Ms. Rodez how many storage units are currently there. Mr. Franks it has nine (9) there currently, but it will never exceed more than ten (10) outside. We have done some ground work, to accommodate those, based on all the Permits and everything with the Site Plan and with the Berrien County Road and Drain Commission has all been permitted. Mr. Bennett you have Storm Water Run Offs from the County. Mr. Franks yes I do. We put in tile at one of the entrances, and it has all been approved by the County. Mr. Taylor so this is only going to be for the building of the trailers, and nothing else inside? Mr. Franks that is it. Ms. Phillips this will be used for building reefer trailers, ten (10) units is the maximum. Mr. Bennett that is stored outside. Ms. Rodez no vehicle or storage sales. And the Township can revoke if not per specifications on the Special Use Permit Application. And the Building Department will do a yearly review of the activity. Mr. Bennett is there a Knox box on the property? Mr. Franks no there is not one. Mr. Bennett advised there needs to be a requirement for a Knox box on the property so the Fire Department can get access after hours. Mr. Franks will need to get with the Fire Chief on that, to get the specific codes that are required for them. All Board Members agreed, and Ms. Phillips advised Mr. Franks that this is just a recommending Board, and the Township Board is the one who has final approval or denial. Ms. Phillips made a motion, Ms. Rodez supported. Motion passed.

Ms. Rodez we need a Board action on Zoning Ordinance Text Amendments Relating to Floodplain Recognition and Federal Insurance Coverage. Ms. Seats moved. Ms. Rodez supported. Motion passed.

TOWNSHIP BOARD REPRESENTATIVE REPORT: None given tonight.

ZONING BOARD OF APPEALS REPRESENTATIVE REPORT: None, Matt Davis is absent tonight.

AUDIENCE COMMENTS: Phillip Miller located at 1234 Zoske Road in regards to the Millburg Equipment Co. Application, since the Application as Mr. Taylor advised was incomplete, what would be following the new protocol for a New Application from them? And will it include notifying the Neighbors within that 300 foot boundaries of those properties, and Public Notice in the Newspaper as well? Since that is the process for the Special Use Permit. Does it need to be renewed, or redone, or. As a lot of the neighbors are not in attendance tonight, as they did not know about this Meeting or that it was going to be tabled again. We knew because we speak with Mr. Dean quite often. It would be nice that the other residents in the area are aware also. Ms. Phillips asked Mr. Dean if he has been in contact with the Attorney in reference to Millburg Equipment. Mr. Dean he has not in that specific regard. But he will contact the Attorney tomorrow regarding the complete Application process here forward. Mr. Miller will there be a Public Hearing regarding this issue, and will they be notified? Mr. Bennett will defer that to the Attorney, seen as we already did it once, and followed protocol, it will be his decision on how we move forward.

Kim Garrison Miller located at 1234 Zoske Road Permits being completed on the Millburg Project. It started out as a Special Use Permit, but because it is Mining, does it have to be a Mining Permit instead. And what is the timeframe for that. Where all the details on the completed Application will be and when? Why are they not applying for Mining, since it is a Mining Operation? Since we specifically have a Mining Ordinance, why is it a Special Use Permit? Ms. Seats because it Zoned A-1. Ms. Miller shouldn't there be a request to change the Zoning first then, since there use is to Mine, since the plan is to Mine for thirty (30) to forty (40) years. And since it is called Special Use, she does not think that is correct. They want to Mine, and we have a Mining Ordinance they should be applying for Mining and if that requires changing the Zoning, then they should go through that process first. Is that correct or incorrect? Ms. Rodez we will have to divert to the Attorney on that question. Mr. Bennett the Zoning and Enabling Act addresses the Mining that is wanting to happen on that property. So that should be referenced in this case. Ms. Miller the Special Use and Mining Permits state they are only good for a period of one (1) year. She requests that any and all Mining up to a year be renewed. Mr. Bennett that states if nothing were to happen within one (1) year from the date of the Application, meaning it is deferred and or canceled at that point in time. Not that things have to be renewed on a yearly basis, once the Permit has been approved. It states "one (1) year to start the process". Ms. Miller wants it clarified, as she does not read it that way. Mr. Bennett we would have to defer to the Attorney on his opinion on that.

BOARD COMMENTS: Mr. Taylor thank you for coming to the Meeting tonight and they will do what is in the best interest of the Township and the Residence, Zoning and planning for the future. We can not go in the past, even with the Applications, but we will make sure things are done within fidelity. So that we do not look like buffoons as well. And we want to make sure we represent our Taxpayers in the proper way. Thank you for coming and listening, and he would like to make sure this is done the right way.

ADJOURNMENT: Public Hearing is now adjourned at 6:47 p.m..

ADJOURNMENT: There being no further business before the PC, the meeting was adjourned:
Minutes: Deeann Scalf the Secretary of the Planning Commission.

Andy Dean, CBO