

MINUTES
CASCADE CHARTER TOWNSHIP PLANNING COMMISSION
MONDAY, July 1, 2024

ARTICLE 1. Call the meeting to order. Record the attendance.

Chair Moxley called the meeting to order at 7:01 pm.

Members Present: Noordhoek, Richardson, Bruneau, Moxley, Rissi, Noordyke, Rowland

Members Absent: None

Others present: Planning Director Andrea Hendrick, Legal Counsel Leslie Abdo, and others listed on the sign-in sheet.

ARTICLE 2. Pledge of Allegiance to the Flag

ARTICLE 3. Approve the current Agenda

Vice Chair Rissi made a motion, seconded by Secretary Noordyke, to approve the agenda. The motion carried unanimously.

ARTICLE 4. Disclose any Conflict of Interest

There were no conflicts of interest disclosed.

ARTICLE 5. Approve the Minutes of the June 17, 2024, Meeting.

Member Bruneau provided a list of clarifications and changes that needed addressing.

1. Article 5.
 - a. Specify that private streets are brought up to *county standards*.
2. Article 7.
 - a. Correct grammatical error: "The increased height required a special use permit *and was* reviewed by the Zoning Administrator (ZA)."
 - b. Combine two incomplete sentences in the fourth paragraph by adding "and": "She showed renderings comparing a six-foot versus eight-foot gate design *and* noted she wanted an aesthetic that."
 - c. Correct capitalization: "Trustee Noordhoek Expressed" change to lowercase "e" in "expressed."
3. Article 8.
 - a. Change property to properties. "Stated the applicants wanted the taller fence for privacy due to a new garage and home addition on the neighboring *properties*."
 - b. Correct the opposition: It was Trustee Noordhoek, not Secretary Noordyke, who opposed the motion.
4. Article 9.
 - a. Add to motion number 4. *To correct the Future Land Use map to reflect rural residential to match the text currently showing rural preservation.*

Vice Chair Rissi made a motion, seconded by Secretary Noordyke to approve the Minutes of the June 17, 2024, meeting with amendments to include Member Bruneau's revision comments. The motion carried unanimously.

ARTICLE 6. Acknowledge visitors and those wishing to speak.

John McGovern, owner of 5505 36th Street, regarding Case #24-3827 involving the adjacent property at 5441 36th Street.

Mr. McGovern explained he shared a driveway with the neighboring property. He detailed issues with the new property owner, including land encroachment during construction and concerns about a new wall interfering with his driveway access. Mr. McGovern also expressed worries about potential drainage problems and revealed that construction had already begun despite instructions to stop.

Secretary Noordyke sought confirmation that work had already started on the project, which McGovern affirmed.

Vice Chair Rissi asked for clarification on the easement, confirming that it was a shared arrangement allowing both parties access to either side. McGovern agreed, emphasizing that the proposed wall would render his side of the drive useless.

Member Rowland inquired about the duration of these issues, which McGovern estimated at about six months.

Member Bruneau sought clarification on the nature of the easement, asking if there was an actual recorded easement. McGovern explained that he had searched for a deeded easement in plat records but didn't find one.

ARTICLE 7. Case #24-3842 Public Hearing

Applicant: Trane Technologies, Scott Geerlings

Property Address: 5824 Kraft Ave SE

Parcel Number: 41-19-32-300-047

Requested Action: Special Use Permit and Site Plan Review for outdoor storage.

Planning Director Andrea Hendrick presented the application, explaining the current ordinance requirement for an 8-foot fence around outdoor storage areas. She noted that this requirement seemed somewhat inappropriate for the industrial context of this application. She stated she didn't think that trespassing would be an issue. She suggested that the 8-foot fence requirement might be more suitable for screening industrial uses from residential areas, rather than between industrial properties. She explained that the applicant was requesting a second driveway 267 feet from the existing one, falling short of the 300-foot requirement. The applicant would need a variance from the Zoning Board of Appeals. The applicant had already applied. She also noted buffer yard planting deficiencies on the west and north sides of the property.

Member Bruneau stated that an 8-foot fence seemed appropriate between industrial properties. He mentioned Trane Technologies' current 5005 Corporate Exchange property and how it was an eye sore in that zone. Planning Director Hendrick responded by explaining that the 5005 Corporate Exchange property was in a PUD and had some historically non-compliant features due to this. She noted that as new applications come up, they request applicants to come into compliance.

Member Richardson also found an 8-foot fence to be appropriate in industrial areas. He believed industrial settings should be aesthetically pleasing.

Vice Chair Rissi raised concerns about the absence of dumpster corrals on the plans that were included in the packet. Planning Director Hendrick responded that

the applicant proposed using an existing dumpster at 5784 Kraft Drive, suggesting this be included in the shared parking agreement.

Member Bruneau asked for clarification on the deferred parking that looked to be on the northern property (5784 Kraft Avenue) where the current semi loading bays are. Planning Director Hendrick confirmed what he saw and mentioned that Trane would be using the northern property for office space sort of a unified campus.

Member Rowland asked if the storage area could be moved back to meet the 50-foot setback. Mr. Barr responded that they could accommodate that somehow with adjustments to plans.

Vice Chair Rissi then asked about recalculating parking for the north building if they're using it for office space. Planning Director Hendrick confirmed that the parking calculation provided included both properties.

Jack Barr with Nederveld, architect for applicant, provided context for the need for the second driveway. He explained that it was crucial for Trane's operations, specifically truck access. Chris Doyle from Trane Technologies further elaborated on the operational needs, explaining that the facility would be producing large rooftop units, with some measuring up to 33 feet long. The second driveway would facilitate the movement of these large units and improve overall site logistics.

Mr. *Barr* clarified that there are shared agreements with the subject property (5824 Kraft Avenue) and the property to the north (5784 Kraft Avenue). These agreements include shared use of the drive, stormwater, dumpster and parking. The current tenant, a tire warehouse company, would be leaving, and Trane would be taking over both properties entirely, creating a kind of unified campus.

Mr. *Barr* explained that *Trane* planned to use the existing double dumpster enclosure located at 5784 Kraft Drive for both facilities showing where it was location on the stormwater plans.

Member Bruneau voiced a concern with relations to the refrigerants and PFAS, asking if they were stored at the site. Mr. Doyle addressed concerns about refrigerants, explaining that units are only partially charged for testing before shipping.

Scott Geerlings, the applicant clarified the reason for the keeping the drive instead of creating a new drive, which would eliminate the need for a curb cut. He stated Trane would be working directly with the tenant of 5784 Kraft Drive and have all the shared agreements with them that were discussed earlier in the meeting.

Motion was made by Vice Chair Rissi, seconded by Secretary Noordyke to open the public hearing. Motion carried unanimously.

No one wished to comment.

Motion was made by Secretary Noordyke, seconded by Vice Chair Rissi, to close the public hearing. Motion carried unanimously.

Member Rowland expressed a willingness to support the application with specific conditions, including maintaining the driveway at 267 feet, accepting the current planting plan, adding 51 parking spaces once the existing company moves out, and moving the storage area to 50 feet from the property line.

Member Bruneau agreed with these conditions, noting that the 51 spaces were already paved as part of the existing loading dock area, so it made sense to stripe these for parking and keep the other spaces truly deferred.

Vice Chair Rissi sought clarification on including the revised photometrics plan in the motion, which Planning Director Hendrick confirmed would be appropriate. Member Bruneau also reminded the commission about including requirements for updated stormwater maintenance agreements, access easements, and shared parking agreements.

Member Richardson brought up the unsightliness of outdoor storage at 5005 Corporate Exchange property, asking if this was going to happen at the site being discussed for the case. Mr. Doyle responded that he had now moved into overseeing the operations in the area that they are currently addressing those concerns and that progress should be seen in the near future and that it would not be happening at this site.

Motion was made by Member Rowland, seconded by Secretary Noordyke to APPROVE Case Number 24-3842, with the following provisions including staff recommendations:

- 1. The second drive located off Kraft is permitted per Section 19.03(3)**
- 2. The required buffer yard plantings on the north side of the subject property are reduced to accommodate shared parking and access with 5726 Kraft Avenue.**
- 3. The deferred parking plan is acceptable, with the requirement that the applicant constructs the 51 spaces, on 5784 Kraft Avenue and parking on the south side of the outdoor storage area.**
- 4. The replacement of the photometric plan for the plan dated 06/27/2024 is included as part of the approved plan.**

Furthermore, the following conditions shall be placed on the approval:

- 1. The application and plans submitted by the applicant and signed, dated, and stamped by the Planning Director, shall constitute the approved plans, except if plan elements are amended in this resolution, or do not meet the requirements of the Zoning Ordinance.**
- 2. That the use shall operate according to this application and per the testimony of the applicant.**
- 3. Any proposed signage must be reviewed and approved in accordance with CCT Sign Ordinance Standards.**
- 4. All permits are obtained by the Kent County Road Commission for the Driveway openings to Kraft.**
- 5. All Soil Erosion & Sediment Control plans are approved by the Kent County Road Commission.**
- 6. Approval from the Zoning Board of Appeals to place the second driveway closer than 300 feet from one another.**
- 7. Applicant provides the access easement agreement, a shared parking agreement including the use of the dumpster enclosure on 5784 Kraft Avenue SE and revised stormwater plan. All documents must be recorded with the County.**
- 8. The adjustment of the outdoor storage area to meet the 50-foot required distance from the property line.**
- 9. Compliance with the photometric standards of the township.**

Motion carried unanimously.

ARTICLE 8.

Case #24-3827

Applicant: Josh Baker

Property Address: 5441 36th Street

Parcel Number: 41-19-18-477-012
Requested Action: Site Plan Review

Planning Director Hendrick provided a detailed background, noting that a site plan was initially approved on December 4, 2023, including a temporary grading easement. However, it was later discovered that the easement was never recorded with the County. This was discovered when Mr. McGovern, a neighboring property owner, questioned unauthorized work on his land. Upon review, it was discovered that the grading easement did not exist, leading to the revocation of the site plan approval and the issuance of a compliance letter. Despite this, the builder continued work, prompting a cease-and-desist order followed by a citation for non-compliance.

During the meeting, Secretary Noordyke inquired about the penalties and whether the builder's license had been revoked. Planning Director Hendrick clarified that while the building department and the Kent County Sheriff's Office were informed, the builder's license had not been formally revoked, with court action still pending.

Mr. Vandenberg, the architectural designer on the project, and Mr. Burri, the builder, provided their perspectives on the time of events and their actions. Mr. Vandenberg explained that the initial site plan included the grading easement, which was believed to be valid until Mr. McGovern rescinded his approval. He detailed the steps taken to comply with the conditions, including adjustments to the retaining wall and efforts to address all zoning requirements.

Member Bruneau raised concerns about the premature construction activities, noting that ground had been broken before the official Site Plan approval in December of 2023. This included photos and discussion of the applicant's original request at the December 4, 2023, Planning Commission meeting.

Secretary Noordyke questioned the compliance of the construction with the original stormwater management plan. Planning Director Hendrick confirmed that the Township Engineer had reviewed and approved the original stormwater management plans, but the temporary grading easement agreement that was submitted with the original application was not recorded with the County, voiding the approval. She confirmed that the Township Engineer had reviewed and approved the updated geotechnical reports and stormwater management plans consistent with the revised plans submitted by the applicant. Those plans did not require a temporary grading easement.

Member Rowland questioned whether Mr. Burri had obtained explicit permission to place materials on the neighboring property, to which Mr. Burri admitted he had not and had misunderstood informal assurances from Mr. Baker the property owner as sufficient.

Vice Chair Rissi sought clarification on how the building permit was issued without confirming all conditions were met. Planning Director Hendrick explained that the planning department relied on the documentation provided, which inaccurately claimed compliance.

Further discussions revealed that the builder, Mr. Randy Burri, continued to work despite the cease-and-desist order. Planning Director Hendrick emphasized that despite clear instructions on to halt construction, the entire steel structure was erected after the township had reached out to the builder and formally communicated that the Site Plan approval was void, leading to the formal issuance of the cease-and-desist order and subsequent citation.

Mr. Burri mentioned that the work was done by the steel workers that were brought in from Indiana, explaining they were already on-site, and that they told him stopping would have resulted in significant financial losses. Though it was not him that directed the steel workers, he admitted that he was ultimately in charge of the overall building operation.

Motion was made by Vice Chair Rissi, seconded by Secretary Noordyke, to Table Case #24-3827 to give staff time to review the case, to communicate with legal counsel and have them review the case, to allow the Township Engineer to be present for questions and that the cease and desist is still in effect.

Supported: Noordhoek, Noordyke, Rowland, Rissi, Richardson, Bruneau, Moxley

Opposed: None.

Motion carried unanimously.

ARTICLE 9. Acknowledge visitors and those wishing to speak.

John McGovern, owner of 5505 36th Street, provided additional information related to the grading easement noting that Mr. Baker the owner of the property in case #24-3827 had torn up the agreement on October 10, 2023. Mr. McGovern stated he had rescinded the agreement on October 11, 2023 well before the first hearing, which included the temporary grading easement on his property.

ARTICLE 10. Other Business

1. DRAFT Zoning Ordinance Amendments – Table of Contents & Use Tables

Planning Director Hendrick began by stating that although the draft amendments were not on the agenda for detailed discussion, members should review the documents in preparation for the upcoming meeting on the 15th. She explained that Member Bruneau had requested clearer indications of new and thorough items in the zoning ordinance, and Hendrick assured that future versions would highlight new items and permitted uses in italics for clarity. She emphasized the goal of moving towards a more streamlined and logical organization of the zoning ordinance, with integrated use tables and consistent definitions.

Members then discussed the practicality of scheduling work sessions, considering the availability of commissioners. Member Rowland expressed a preference for later sessions, while Vice Chair Rissi and others noted that early morning sessions might be more feasible. The group agreed on flexibility, suggesting that sessions could be held from 7-9 AM or 2-4 PM depending on the commissioners' schedules.

Member Bruneau raised a question about the renaming of zoning districts, specifically if the old district names would change, such as R3 Residential becoming Rural Conservation. Hendrick suggested that such questions be sent via email for a detailed response in a future memo.

2. Planning Commission meeting minutes review timeline.

This matter was not discussed due to discussion on work sessions and future scheduling of upcoming planning commission meetings.

The discussion also included procedural questions from Vice Chair Rissi about the ability to rescind or reconsider votes. Legal Counsel clarified that, according to Robert's Rules of Order, such motions need to be made at the same meeting where the original vote occurred, though the Planning Commission's bylaws could allow for some flexibility.

ARTICLE 11. Adjourn

Motion was made by Secretary Noordyke, seconded by Vice Chair Rissi, to adjourn at 9:45pm. Motion carried unanimously.