

# CHARTER TOWNSHIP OF FLUSHING

6524 N. SEYMOUR ROAD

FLUSHING, MICHIGAN 48433

810-659-0800

FAX: 810-659-4212

## ***PLANNING COMMISSION MEETING MINUTES***

DATE: DECEMBER 12, 2011

TIME: 7:00 P.M.

WEB ADDRESS <http://www.flushingtowship.com>

### **MEMBERS OF PLANNING COMMISSION**

Mark J. Newman, Chair

John Cuddeback

Jerome Doyle, Vice Chair

Ronald Flowers

Richard Buell, Secretary

Robert Gensheimer

Mark Purkey, Board of Trustee Representative

Julia A. Morford, Recording Secretary

**PRESENT:** Mark J. Newman, Jerome Doyle, Richard Buell, John Cuddeback, Ronald Flowers, Robert Gensheimer and Mark Purkey

**ABSENT:** None

**OTHERS PRESENT:** Tim Zamora and Dave Shrader

**I. MEETING CALLED TO ORDER** at 7:04 p.m. by Planning Commission Chair **MARK NEWMAN** with Roll Call and the Pledge to the American Flag.

**II. ADOPTION OF AGENDA: FLOWERS MOVED**, seconded by Purkey to adopt the Agenda by changing the order of “Unfinished Business” and “New Business”; “New Business” will be Number IV and “Unfinished Business” will be Number V. **MOTION CARRIED.**

**III. APPROVAL OF PREVIOUS MINUTES: DOYLE MOVED**, seconded by Purkey to approve the Minutes of November 14, 2011 as amended. **MOTION CARRIED.**

#### **IV. NEW BUSINESS:**

1. **Dave Shrader, 7126 Hickory Street, Flushing MI 48433**

Formal Hearing regarding a Wholesale Dealer’s License located at 7126 Hickory Street, Flushing MI 48433, Parcel No. 08-24-576-047

**DAVE SHRADER** (Mr. Shrader), 7126 Hickory Street, Flushing MI 48433 was present for a formal hearing regarding a Wholesale Dealer’s License. There had been an informal hearing at the November 14, 2011 Planning Commission Meeting to determine and answer any questions that Mr. Mr. Shrader might have regarding a Home Occupation Permit before he came before the

Planning Commission for a Formal Hearing. Mr. Shrader purchases automobiles at auctions, cleans/details the vehicles, and then sells the vehicles to private individuals or at the auction.

**NEWMAN** stated the Planning Commissioner's packet contained: 1) application for a home occupation signed by Township Supervisor/Zoning Administrator Terry A. Peck showing the \$25 application fee has been paid, 2) non-discretionary special use request, 3) the home occupation check list signed and dated by Mr. Shrader on December 19, 2011, 4) copies of the applicable zoning ordinance for home occupations, 5) Section 20-1803(A) entitled "Home Occupation", and 6) a form from the State of Michigan that has to be signed and executed if Mr. Shrader's request is approved. Mr. Shrader has applied through the State of Michigan for a Class W license (Automotive Wholesale License).

#### **CORRESPONDENCE:**

Per the opinion from the Township Attorney, a "Home Occupation" permit is considered non-discretionary and Notices do not have to be sent out.

*Section 20-1804(b)* states:

*"Where the application is for a non-discretionary special land-use permit, the application shall be submitted to the Zoning Administrator who will have 14 days in which to determine if the application meets the specific non-discretionary standards established for that particular special land use."*

#### **ADDITIONAL INFORMATION FROM MR SHRADER:**

1. Mr. Shrader has checked with Freeway Public Auction (Mt. Morris Road and I-75) and if Mr. Shrader purchases more vehicles than he had room for at his home located at 7126 Hickory Street, Flushing, MI, he could leave the additional vehicles at the Freeway Auction Lot facility.

#### **COMMENTS/QUESTIONS FROM THE PLANNING COMMISSION:**

1. **FLOWERS** wanted to know how many cars Mr. Shrader had of his own in his drive on any given day. ANSWER: Four (4) cars of his own. **FLOWERS** stated, recently he (Flowers) could see from an aerial view, four (4) vehicles in the drive at the East end of the garage on Mr. Shrader's property, which the drive goes to the back yard. **FLOWERS** felt there was a lot of congestion in the area. ANSWER: Mr. Shrader stated a lot of times he purchases cars that have minor issues and then fixes the cars to be sold again; everyone can't afford to purchase a new car.
2. **CUDDEBACK** felt because of Mr. Shrader being in his neighborhood, he (Cuddeback should abstain). **NEWMAN** stated that if the issues were a conflict of interest, **CUDDEBACK** would have to state what the conflict was and the Commission would decide if the issue was a conflict. **CUDDEBACK** felt it wasn't really a conflict but it was similar to a business being run out of his home; if it was next door to his (Cuddeback's) home, he would not like it. **NEWMAN** stated he felt **CUDDEBACK** would be fair so don't see the issue as a conflict of interest.

3. **GENSHEIMER** stated he felt the same way about the issues; he (Gensheimer) was concerned about how the Planning Commission can effectively say “it is ok”, when one (1) week there is a car and a trailer in the drive and the next week there isn’t room for the trailer so it is moved on the grass; then another car is purchased; afraid the issue will snowball into a real eye sore for the neighborhood; considers the issue a commercial business in a residential neighborhood; nothing against Mr. Shrader, but not sure how to make the home occupation issue fit properly in the neighborhood.
4. **BUELL** stopped by Mr. Shrader’s house (today) and counted eight (8) cars in the drive; Mr. Shrader indicated a neighbor had a wholesaler’s license – how many cars can he (the neighbor) have? ANSWER: Per Mr. Shrader, the neighbor is totally different; he has five (5) or six (6) cars; the neighbor works under someone else’s wholesaler’s license. Mr. Shrader stated his neighbor purchases the vehicles and then he (Mr. Shrader) fixes the vehicles so the two (2) work together. **BUELL** stated Mr. Shrader was more or less doing mechanical work at his home. **BUELL** wanted to know if there were any restrictions/covenants in the subdivision regarding the number of cars in the drive, etc.
5. **FLOWERS** stated that as long as he has been on the Planning Commission, there hasn’t been any restrictions or subdivision/association control on vehicles in the driveways in the particular subdivision.
6. **DOYLE** stated restrictions come with the Deed if you purchase property; if there aren’t any restrictions, the requirements revert back to whatever the township requires.
7. **NEWMAN** stated the Deed would specifically state the restrictions or references for a subdivision site restriction. **NEWMAN** gave an example of his subdivision which is a site condominium and his Deed specifically references that his land use was subject to the by-laws of the homeowners association, the condominium, etc.
8. **CUDEBACK** stated that part of the subdivision in question was older than the rest. The area of Blossom Lane and Hickory Street was the last part of the subdivision which was built by **CUDEBACK**’s Father and Grandfather. Lane Street, located west of Blossom Lane, was constructed during the early 1950’s. **CUDEBACK**’S house was next to the last house built on Blossom Lane in 1972.
9. **BUELL** stated the “Home Occupation” Ordinance states the occupation shall be carried out completely within the dwelling. **BUELL** had thought Mr. Shrader’s home occupation business would be a “paper” business; but after reviewing the situation, Mr. Shrader is more of a “garage” business since he (Mr. Shrader) has worked on the neighbors and his own vehicles. **BUELL** inquired if Mr. Shrader worked with air tools and made loud noises? ANSWER: Mr. Shrader does work with air tools but in the ordinance it states there are times to use the tools and times not to work with the tools; he (Mr. Shrader) abides with the neighbors’ schedules and is careful of the time he uses the tools. Mr. Shrader gave an example: when his neighbors are outside doing lawn work, he brings his dogs inside so they will not bark at the neighbors. He tries to respect the neighbors’ wishes.

**BUELL** read *Special Use Permits Article XVIII, Section 20-1803, (A) (5)* which states:

*“No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking, generated by the conduct of such home occupation shall be provided by an off-street area, located other than in a required front yard.”*

**BUELL** wanted to know if Mr. Shrader was able to get to his back yard, how many cars are in the back yard, and are there any objectionable issues with the neighbors.

**ANSWER:** Mr. Shrader is able to get to his back yard which is fenced in; currently there is only one (1) car in the back yard. Mr. Shrader has almost an acre of land. There haven't been any complaints from the neighbors since he moved to the area in 2007. **BUELL** asked Mr. Shrader, if Notices had been sent to the neighbors regarding the current meeting, could Mr. Shrader guess as to how many neighbors would have been in attendance? **ANSWER:** Mr. Shrader said he couldn't say because he didn't know. Maybe notices should be sent out; maybe the lady in the back of his (Mr. Shrader's) would have come because she doesn't like Mr. Shrader's dogs. **BUELL** wanted to know if all Mr. Shrader's personal vehicles were licensed all the time? **ANSWER:** his personal vehicles are all licensed; the other vehicles have a dealer's license plate on them.

10. **PURKEY** stated the key to the whole issue will be to be careful about how many vehicles are located around the property, perhaps use the alternate site for storing the vehicles. Mr. Shrader also has to be very careful about the mechanical work because the Planning Commission cannot give Mr. Shrader permission to run a garage out of his home or garage; people cannot be going in and out having Mr. Shrader fix their vehicles. The “home occupation” request has got to be more of a paper work issue where Mr. Shrader is swapping cars. When there is more than one (1) car in the drive, then Mr. Shrader is going to have to be very sensitive to the issue and put the vehicle at another site.
11. **DOYLE** felt the issue has become an outside commercial use not a home occupation commercial use. It is obvious there will be changes to the outside of the home. If there are automobiles and trailers and things of that nature in the drive, and it is going to continue, it becomes more of a commercial use rather than a residential use. **DOYLE** views the issue that Mr. Shrader will do the work outside. The Planning Commission has turned down home occupations because of the fact they had similar situations such as:
  - 1) outside lawn/snowplowing service, with trucks outside; the residents did twenty-five (25%) percent of their business outside of their home but there were all kinds of commercial trucks. Whether there were personal or commercial trucks it doesn't matter because it was a lot different than the ordinary use for the subdivision. When everyone gets to the point where they are doing the same thing you are, it becomes a commercial subdivision. *The whole intent of the “home occupation” is a minor use of the building which you live in, for some type*

*of business that doesn't show outside other than residential use of property. It is obvious this is not what is happening to Mr. Shrader.*

**DOYLE** stated there isn't supposed to be any type of business in an accessory structure. The issue was reviewed when Mr. Shrader came before the Planning Commission for the informal hearing regarding using the attached garage for the business. When the work is being done outside, it is a commercial use and not a "home occupation" use.

**DOYLE** further reviewed some of the items that were checked on the "Check List" and felt there was a question mark on the issues.

- 1) there isn't a sign so that would not be a problem
- 2) the area is zoned residential and if going to have cars, there needs to be a building to store the cars on the property, which also has to be approved, or stored someplace else
- 3) if you own four (4) cars and use them every day, that is a normal use of residential property; the proposed request would be outside the use. If Mr. Shrader is going to do this type of home occupation, it has to be done inside of the existing garage and if Mr. Shrader has that many vehicles, they have to be stored someplace, otherwise it becomes a junk yard or used car lot even if the vehicles are moving, which is not a home occupation.

12. **NEWMAN** gave his thoughts:

- a. the use is a non-discretionary special use permit request which means if an individual met the requirements of the "Home Occupation" the Planning Commission was supposed to give the approval for the request.
- b. of the seven (7) items listed under "Home Occupation" **NEWMAN** feels comfortable with five (5) of the items.
- c. there is a problem with Number 1 regarding the twenty-five (25%) percent of the floor area of the dwelling. Mr. Shrader's paper work probably will not take up more than one-half (1/2%) percent of the house.
- d. problem with the last part of Number 1, where it states "shall be carried out completely within such dwelling".
  1. no problem with having extra cars parked outside the house, but at the end of the day, the work is not done within the dwelling. Could possibly get by with having the work in an attached garage.
- e. problem also with Number 2 which states "no change to the outside appearance of the structure". The house will not change. The issue will be "or premise" because of the car on the trailer, cars stored in the backyard, etc. or other visible evidence of the conduct of the home occupation, extra cars not plated or dealer plates on the vehicles, would be evidence of vehicles with the home occupation.
- f. no issue with the sign since there will not be a sign.
- g. no accessory structure is present.

- h. “sale of goods manufactured elsewhere” – no problem because only taking the cars elsewhere for sale or re-auction.
- i. no increase in traffic – would be similar to a family who has four (4) or five (5) children with cars.
- j. noise or vibration – more subjective with wrenching going on with the cars.
- k. Mr. Shrader and one employee.
- l. **NEWMAN** has no problems with Item Numbers 3-7
- m. Restrictions cannot be put on the number of cars in the driveway.

**FINAL WORDS FROM MR SHRADER AND PLANNING COMMISSION:**

1. **MR. SHRADER** is trying to clean up things – will put the cars at the Freeway Public Auction which is fenced in; insurance is also cheaper at the auction facility.
2. **BUELL** inquired as to the meaning of “Class W”. ANSWER: Mr. Shrader can’t sell to the Public but he has to pay a commission to Freeway Public Auction.
3. **PURKEY** stated Mr. Shrader can’t keep cars on trailers; in other words don’t stockpile.
4. **CUDDEBACK** is not comfortable with the type of business going on in his neighborhood; don’t like the look of a business in the area; there are other homes in the area that don’t look kept up.

**PURKEY MOVED**, seconded by Doyle to approve the application of Dave Shrader, 7126 Hickory Street, Flushing MI, for a “Home Occupation”.

**ACTION OF THE MOTION:**

**ROLLCALL VOTE:**

AYES: 0

NAYS: Doyle, Buell, Cuddeback, Flowers, Gensheimer, Purkey, and Newman  
Motion Failed.

**2.Approval of Meeting Dates**

**FLOWERS MOVED**, seconded by Buell to adopt the scheduled meeting dates as presented on the second Monday of each month with the exception of October 1, 2012 - (Columbus Day)

**ACTION OF THE MOTION:**

AYES: 7

NAYS: 0

Motion Carried.

**3.Election of Officers**

**FLOWERS MOVED**, seconded by Gensheimer to appoint Chair: Mark Newman; Vice Chair: Jerome Doyle; and Secretary: Richard Buell as the officers for 2012.

**ACTION OF THE MOTION:**

AYES: 7

NAYS: 0

Motion Carried.

**V. UNFINISHED BUSINESS:**

**1. Continued Update of Master Plan**

**NEWMAN** stated everything pretty much has been done except for the survey.

1. At the January 2012 Meeting, a review of the survey will be discussed.
2. **FLOWERS** will be getting more traffic counts and map updates as soon as they are available. All the *Rails to Trails Bike Paths* should be completed by 2035.
3. After the first of the year when all the documentation has been obtained, there will be a Special Work Session to assemble all the information.
4. Some of the data needed will not be available until February 2012.
5. The work on the Master Plan should be completed by May or June 2012.
6. References will be available so people can go on line to get updated information. The Master Plan will be similar to a living document where individuals can go on line and get the updated information.
7. The Clerk stated she had heard from Doug Piggott of Rowe Professional Services; Doug will be contacted when the information has been compiled.

**VI. PUBLIC COMMENTS:**

**7:53 P.M. – OPENED TO THE PUBLIC FOR NON-AGENDA ITEMS**

None

**7:54 P.M. – CLOSED TO THE PUBLIC FOR NON-AGENDA ITEMS**

**VII. BOARD COMMENTS:**

1. **BUELL** wished everyone a Merry Christmas
2. **PURKEY** wished everyone a Merry Christmas
3. **DOYLE** felt that with the future of the society of trails going on, and the community hears about all the terrible things going on, and because of the lonesome places on the trails, are the trails going to be save for the community? When **DOYLE** was young, people could go anywhere and not worry about their safety.
4. **FLOWERS** wished everyone a Merry Christmas and Happy New Year and will see everyone in January.
5. **CUDEBACK** stated he had been contacted by Mr.Shrader prior to him (Mr. Shrader) coming before the Planning Commission; felt good about the research all the Planning Commission Members did regarding the wholesale license request.
6. **NEWMAN** felt 2011 has been a productive year; had the experience of attending two (2) City of Clio Planning Commission Meetings where at every meeting the City Attorney, Mr. Piggott, and the City Manager is in attendance

**VIII. NEXT REGULAR SCHEDULED MEETING WILL BE HELD ON MONDAY,  
JANUARY 9, 2012 AT 7:00 P.M.**

**FUTURE REGULAR SCHEDULED MEETING DATES:**

FEBRUARY 13, 2012 AT 7:00 P.M.

MARCH 12, 2012 AT 7:00 P.M.

APRIL 9, 2012 AT 7:00 P.M.

MAY 14, 2012 AT 7:00 P.M.

**IX. ADJOURNMENT:** Due to lack of business matters, **NEWMAN** adjourned the meeting at 8:00 p.m.

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MARK J. NEWMAN, Chair

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JULIA A. MORFORD, Recording Secretary

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RICHARD BUELL, Secretary

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Date of Approval

Planning minutes 12 12 2011