

**SHIAWASSEE COUNTY PLANNING COMMISSION MINUTES  
SEPTEMBER 28, 2011**

**CALL TO ORDER:** Chairman Fred Junger called the regularly scheduled monthly public hearing of the Shiawassee County Planning Commission to order at 7:00 P.M. within the County Board of Commissioners' meeting room located on the first floor of the Surbeck Building, 201 N. Shiawassee Street, in Corunna.

**ROLL CALL:** Present: Don Dickmann, Henry W. Martin III, Glenn Love Jr., William Thelen, John Griffin, and Fred Junger. Absent: Bonnie Ott.

Also present: Peter J. Preston/Community Development Director, Linda Gene Cordier/Zoning Administrator, and County Board of Commissioner/Ron Elder.

**Excused Absences:** Preston informed the chair that Bonnie Ott was unable to attend as she had a work obligation. **Motion:** Love moved to excuse Ott from the hearing. **Support:** Martin. Motion carried: 6 ayes, 0 nays.

**PLEDGE OF ALLEGIANCE:** The Pledge of Allegiance was led by Chair Junger.

**PROOF OF PUBLICATION:** Cordier informed the chair that the hearing was published within the Shiawassee Independent on Sunday, September 11, 2011. Chair Junger declared the hearing as legally noticed.

**APPROVAL OF THE AGENDA: Motion:** Thelen moved to approve the agenda as printed. **Support:** Martin. Motion carried: 6 ayes, 0 nays.

**APPROVAL OF BOARD MINUTES:**

**Motion:** Thelen moved to approve the June 29, 2011 board minutes as printed. **Support:** Love. Motion carried: 6 ayes, 0 nays.

**Motion:** Thelen moved to approve the August 24, 2011 board minutes as printed.

**Support:** Dickmann. Motion carried: 6 ayes, 0 nays.

**BOARD OF COMMISSIONER COMMENTS:** Commissioner Elder stated the only thing he had to report was the Commissioners were close to finalizing the 2012 budget; it is expected to be completed by November.

**CALL TO THE PUBLIC ON NON-AGENDA ITEMS:** None.

**OLD BUSINESS:**

**a.** Proposed text amendment to the 1999 Shiawassee County Zoning Ordinance, as amended: Amending Section 4.3.5. (Automobile Service Stations), Section 4.3.77. (Commercial Vehicle Service Stations) and Section 21.2 (Definitions for Automobile Service Stations and Commercial Service Stations) to allow for commercial refueling.

Preston gave a brief synopsis of the proposed rewording of the text amendment explaining that during staff review of an existing site in the county it was discovered that the ordinance did not have language for commercial diesel refueling of semi-tractors. After discussion at a County Planning Commission hearing, it was forwarded on to the Rewrite Committee to review and draft language. The language was approved by the Planning Commission to forward on to the townships for review and recommendation prior to tonight's public hearing. After review at last month's public hearing, some minor changes recommended by Venice Township was incorporated into the language. Protective measures have been

included such as limiting the idle time for trucks to be left running at a commercial truck stop. The language would require a special use permit for a commercial truck stop within the B-2 and B-3 Districts. It is this body's responsibility to make a recommendation to the County Board of Commissioners after the public hearing on the proposed text amendment. The Board of Commissioners takes final action on the amendment. If approved by the Board of Commissioners, it is then published within the local paper noticing the amendment change.

Chair Junger opened the floor for public comment on the proposed text amendment.

Speaker #1: Frank Sitto, 9011 Gale Road, White Lake, MI. Mr. Sitto stated he was the owner of the BP gas station located on the corner of M-21 and M-13 in Venice Township, which is currently closed. Sitto stated he hoped the language was adopted so diesel fuel could be sold at the M-13/M-21 station. He was hoping to sell the station for a good price. He has had people interested, but they wonder why diesel can't be sold as the pumps are already in place. It would be possible for him to re-open if he didn't sell the station if he could sell diesel. Sitto felt it would increase his business to 80-85 percent.

Speaker #2: Brian Martindale, Chairman of the Venice Township Planning Commission. The township felt overall, the County did a good job of reviewing the language, however; the township did want to address a couple of points. Martindale passed out a copy of the township's concerns dated September 26, 2011, which read as follows:

*To Shiawassee County Planning Commission:*

*A. Proposed Commercial Vehicle Service Station Amendment to the Shiawassee County Zoning Ordinance – County PC Public Hearing Sept. 28.*

*1. It was noted there seems to be a conflict with the Section number (4.3.76) Commercial Vehicle Service Stations (page 4). We have that Section in our Shiawassee County Zoning Ordinance book as the Wind Energy Conversion amendment.*

Preston informed the Planning Commission and Mr. Martindale that it had already been corrected and advertising accordingly as Section 4.3.77.

*2. Page 4, under Site Standards; letter B. #1. The minimum lot size shall be two (2) acres. The Planning Commission suggests that the words "**excluding setbacks and easements**" should be added. Two full acres are needed for large semi-trucks and especially where many other uses are stacked into that site such as a restaurant and/or mini-mart.*

*3. Page 5; letter C. The minimum width shall be two hundred (200) feet. This is the same requirement as for regular auto service stations. This requirement should be larger to accommodate large semi-trucks and where many businesses are stacked in the same lot. We suggest that be 300 feet.*

*4. Page 5, under E, 4.5. We believe that the word "**applicable**" should be added and the word "**and**" to make the sentence read "All access drives are subject to the **applicable** rules, regulations, administrative standards, and approvals of the Shiawassee County Road Commission **and** Michigan Department of Transportation." Adding these two words eliminates the misconception that there may be a choice and covers any possible loophole.*

*5. Page 6, letter B. We suggest that you consider allowing the use of a propane tank filling station and also allowing the exchange of propane tanks. This allows for an additional use and helps create more income for the business. This use is allowed at local hardware stores in the county and seems to be a compatible business for this zone.*

Martindale stated the township felt the ability to sell or exchange tanks would be another source of income for the business.

Chair Junger asked for additional comments regarding the proposed text amendment. Hearing none, he closed the public hearing and opened discussion amongst the board.

Discussion on the township's recommendation followed. Chair Junger asked if the board accepted the recommendations from Venice Township, would it have to be sent back out to the townships for review.

Preston replied it would not constitute the need for a public hearing. He continued with discussion with item number two on easements and questioned easements in general such as a Consumers Energy easement or road easements. It may require a variance.

Griffin asked about the size of the lot of the gas station at M-21 and M-13 and the feasibility of selling diesel.

Preston stated he didn't know; he has not reviewed the site plan or application of the gas station. The only review completed has been on the proposed language at this time as he didn't want to be influenced by a pending application. If adopted this will cover the fourteen (14) townships under County Zoning.

Frank Sitto replied that he had close to two (2) acres.

Preston continued that the BP Gas Station is zoned B-1, Neighborhood Commercial.

Thelen questioned the frontage requirements for the proposed districts.

Cordier replied that a minimum lot size requirement for a parcel and not a particular use proposed within a B-1 District is 10,000 square feet with 75 feet of road width/frontage on an interior lot and 75 feet on a corner lot/each road; the B-2 minimum lot size requirement for a parcel and not a particular use is 10,000 square feet with 50 feet of road width/frontage on an interior lot and 50 feet on a corner lot/both roads, and; the B-3 minimum lot size requirement for a parcel and not a particular use is 15,000 square feet with 100 feet frontage on an interior lot and 110 feet of frontage along both roads for a corner parcel.

Chair Junger stated he would ask for a motion on each of the five (5) recommendations from Venice Township:

*1. It was noted there seems to be a conflict with the Section number (4.3.76) Commercial Vehicle Service Stations (page 4). We have that Section in our Shiawassee County Zoning Ordinance book as the Wind Energy Conversion amendment.*

**Motion:** Glenn Love Jr. moved to accept the township's request and correct the typo by correcting the Section from #4.3.76 to 4.3.77. **Support:** William Thelen. Motion carried: 6 ayes, 0 nays.

*2. Page 4, under Site Standards; letter B. #1. The minimum lot size shall be two (2) acres. The Planning Commission suggests that the words "excluding setbacks and easements" should be added. Two full acres are needed for large semi-trucks and especially where many other uses are stacked into that site such as a restaurant and/or mini-mart.*

**Discussion:** The size of the lots and semi-tractors was discussed noting that a corner lot has greater setbacks and would need the room to maneuver safely. It was decided if the

easements and setbacks were excluded, then the entire ordinance should be reviewed for possible removal of the wording as well.

**Motion:** John Griffin moved to not accept the Venice Township recommendation on wording under #2. **Support:** Don Dickmann. Motion carried: 6 ayes (to not accept the recommendation of number two), 0 nays.

3. *Page 5; letter C. The minimum width shall be two hundred (200) feet. This is the same requirement as for regular auto service stations. This requirement should be larger to accommodate large semi-trucks and where many businesses are stacked in the same lot. We suggest that be 300 feet.*

**Motion:** William Thelen moved to exclude the proposed recommendation of 300 feet.  
**Support:** John Griffin. Motion carried: 6 ayes, 0 nays.

4. *Page 5, under E, 4.5. We believe that the word "applicable" should be added and the word "and" to make the sentence read "All access drives are subject to the applicable rules, regulations, administrative standards, and approvals of the Shiawassee County Road Commission and Michigan Department of Transportation." Adding these two words eliminates the misconception that there may be a choice and covers any possible loophole.*

**Discussion:** The board quizzed Preston on this recommendation. Preston replied he didn't have any objections to the request.

**Motion:** John Griffin moved to accept the Venice Township request for adding two additional words as presented in #4. **Support:** William Thelen. Motion carried: 6 ayes, 0 nays.

5. *Page 6, letter B. We suggest that you consider allowing the use of a propane tank filling station and also allowing the exchange of propane tanks. This allows for an additional use and helps create more income for the business. This use is allowed at local hardware stores in the county and seems to be a compatible business for this zone.*

**Discussion:** Preston said the ordinance does not allow for an above-ground storage tank of liquid propane. Thelen discussed limiting the size allowed. Preston stated that this could be considered as an accessory use to the commercial gas station. Junger noted that it wouldn't be any different than a gas station here in town; someone could be exchanging a tank for their grill or recreational vehicle. Preston noted that it could be reviewed as an accessory use on a site plan review.

**Motion:** John Griffin moved to strike the wording "liquefied petroleum gas" from the sentence on page 6, B. (Section 4.3.77, #4 Performance Standards) as an amendment to #5. **Support:** Henry W. Martin III. Motion carried: 6 ayes, 0 nays.

Chair Junger called for a motion on the proposed text amendment.

**Motion:** William Thelen moved to forward to the County Board of Commissioners a recommendation to adopt the proposed Text Amendments to Article 21, Section 21.2 (Definitions of an Automobile Service Station); Article 4, Section 4.3.5. (Automobile Service Stations) and Article 4, Section 4.3.77 (Commercial Vehicle Service Stations) along with incorporating the five (5) motions just passed into the 1999 Shiawassee County Zoning Ordinance, as amended. **Support:** Henry W. Martin III.

**Roll Call:** Ayes recommending approval: Don Dickmann, Glenn Love Jr. William Thelen, John Griffin, Henry W. Martin III, and Fred Junger. Nays: None. Motion carried: 6 ayes, 0 nays.

**Old Business:**

b. Amending Section 2.26.5 (Common Accessory Uses, Buildings and Structures), Section 5.3.2. (Accessory Uses by adding Item #E), Article 4, by adding Section 4.3.79 (Establishment of a Medical Marihuana Dispensary), and Section 21.2. (Definitions).

Preston gave a brief background of the proposed text amendment. Currently the medical marihuana issue is being challenged across the state as well. The language proposed this evening are for two (2) types of situations. One is considered a caregiver and is tied to a regulated use of land by a primary care giver.

Preston discussed the proposed amendment to Section 5.3.2. (Accessory Uses). This section allows for a single-family home to operate a home occupation by issuance of an approved zoning permit on a small scale such as a home office for an accountant, attorney, or beauty shop. The occupation is limited to a square footage amount within the home itself. The amendment is proposing a setback from adjoining parcels used for churches, religious institutions, public or private educational institutions, playgrounds, licensed child care facility, substance abuse facility or hospital, an amusement center, indoor and outdoor commercial recreation areas, movie theaters, or other areas that may be frequented by minors. The caveat here is it doesn't exempt you from the State or Federal laws. The State does not consider marihuana as a legal substance.

Under this section, a person could apply for a zoning permit to be a primary caregiver for up to five (5) patients that are registered qualifying patients connected through the Michigan Department of Community Health's medical marihuana registration process, are residents of the same household as the primary caregiver or are related to the primary caregiver by blood or affinity to the second degree.

Preston continued and explained the proposed amendment to Article 4 by adding text language known as Section 4.3.79 (Establishment of a Medical Marihuana Dispensary). Preston noted that this basically is the same use but termed a dispensary, which acts as a store front. It must be associated with the Michigan Medical Marihuana Act and set up through the State. It would require a special use permit and site plan approval by the County Planning Commission. Preston briefly touched on the recent ruling with regards to a dispensary located in Mt. Pleasant and opinion. The proposed language presented this evening has been reviewed by legal counsel. If was found that the dispensary in Mt. Pleasant was selling patient to patient. The opinion is not applicable to us per legal counsel. The proposed language would also allow an operator within the B-1 and B-2 districts to sell associated paraphernalia. Article 21 is the definition section, which would also be amended to define consumption, an enclosed locked facility, marihuana, dispensaries, medical marihuana paraphernalia, medical marihuana use, primary caregiver, registered qualifying patients, registry identification card, and usable marihuana.

Preston explained that the language, as proposed, has been drafted that so both sections are compliant with the law. It has also been drafted so that one or the other could be withdrawn and still be compliant. Preston noted that the Board of Commissioners has extended the moratorium to November. Staff is looking for the County Planning Commission to move this along. The Zoning Ordinance is considered a living document and is subject to change at any time.

Thelen stated he would like to see Section 4.3.79 (dispensaries) removed based on the State law saying they are not allowed until such time a ruling is determined by the Court of Appeals.

Preston replied that per review by the legal counsel, the proposed language was compliant but again was designed to either section could be eliminated and still meet state guidelines.

Thelen answered he would rather see the dispensaries excluded now rather than allow someone to apply for a permit only to find out later you might have to shut them down.

Griffin agreed it should be left out until further direction from the State is given. It can always be brought forward at a later time.

Preston added that the final approval on the text amendment will be by the Board of Commissioners.

Martin said he had to agree with Thelen and Griffin; it should be taken out now rather than at a later date. We don't want to be in the process of approving one or already given approval and then have to revoke it.

Love stated a person could still be shut down by the federal government if they didn't meet the law.

Chair Junger stated he would open the floor up for public comment.

Speaker #1: Jason Wilson, 720 N. M-52, Owosso, MI. Wilson asked if there could be multiple caregivers in one home if each had a separate room or area that locked.

Preston answered that the primary caregiver under a zoning permit as an accessory use is tied to a land use. The home occupation shall not change the essential character of the single-family home and property. A use cannot attract additional attention to the residential home such as an increase in traffic flow over and above normal traffic to a residential setting, signage, lighting and so forth. Preston noted that the language has been drafted by the Rewrite subcommittee and reviewed by the County Planning Commission and townships under jurisdiction of the County Zoning Ordinance.

Speaker #1: Wilson spoke about the regulations within the City of Owosso and wondered why not allow someone to rent a different home and rent out locked rooms to different people because maybe the homeowner has little children and does not want to grow it in their own home or take the risk of increased theft.

Preston replied the home occupation is regulated to the home owner residing in the home. A primary caregiver can't be growing marihuana in someone else's home. Renting of another home to individuals to be caregivers would be considered a commercial operation.

Thelen answered if the marihuana is suppose to be in an area under lock and key within the home, why would a person want to go to the expense of renting a home with added expenses such as electricity. Renting of a home to others would be a multiple operation and agreed it would be a commercial operation.

Speaker #1: Wilson stated he wondered why it couldn't be grown elsewhere.

Thelen discussed the definition of a primary caregiver and the intent of a home occupation.

Dickmann replied that renting of a home to allow a number of people the ability to rent a locked room such as a bedroom area would be infringing on the neighborhood. It would

change the character of the neighborhood; no one would be residing in the home. Dickmann said he would not recommend that concept.

Speaker #1: Wilson discussed dispensaries and that some have shut down and added that he felt there was a need and use for the medication.

Chair Junger explained the Zoning Ordinance is considered a living document and subject to change at all times. The Ordinance could be a bigger document, but as language changes or new areas of interest come up such as wind energy or this it is reviewed for consideration to be included within the ordinance. The ordinance is constantly being amended. Junger called for additional comments from the public and board.

Thelen replied he was reluctant to move forward with the dispensary language included due to the current challenge within the court system. He didn't want to see someone open up a dispensary and then we have to go and shut them down.

Preston replied the board can make a motion to remove the medical marihuana dispensary section (4.3.79), but recommend approval of the rest of the proposed language amendment. Again it was written so it could be severed between the two (primary caregiver and dispensary). It was reviewed by the Prosecuting Attorney's office three-to-four times. A caregiver must reside on the property; otherwise it would violate the language within the ordinance. The board can move forward with this language or it can be sent back to rewrite for changes. Allowing someone to rent a home to rent out space to others to grow marihuana would be more defined as a dispensary and commercial operation. Preston stated it would be his recommendation to move forward with some or all of the language at this point.

Chair Junger closed the public hearing and called for a motion.

**Motion:** John Griffin moved to recommend to the County Board of Commissioners that the proposed language amendment on Medical Marihuana Use; specifically #1, #2, and #4, be approved (excluding #3 in its entirety) and incorporated into the 1999 Shiawassee County Zoning Ordinance, as amended. **Support:** William Thelen.

**Discussion:** Dickmann asked if the primary caregiver would have to apply for a permit. Preston replied yes, it would be considered a Zoning Permit application and reviewed for approval by staff and not through this body.

**Roll Call:** Ayes recommending approval: Don Dickmann, Henry W. Martin III, Glenn Love Jr., William Thelen, John Griffin, and Fred Junger. Nays: None. Motion carried: 6 ayes, 0 nays.

Chair Junger stated Section 4.3.79 will be sent back to the rewrite committee for further review and study.

### **New Business:**

**a.** Application #PSUP11-04

Applicant/Owner – William Spike, 8295 Seymour Road, Owosso

Proposed Site Location – Access from Seymour Road, Owosso (Section 6, New Haven Township

Tax Identification Numbers – 78-003-6-200-0007-00, 78-003-06-200-005-01, 78-003-06-400-004-00, 78-003-06-400-003-00, 78-003-06-400-002-00, 78-003-06-400-001-00, 78-003-06-400-001-01, and 78-003-06-400-001-02

Zoning District – A-1, Agricultural Production  
Request – Special Land Use and Site Plan Approval for the Construct a Private Road to Service Six (6) Single-Family Residential Lots  
Correlation to the 1999 Shiawassee County Zoning Ordinance, as amended, Section 6.5. Private Road Development)

Chair Junger asked board members if there was any ex-parte contact that needed to be Disclosed?

Preston informed the board that he had checked with the State regulations and as Henry Martin is the appointed representative from this body to serve on the Zoning Board of Appeals, he must reclude himself from tonight's public hearing as the Zoning Board of Appeals held a public hearing on a request by Mr. Spike. Spike was seeking a variance to exceed the length of a private road (1,320 feet) which would have had one ingress/ egress access to a public road. Due to the fact Martin voted on the matter before the Zoning Board of Appeals, he cannot be a part of tonight's hearing on the special use permit request. It is recommended that he leave the room while the petitioned request is being held.

Martin informed the board that he had asked staff for an interpretation as to whether or not his voting on the petitioned variance on the length of the private road allowed him to participate in tonight's special land use request for a private road development.

**Motion:** Thelen moved to excuse Henry W. Martin III from Application request #PSUP11-04 and that he leave the room. **Support:** Glenn Love Jr. Motion carried: 5 ayes, 0 nays, 1 abstain (Martin). (Martin excused himself from the room.)

Chair Junger asked if the application had been legally noticed. Cordier replied that he had been advertised within the Shiawassee Independent and that the applicant, surrounding property owners, and township had received notice. Junger asked Preston to provide the staff report.

Preston explained the proposed development is south of Johnstone Road located on the west side of Seymour Road. There are eight existing parcels and some of them have already been developed with residential homes while the remaining is agricultural land. The applicant is proposing a private road development to service six (6) residential lots. It would be developed into three (3) sections. More than seven (7) lots would require the road to be paved. The area is zoned A-1. The existing drive located to the south currently services two (2) homes on a shared driveway and the existing driveway to the north services one (1) single-family home. Proposed is to connect the two driveways with a north/south road under a private road development.

Preston continued that there were a number of requirements that are important that were missing on the site plan and referenced number three within the staff report. The maintenance agreement was recently provided but will need to be amended. It till must be reviewed by the Prosecuting Attorney's office. The easements have not been legally described or provided for the private road development.

Chair Junger noted that this property is zoned A-1, which has a density requirement for the number of parcels that can be developed.

Cordier stated that was correct. The A-1 district went into effect in 1982, which allows one (1) residential dwelling per vacant 40 acres.

Preston noted that the ordinance provides language for clustering and/or a residential enclave. Preston continued with staff review referencing page two, #4.1., private road standards. The site plan has been provided by Mr. Spike's engineer; #4.1.C. language states: *"a qualified entity will be contracted with (via an RFP process) to supply oversight, and testing if necessary, to assure that the Road Commission standards (less paving and curb and gutter) are maintained."* The roads have already been constructed and the applicant is stating that the roads are in compliance with ordinance requirements.

Site Plan Submittal Requirements (4.2. of the staff report), were reviewed. Preston noted the site plan included an aerial photo backdrop showing the surrounding area of the proposed development. Preston suggested a satellite photo showing the general land use may be more appropriate. The number of the lots are not indicated and/or reflected on the site plan.

Preston explained the Site Plan Review Committee had met and reviewed the site plan. Notes from the committee meeting were available. Preston discussed the issue with the easements and legal description of the easements stating that they needed to be noted not only on the site plan but within the private road and maintenance agreement as well. Preston again stated that the applicant needed to indicate on the site plan the number of lots to be served by the road as well as any potential future development or expansion.

Continuing on within the staff report Preston noted the Road Commission and County Prosecuting Attorney needed to review the site plan and all attachments associated with the private road development. The Road Commission has reviewed the plan that has been provided to us at the Site Plan Review Committee meeting. The Road Commission has jurisdiction only at the access point from Seymour Road at this time based on the fact it will be a private road. The applicant's engineer will try to establish how the existing sub-base of the private driveways meet the standards outlined within the ordinance. The ordinance states that the base has to be built to Road Commission standards. Two (2) different cross-sections provided to the department have been handed out. It was discovered after the Site Plan Review Committee meeting that it was possible the applicant had received an older version of a typical private road cross-section example for private road development under prior Road Commission standards and not an updated copy. The current Road Commission standards for a public road are curbing and gutter. The proposed development will have one road approximately 2,800 feet in length and the other approximately 1,800 feet with a connecting road between the two. Preston reviewed number five (5) of his staff report and stated the site plan layout needed to be reviewed with the Road Commission standards for compliance. Preston stated he didn't see a need for additional landscaping or buffering but the commission still needed to comment on this.

Preston informed the board that the Site Plan Review Committee tabled the review based on the fact additional information was needed before they could make a recommendation on the request. Preston stated he would review the General Standards for Issuance within the staff report later on in the meeting. Preston noted the township supervisor was present this evening and it was his understanding that the township planning commission was recommending denial.

Chair Junger asked the applicant if he wished to present his request.

Mr. Spike explained his engineer was going to present the request on his behalf.

Dave Kudra, Engineer of Trinity Engineering and Surveying Inc. from St. Johns, MI explained that Mr. Spike approached them approximately a year and a half ago and asked us to look at his private drives to compare with the technical standards for a private road to see if they would hold up to the standards by the county.

Chair Junger asked Kudra if he meant private road development and not private driveway development.

Kudra replied they were asked to review the existing driveway base for compliance with private road development standards. Kudra stated he had talked with the Road Commission and with the Site Plan Review Committee. The first standard was a 2004 cross-section; the Road Commission has since adopted a 2008 cross-section standard. Kudra discussed materials within the base of the existing driveways, which has over 10" of sand. Two of the roads would not meet the cross-section requirement for gravel; some areas of the road width do not meet the minimum width requirement. However, the existing driveways have been used for agricultural use to and from the fields as well as for residential access to the homes for over the past ten (10) years with no problems. They have good drainage. Kudra discussed the existing drive located to the south and noted there was a County Drain located nearby and that a drain tile under the drive. He discussed the standards for road base as being 10" of 22A gravel with 10" of Class II sand and again noted that two homes were already built off the southern drive and one home built off the northern drive. The intent of the applicant is not to have any more than six (6) lots off the private road development. Only three (3) more lots would be allowed to be developed. We need to get from where we currently are to an approved special use permit. We need to reach an agreement without redoing the existing driveways. The southern driveway was originally built as a shared driveway. Spike is asking to utilize his existing resources for the drives that were already constructed.

Chair Junger thanked Kudra and opened the floor for public support in favor of the request. Hearing none, Junger opened the floor for public comment in opposition of the request. Hearing none, Junger asked for township input.

Speaker #1: Don Dickinson, New Haven Township Supervisor, stated they received the information in August, but after their scheduled meeting. It did not give them ample time to review before tonight's meeting by the full board. The full board would be meeting next Monday evening. The Township Planning Commission did meet on it and it was recommended to deny by a 5 to 0 vote. The township doesn't have a problem with the land use as the applicant has buildable lots available. The location is a decent area for development. If this was a new development being proposed it would be looked at differently. Now the applicant is coming in hoping to change the driveways into a private road and we are to guess whether or not the road base meets minimum standards. Dickinson said he would hope the board would postpone action on tonight's hearing.

Chair Junger asked Dickinson if the township wanted it tabled.

Speaker #1: Dickinson replied that he would like to take it to the township's full board next Monday for review, but if the board felt they had enough information to proceed and make a final determination on the request, he wouldn't object.

Speaker #2: Salvatore Reale, 8352 N. M-52, Owosso. Reale informed the board that he resides across the river from the proposed development. He moved out to the area 20 years ago and like living in the area because of the farmland. He was told that New Haven Township was trying to save their farmland and that only one home per 40 acres was

permitted. Was this proposed development economical when the economy is down? Also, there are numerous homes for sale to we need to build more.

Chair Junger replied that Mr. Spike was asking for six (6) family homes; three (3) were already built.

Speaker #2: Reale agreed with Junger, but stated he still is asking for multiple homes within the area. He is looking at building the roads and creating more homes. Existing homes are being foreclosed on everyday, why would we build more homes.

Chair Junger asked if there were additional comments. Hearing none he opened the floor for rebuttal by Spike.

Spike said he was the owner and developer of the road. He could attest to the quality of the southern driveway as it has been the access to his home for the past twelve (12) years. It is solid and he has not experienced any problems with it. His daughter has utilized the northern driveway since 2004-2005 for access to her home. That drive was created along the top of a gravel ridge. The top soil was removed. It is a better built road than a county road. Although it may not be wide enough in areas, he felt it was a soundly built road. Spike noted that he owns 400 acres and would be entitled to ten (10) homes based on the density requirement. There have only been three (3) homes built here since 1982, the other homes were in existence prior to the adoption of the 1982 zoning ordinance. In attempt to preserve farm land, I have chosen areas that aren't productive but would make ideal building areas in lieu of choosing build sites along Seymour Road where the land is farmable. The proposed area to the west runs along the river. Spike discussed clustering of ten (10) homes along the river. The lots would be desirable because of the view. Spike added that because of how the zoning ordinance is written, he would only be allowed six (6) homes off a private road and there are already three homes in existence. Spike said he couldn't answer to Reale's statement about building more homes when there were already homes in foreclosure, except that he would not be building spec homes. I will be selling only the lots. They are not listed on the market at this time. Spike continued that he would like to get the private road approved and built so he can put his affairs in order. The lots and homes wouldn't interfere with adjoining landowners. The closest may be about 600 feet to the north. Nothing constructed or planted would restrict the view of the meadow or river. Spike added that he was trying to do something constructive that would be an asset to the township. He has resided in the area for 60 plus years. He is not a developer that comes in to build and sell homes and then leave the area. I would like the plan to be accepted and approved by all agencies.

Chair Junger asked if there were questions from the board.

Thelen questioned the middle connecting road and if that was where the three additional lots were proposed.

Spike replied that two lots were already built on.

Chair Junger noted that this was one of the issues that had not been identified on the site plan and is required.

Spike replied he didn't want to have to pay for another survey yet. He was proposing each lot be approximately 300 feet in width.

Chair Junger again noted that it was important that all lots, lot sizes and building envelopes be included on the site plan for this board to consider for approval.

Spike again noted he didn't want to go to the expense of paying for another survey if he wasn't going to be approved for a private road.

Chair Junger closed the public portion of the hearing and asked for board deliberation.

Dickmann said he had to agree with Supervisor Dickinson. He would like to know what the point of view is from the New Haven Township Board on this request.

Supervisor Dickinson replied that the board was normally pretty liberal. The township is not opposed as long as it complies with the requirements outlined within the zoning ordinance. However, in this particular case the driveways were built with the intent of a future road. It should have been addressed back then. The gravel came from the M-52 project. The problem is what would stop the next person from doing the same thing and then come in after the fact for a special use permit. This is precedent setting.

Chair Junger commented on the fact that the County Planning Commission asked the Board of Commissioners to remove the private road language from the ordinance based on township support. The County Planning Commission and townships agreed that we did not have the staff or knowledge to oversee road development; that is what the Road Commission is for. The Board of Commissioners overruled the proposed text change and left it within the ordinance with a clause that it would be reviewed in three years.

Supervisor Dickinson replied that he would like to see Spike get his homes if that is what he wants. Again, the township board has not met on this. Dickinson again mentioned he was afraid of setting a precedent by approving this after the fact.

Kudra replied that he cannot speak to the fact that it may have been his client's intent ten (10) years ago to build a private road. What the company can speak to is the performance of the existing driveways. The drives have not failed. We can verify that because they have been in place for at least 10 years. They have held up to freezing conditions. It is easy to say how a road will handle traffic loads. We agree that some of the areas will need improvements.

Chair Junger responded that he would have to agree with Supervisor Dickinson though as far as precedent setting.

Kudra answered that the ordinance language states a professional engineer is to be hired.

Chair Junger agreed but that is while the road is being constructed and not after the fact.

Kudra answered that was true; ideally during construction of the road, but there could be similar problems with a new road being built.

Spike replied that the Board of Commissioners wanted it left in the ordinance language to promote development within the county. The Road Commission standards are curbing and gutter standards, which is way too expensive. Curb and gutter makes sense in high density development areas. This would be an injustice if the area along the river couldn't be utilized for development. I did consider developing a road when my home was built. The County's personnel at that time suggested just doing a shared driveway. The drive was built to meet the minimum standards for a future road development.

Chair Junger asked Spike if he had received anything in writing back then on what his future intent was.

Spike replied no.

Chair Junger stated he didn't feel the board had enough information to proceed tonight to make a decision on it. He noted the public hearing segment had been closed and asked how the board wished to proceed.

Griffin commented that private road development requires the base to be built to Road Commission standards because someday in the future the people residing on the private road may wish to turn it over to be maintained by the Road Commission as a public road. The problem isn't the issue that he wants to create build sites. The issue is that the driveways must be brought up to Road Commission standards.

Thelen agreed with Griffin the Road Commission has the professional staffing to oversee the development. We are looking at two driveways with a proposed connecting road. The ordinance requires that it be built to Road Commission standards. Thelen said his question was whether the drives can be brought up to Road Commission standards. I would like Spike to have the ability to do this, but the roads must meet those standards.

Dickmann felt the application request should be tabled until the township board has a chance to review it and make recommendations to this body.

**Motion:** Don Dickmann moved to table the application request (PSUP11-04) submitted by William Spike proposing a private road development to service six (6) parcels within Section 6 of New Haven Township with access from Seymour Road, to allow New Haven Township to hold a public hearing on the request and to allow the applicant time to provide the additional information that was missing per the staff report. **Support:** Glenn Love Jr.

**Discussion:** Thelen asked if the Road Commission would inspect the shared driveways to verify that the base was built to private road standards.

Preston responded that staff can ask them nicely but the point is at this time they have no jurisdiction outside of the access point from Seymour Road to the property. If in the future the drives are donated to the County as public roads, then the Road Commission would have to verify they met their standards.

Thelen wondered if the Road Commission would at least give us a professional opinion.

Preston replied that the motion on the floor is to table the request. The township will have a chance to review it based on the information received. One of the reasons this is a difficult issue is due to the fact we don't know if the existing driveways meet the standards. The Road Commission standards are curbing and gutter and again on a private road development they have no jurisdiction on the interior at this time. They could look at the cross-sections and width of the roads.

Chair Junger agreed, the road width must be met to accommodate emergency vehicles coming and going if needed.

Preston continued that an independent RFP should be hired as outlined within the ordinance language for the construction of the roads. Although the applicant has hired a professional

engineer, this body may still want an outside person to provide verification of compliance with required road base requirements. The issue is whether or not this board will accept road development after the fact with an engineer confirming the base or does this board want to see it dug up and rebuilt.

Chair Junger replied that the purpose of a special land use and site plan is for review and approval including stipulations if any prior to commencement of the project. The site plan is still lacking required information. Spike and his engineer should continue to work with staff and the township on information that is lacking.

Dickmann agreed there was not enough information provided tonight to act on the request.

Chair Junger answered that this body does appreciate input from the township level.

**Roll Call: Ayes to Table:** John Griffin, William Thelen, Glenn Love Jr., Don Dickmann, and Fred Junger. **Nays:** None. Motion carried to table: 5 ayes, 0 nays.

**Two-Minute Recess:** Board member Henry W. Martin III returned to the room. Meeting re-convened at 8:49 P.M.

**b. Application #PSUP11-05**

**Applicant – John E. “Jed” Dingens, Dingens Architects, 1109 E. King, Corunna  
Property Owner – AMVETS Post #2273, Durand  
Proposed Site Location – Lansing Rd./Reed Rd./Harvest Mills Rd., Durand  
Tax Identification – 78-012-17-200-005-00  
Zoning District – A-2, Agricultural Production/Rural Residential  
Correlation to the 1999 Shiawassee County Zoning Ordinance, as amended,  
Section 4.3.24 (Education and Social Institutions)  
Request – Construct a 3,200 square foot social institution building**

Preston provided the staff report noting that the AMVETS area 501 (c) 19 organization. The proposed development requires a special use permit and site plan approval. The Site Plan Review Committee met and reviewed the request as well.

Jed Dingens, architect representing the AMVETS, spoke. The AMVETS propose to build a new building. It won't be outstanding, but it will meet their needs. The location of the proposed site was viewed by an overhead picture provided by Dingens. Plans are for a future addition to the rear of the building at a later date. During the Site Plan Review the Environmental Health Department discussed location of the on-site seepage system and reserve area. The Zoning Board of Appeals approved access from a gravel road. Dingens added that he felt they have met all the requirements outlined within the ordinance. The Site Plan Review Committee recommended approval as well as the township.

Chair Junger noted that he use to reside in Vernon Township and this parcel was well-known for parking by teenagers. Junger asked if there was any ex-parte contact by the board. Hearing none, he asked if the board had any questions for Mr. Preston.

Thelen said he had a question for Mr. Dingens. Thelen asked about the comments from the Drain Commissioner with regard to whether or not it was a County Drain or if it was a drainage ditch running thru the property.

Dingens answered that it was not a County Drain. It was a creek running thru the property. Dingens continued and explained how a person can become a member of the AMVETS.

They are currently operating out of a building located on M-71 at full capacity. The AMVETS purchased this property and hopes to build so they can relocate into a building of their own. The only request the township had was that the parking lot be paved after the addition to the rear is built. Due to the characteristics of the land and Lansing Highway, access from Lansing Highway would have been an issue. The AMVETS was pleased to receive the variance from the Zoning Board of Appeals allowing them to utilize a gravel road for access to the site. Some earth grade has taken place because MDOT gave them gravel after they received the variance. They didn't realize they needed an earth grade permit; but they had an opportunity to obtain some much needed fill. Dingens talked briefly about Reed Road while pointing out areas on the overhead view of the site plan. Plans are to relocate some of the parking availability behind the building because the only suitable place for a septic reserve area was along Reed Road, which was noted by the Environmental Health Department during the Site Plan Review Committee meeting. Handicap parking space requirements were noted four were proposed; two on the paved area and two on the gravel area. The code only requires one. Plans are to bring the existing bar and pool table to this building. Some items from the existing kitchen will be utilized in this kitchen as well. The AMVETS do not have a lot of money and they have done a very good job at keeping their expenses down. We believe we have satisfied the nine requirements outlined in the ordinance for standards of issuance. It will be a good use of the property on what has been considered an orphaned parcel of land.

Chair Junger thanked Dingens and opened the floor for public comment in support of the applicant's request.

Speaker #1: One gentleman replied that thank goodness they weren't asking for a private road.

Junger opened the floor for public comment in opposition of the request. Hearing none, Junger noted there was no need for a rebuttal.

Speaker #2: Ric Crawford informed the board that it was a "box" culvert approximately 8'x6' underneath Lansing and I-69 for drainage purposes of the property south of Harvest Mills Road.

Speaker #3: Don Cooney noted he was the representative of the AMVETS Post 2273. Anyone is welcome to join that has served in the war, received honorable discharge, or has a relative that has been or currently is in the military. There are almost 100 ladies belonging to the Ladies Auxiliary.

Chair Junger closed the public hearing segment of the public hearing and opened the floor to board member discussion.

Glenn Love Jr. explained that he serves as a representative on the County's Park and Recreation Board. The AMVETS were responsible for building a pavilion at the Geeck Road Park.

Thelen replied the AMVETS has a great history behind them.

Chair Junger felt it was a good use of the property. Junger noted unless there were additional comments, he would proceed with the General Standards for Approval as outlined within the Zoning Ordinance.

General Standards for Approval of Special Land Use:

1. The special use shall be designed, constructed, operated, and maintained in a manner harmonious with the character of adjacent property and the surrounding area.  
**Staff:** The petitioned use is proposed in an area with limited residential dwellings in the immediate area and has access to a major thoroughfare. The proposed use is not anticipated to be outside of the parameters outlined in the Ordinance for such establishments and be designed, constructed, operated and maintained in an harmonious manner with the surrounding area.  
**Board:** Concur with staff's findings.
2. The special use shall not inappropriately change the essential character of the surrounding area.  
**Staff:** The petitioned use is proposed in an area with limited residential dwellings in the immediate area and has access to a major thoroughfare. The proposed use is not anticipated to be outside of the parameters outlined in the Ordinance for such establishments and therefore not inappropriately change the essential character.  
**Board:** Concur with staff's findings.
3. The special use shall represent an improvement to the use or character of the property under consideration and the surrounding area in general, yet also is in keeping with the natural character and environmental quality of the site.  
**Staff:** The petitioned use is proposed in an area with limited residential dwellings in the immediate area and has access to a major thoroughfare. The proposed use is not anticipated to be outside of the parameters outlined in the Ordinance for such establishments and therefore represent an improvement to the use and character of the property and surrounding area.  
**Board:** It is an orphaned piece of land and the proposed use is considered a good use of the property and concur with staff's findings.
4. The special use shall not be hazardous to adjacent property or involve use, activities, materials or equipment which will be detrimental to the health, safety, or welfare of persons or property through the excessive production of traffic, noise, smoke, odor, ground vibration, water runoff, fumes, light, or glare.  
**Staff:** The petitioned use is not anticipated to generate off-site impacts as described under this item. The provisions of the Ordinance and specific requirements for the use would be anticipated to mitigate such impact.  
**Board:** Concur with staff's findings.
5. The special use shall be adequately served by essential public facilities and services, or it shall be demonstrated that the person responsible for the proposed special use shall be able to continually provide adequately for the services and facilities deemed essential to the special use under consideration.  
**Staff:** No public facilities or services are anticipated, other than general services such as police, fire and emergency services.  
**Board:** Concur with staff's findings.
6. The special use shall not place demands on public services and facilities in excess of current capacity unless planned improvements have already been scheduled for completion.  
**Staff:** No public facilities or services are anticipated, other than general services such as police, fire and emergency services.  
**Board:** Concur with staff's findings.

7. The special use shall be consistent with the intent and purpose of this Ordinance and the objectives of the County Land Use Plan.

**Staff:** Subject to providing outstanding information, the petitioned use is consistent with the underlying zoning district, language for educational/social institutions, and designation for this property under the Shiawassee County Future Land Use Plan.

**Board:** They have provided additional information as needed. Concurred with staff's findings.

8. For special uses in the A-1, A-1½, A-2 Districts, approval of a permit shall be further determined on the basis of the proposed land use's effect on a loss of prime agricultural land or on the right-to-farm of any adjacent farm.

**Staff:** The petitioned use does not appear to impact the use of farmland in the immediate area.

**Board:** Concur with staff findings.

#### **Discussion:**

Martin questioned whether a small retention area was needed. Dingens stated it was believed one may not be needed because no water problems along the road. Preston replied that he and the Drain Commissioner will be monitoring this. The water flow is going thru the culverts. Martin asked if the site plan met the Drain Commission and Road Commission requirements. If a retention area is needed, we still have that availability. Junger confirmed with Dingens that the septic reserve area was now indicated on the site plan. Dingens answered yes.

**Motion:** William Thelen moved to approve the Special Land Use Permit/Final Site Plan request for an education and social institution as submitted by John E. Dingens, on behalf of AMVETS to be located on vacant land as legally described in Section 17 of Vernon Township (Parent Tax I.D. 78-012-17-200-005-00) based on the following reasoning and conditions:

**Reasoning:** 1) Subject to the conditions provided below, it is found that the petitioned special land use meets the general standards as provided for in Article 12 of the Ordinance. 2) Subject to the conditions provided below, it is found that the petitioned special land use meets the specific standards outlined under Section 4.3.24 for Education and Social Institution. 3) Subject to the conditions provided below, it is found that the petitioned site plan meets the general standards as provided for in Article 14 of the Ordinance; and 4) Additional reasoning as presented by the Planning Commission.

**Conditions:** 1) Provide information as noted by this staff report as having not been provided for on the site plan or in supplemental information. 2) Compliance with the provisions of the Zoning Ordinance shall be determined by the Community Development Director prior to the issuing of permits or authorization of construction of the petitioned use. 3) Additional conditions as required by the Planning Commission. 4) Compliance with the Road Commission, County Drain Commission, and Environmental Health Department regulations; and 5) Per the recommendation of the Vernon Township Board that the parking area be paved upon completion of the future addition and the parking (site) be gated when not in use.

**Support:** Glenn Love Jr.

**Roll Call Vote: Ayes:** Don Dickmann, John Griffin, Henry W. Martin III, Glenn Love Jr., William Thelen, and Fred Junger. **Nays:** None. Motion carried: 6 ayes, 0 nays.

**Reports of Offices and Committees:** Ordinance Revision: Martin noted the committee did not meet this month. Future Planning: Love replied that the committee had met on three different occasions and reviewed at least 13 P.A. 116 applications. Junger noted that

some of the applications still were not filled in completely. Gravel Committee: Griffin informed the board that the committee would be meeting tomorrow afternoon to visit four gravel pits. Land Division: Thelen noted MTA would be meeting next Tuesday evening and said it may be possible that he and Preston could explain the proposed language. We have talked to the townships briefly. The language is an ordinance that will be hopefully be adopted by the townships on handling land division application requests.

**Communications Received:** Cordier stated she had nothing to bring forward.

**Director's Comments:** Preston replied he had nothing new to discuss.

**Public Comments:** Sciota Township Supervisor Phil Matthews replied the board was doing a Cracker Jack job. More people need to get involved like they did tonight as it solves a lot of unanswered questions and problems.

Chair Junger responded that he felt this County had a good mechanism in place. The public has the opportunity to speak twice at the township level and then again at the County level. Applications before us are not just cut and dried so to speak.

Henry Cross agreed the public doesn't understand the amount of work that goes into a public hearing when reviewing an application request.

**Adjournment:** Chair Junger adjourned the public hearing at approximately 9:30 p.m.

Recording Secretary: Linda Gene Cordier

Don Dickmann, Assistant/Vice Chairman  
Fred Junger, Chairman  
Shiawassee County Planning Commission

November 16, 2011  
Approval Date of Minutes