

Ch. Kman called the September 1, 2016 Hinckley Township Zoning Commission work session to order at 7:03 p.m.

Roll Found: Kman, Spellman, Powell, Schneider and Marzullo present. Recording Secretary made note that Alt. Kamps was in the audience as well as Trustee Catherwood and Trustee Schulte. *(Mr. Schaefer arrived after the meeting started.)*

Ch. Kman asked if everyone received a copy of the minutes from the August 4, 2016 meeting and if so, were there any corrections to be made to the minutes? There were no comments.

V. Ch. Spellman made a motion to accept the August 4, 2016 minutes as submitted and Marzullo seconded. No further discussion. Ch. Kman polled the board and asked if everyone was in favor of approval. All in favor.

Ch. Kman asked if everyone received a copy of the minutes from the August 18, 2016 work session and if so, were there any corrections to be made to the minutes? Marzullo and Schneider were asked to abstain as they were not present at the work session. Alt. Kamps was asked to participate in the poll as he was present at the work session. Mr. Kamps made a motion to accept the August 18, 2016 work session minutes as written. V. Ch. Spellman noted one correction on page two of the minutes under **CHAPTER 6: Sub-Section 6R1.B PURPOSE** – .....~~Township Master Policy Plan~~.....” need to strike out the word plan. The correction was duly noted. There were no other comments. Mr. Powell seconded. Ch. Kman polled the Board and asked if everyone was in favor. All in favor with Marzullo and Schneider abstaining.

Ch. Kman began with the Old Business. He commented that at the last meeting, he and Trustee Schulte agreed to obtain additional information from the Prosecutor’s Office regarding some of the open issues. The Board thought it would be worthwhile to obtain some additional guidance and support from the Prosecutor’s Office regarding lot definition, Site Plan Review and Conditional Use Permit.

Before Trustee Schulte provided the feedback from the Prosecutor’s Office, Ch. Kman referenced the ZC Reference Guide and stated that the focus tonight would be to review these items on the first page and finalize the items so that when ready the Board can forward to Planning Services and the Prosecutor’s Office for their review.

Trustee Schulte began with addressing the Conditional Use Permit and stated that at a previous meeting held here at the township with the Zoning Commission and the County Prosecutors, that Bill Thorne comments that it is not necessary for the Zoning Commission to review the Conditional Use Application because it is a function of the Board of Zoning Appeals. Mr. Thorne stated that it is a redundant process, and that Hinckley Township is the only township that he is aware of that does this.

Since that meeting, Trustee Schulte contacted other local townships to see what their process was and he found that other Zoning Boards from Montville Twp., Medina Twp. and Brunswick Hills Twp. do not have this extra step in their process. Trustee Schulte stated that he also talked to Mr. Richter and Ms. Hirsch and they shared the same thought. Trustee Schulte then referenced page 82 of the Zoning Regulations 7.2.C. where it reads “Review by the Zoning Commission” and this is what the experts were referencing as a redundant step.

Trustee Schulte stated that Mr. Richter plans to attend the next Zoning Commission meeting to be held on October 6<sup>th</sup> to talk about agriculture and any other topic that the Commission would like to discuss with him.

Ch. Kman stated that the next topic to discuss is Site Plan Review, and that the Commission is looking for a third party (outside) opinion. Trustee Schulte stated that a question came up by the Board asking if it was legal for the Zoning Commission to conduct a Site Plan Review or Conditional Permit Review, and Trustee Schulte commented that it is not illegal, but by not having a redundant review process is called good government or efficient government which was the consensus from the experts he spoke to from the county (Ms. Hirsch, Mr. Henwood, Mr. Thorne and Mr. Richter).

V. Ch. Spellman intervened and asked to summarize the comments made by Trustee Schulte as follows: That they (the experts that Trustee Schulte spoke with) all agree that it is more or less a redundant step in the process but at this time there is nothing legally saying that the Zoning Commission cannot do this step. Trustee Schulte responded that is correct and that the Zoning Commission can conduct the review process and it is not illegal. Trustee Schulte added both Ms. Hirsch and Mr. Thorne stated that Zoning is legislative or planning and not administrative or judicial – and added what role is the Commission playing in this process pertaining to how the language reads. Further discussion ensued.

Ch. Kman commented it could read that it is optional; and that the consensus of the Board was knowing what was being presented or the awareness of a Site Plan Review or Conditional – to stay in tune with what is going on in Zoning and the Community. Previously, it had been suggested that the word “shall” be changed to “may”, which would make it optional for the applicant to present the information to the Commission. It was also suggested that creating an administrative process where the Zoning Inspector would forward the information to the Zoning Commission and that would achieve the desire of the Zoning Commission to be informed.

Trustee Schulte stated that in his fact finding that both Planning Services and the Prosecutor’s Office thought that putting an applicant through a review process for a Conditional Use Permit with the Zoning Commission when it is a Board of Zoning Appeals process, was very redundant.

Trustee Schulte stated that with the Site Plan Review, there are townships that have a review process by their Zoning Commission. (i.e. Montville Twp., Brunswick Hills Twp.) He spoke to Ms. Hirsch again, and she commented that the Planning Services conducts the same review process for a sub-division. The Zoning Inspector, along with Prosecutor’s Office, county entities and local safety departments reviews the plans to assure that all requirements have been met for compliancy. Trustee Schulte asked what more would the Zoning Commission accomplish by their review, if the Zoning Inspector already reviewed and found that all zoning requirements have been met.

Trustee Schulte added that the goal here is to try and make the process as efficient as possible and not put the applicant through a redundant process.

Ch. Kman stated that it was the Board’s request to obtain the additional information through a fact finding mission and obtain feedback from a third party. Ch. Kman stated he and the Board appreciated Trustee Schulte’s comments and presentation. This will help the Board through their next steps in the review process of the Zoning Book and Chapter 11. Trustee Schulte added that the intent is not to remove any process that is out of the normal Zoning, such as Conservation Development.

Mr. Schneider's basic concern is whether or not they are trying to eliminate the Zoning Commission from being part of the system. If the Zoning Commission does not know what is going on or what the requirements are, how do they continue to write the code. He added that the notes from the last meeting state that the Zoning Commission is there to assist the applicant and make sure they understand the code – as part of an obligation to the citizens of Hinckley.

Further discussion ensued regarding the role of the Zoning Inspector and his review process and timelines to forward the application to the Board of Zoning Appeals (referencing a Conditional Use Permit application). The current process lends the opportunity for the Zoning Inspector or applicant to bring forth an application to the Zoning Commission for review of the code or its intent when clarification is needed. Mr. Schneider feels that the Zoning Commission input would be eliminated if that line is removed. Further discussion ensued.

V. Ch. Spellman disagreed with Mr. Schneider and stated as a legislative body that they did a good job with writing the code, where it was clearly understood and agreed to – therefore, then why would it come to the Zoning Commission. Mr. Schaefer added that that is the point that the Prosecutors are making. Why have an extra step in the process. V. Ch. Spellman commented as an added value, if there is ambiguity or clarity is needed, that is a facet or value that the Board can add. He added that instead of this being a formal, absolute must, the Zoning Commission is there, for the applicants to come before the Commission if clarity is needed.

Mr. Schaefer stated that if it is an administrative procedure, where it is not written in the book, that there can be an informal review process. If a plan comes in that meets all requirements or conditions, then they have the right to build.

Mr. Schneider commented on the process of a Conditional Use Permit and that the Zoning Commission currently forwards a letter of recommendation to the Board of Zoning Appeals. If the language is removed that states there is a review process by the Zoning Commission for a Conditional, how will the Commission forward the recommendation. It was then stated that a letter would not be written, and instead, the Zoning Commission Chairman or Commission representative would attend the Board of Zoning Appeals hearing to answer questions or clarify the intent of the code. Mr. Schaefer added that an administrative process could be created to achieve this – and this may be something to ask Mr. Richter when he comes in next month.

Trustee Schulte commented on the code that Montville Township utilizes and suggested the Board review their code.

Mr. Marzullo asked about the first Conservation Development that was established did it meet all of the requirements and Mr. Schaefer responded that no, it met very few requirements. Mr. Kamps added that it was by a court settlement and since then the Zoning Book has been adjusted to include language for a PUD. Mr. Schaefer gave some history of his experience and a lengthy discussion ensued.

Trustee Catherwood pointed out that Mr. Schaefer commented on several scenarios and she clarified that there were two things: a Conditional Use Permit review by the Commission and the other is the involvement of the Commission for a Site Plan Review for a subdivision.

Mr. Schaefer commented that if there is a straight subdivision proposal, the neighbors should be notified by public notice of an informal meeting through an administrative process. Discussion followed regarding how the public is notified when there is a sub-division proposal. Trustee Schulte stated that the Planning Commission holds a public meeting, where all the county entities are represented, that residents can attend. The Board then asked how the residents are notified of that meeting. Mr. Marzullo stated that his concern is that the Hinckley residents are well represented during this Planning Commission review process.

Mr. Schaefer and Trustee Schulte commented that usually there is a Trustee present and a representative from the Zoning Commission.

Trustee Catherwood commented that she served on the Medina County Planning Commission as a full member for eight years and saw a lot of subdivisions go through all over the county. During that time, she drove to many proposed subdivision sites and still did not have the total knowledge of that area to make a decision and to represent a community. She added that there are many players involved with representatives from the townships and cities, three Commissioner representatives, a representative from the Township Association, a member at large that is appointed by the Commissioners and that is what she was under who collectively review the proposal from different perspectives. She added that it is this Board who understands Hinckley, its unique nature and the dynamics of Hinckley, and that this Board is Hinckley's representative.

Mr. Powell commented that the two processes have been in place for a long time and if the Trustees no longer want the Zoning Commission continue the current process, advise accordingly and they will remove the language and move on. He added that since there is no law that the Trustees should give direction to either strike from code or to keep, and then the Zoning Commission can move on.

Trustee Catherwood stated that as part of the process with a proposal from the Zoning Commission, the Trustees have the opportunity to review the proposal and approve, disapprove or modify the text and send back to the Commission. A lengthy discussion ensued with comments from Trustee Schulte reiterating that the Zoning Commission is a legislative and not judicial board and the consensus from the County experts on the Conditional and Site Plan Review process.

Trustee Catherwood added that it is not Zoning Regulations per say, but the intent of the Site Review Process – and if you read the text it references the goals and objectives as a Site Plan Review. She also stated that the Zoning Commission can waive a review if they don't feel it is necessary – giving the example of a five parcel minor subdivision that borders an existing road, no infra structure required and the Zoning Inspector says it meets all zoning requirements. The Site Plan Review process gives the Zoning Commission the opportunity to review through a public meeting. She referenced the Medina County Planning Commission meeting that Trustee Schulte stated that a resident was present for – and she said that the resident, Mr. Paintiff was there because he was notified by his neighbor Ms. Eberhart who received notice by request through the Zoning Office.

V. Ch. Spellman asked if there is an opportunity to do better in informing our citizens by posting it on the web for instance. The response was yes, it could be added, however, not a guarantee that it is reviewed.

Trustee Catherwood stated that the Medina County Planning Commission acts as an advisory board to the local governments and sends their Review Summaries to the Zoning Commission for Site Plan Reviews, Map and Text Changes proposals. Additional discussion ensued.

Ch. Kman stated that when the Board reviews Chapter 11, they will consider all the points given and if the Commission decides to leave the section in and change the word shall to may, that is what they will do and then forward to the Prosecutor's Office for their review process; then to the Trustees for their review.

Trustee Schulte commented that the third item that the Commission requested additional information on was the definition for lot. Trustee Catherwood stated that she had received a call from Ms. Hirsch. Ms. Hirsch did not have the contact information for Ch. Kman. The email from Ms. Hirsch did not arrive, as the start of the meeting.

Trustee Catherwood stated that Ms. Hirsch advised that Mr. Thorne's recommendations regarding the lot definition would be the beginning of the Lodi definition of a lot. Trustee Schulte stated that he spoke to Mr. Thorne and the following is what Mr. Thorne recommended: A buildable lot of record that meets the Hinckley Zoning provisions.

Mr. Marzullo asked about the words plot and parcel and Ch. Kman stated that those two words will be added to the Definitions Chapter.

Trustee Schulte commented when reviewing Site Plan Review to take into consideration the comments noted regarding 7.2.C. and Conditional Use Permit.

Ch. Kman asked the Board to refer to the ZC Reference Guide and refer to the right side of the column. The highlighted items are what will be reviewed. Ch. Kman then commented he would like to hold another work session to review and finalize the proposed changes so the paper work can be prepared by Ms. Peterlin and be ready to forward to the Planning Commission and Prosecutor's office. The work session would be strictly informal and once the Board finalizes the proposed changes, then at October 6<sup>th</sup> meeting the Board will make the official move at that time. Mr. Kamps commented on the submission deadlines with the County Planning and that the Board could authorize the changes allowing more time to forward to the county. Ms. Peterlin stated that the deadline is October 7<sup>th</sup> (the next day). Further discussion ensued and the consensus was that if at the work session the Board finds the changes in order, they could make a motion to move forward with proposed text changes allowing more time for the submittal to the Planning Commission.

V. Ch. Spellman commented that even if a few minor things are identified, the Board can make the adjustments at the Public Hearing. V. Ch. Spellman commented on the informal process is passing it on to the Prosecutor for review to get their feedback in advance verses a formal process which then starts the timeline requirements. Mr. Kamps commented that the Planning Commission has their early deadline because they send out the proposals to different entities for comment before submitting their recommendations back to the Zoning Commission.

Ch. Kman directed the Board to Reference Guide – CH 3 – Lot (page 10 of the Zoning Book) The Zoning Commission agreed to utilize the definition recommended by Mr. Thorne – pending receipt of comments from Ms. Hirsch.

**CHAPTER 3: DEFINITIONS - Lot** – The Zoning Commission agreed to change the text to read as follows: (lines 23-25)

~~A parcel, or plot of land occupied or intended to be occupied by a principal building or a group of such buildings and accessory buildings, or utilized for a principal use and uses accessory thereto, together with such open spaces and frontage on a public or private street, as required by these regulations.~~ "Lot: A buildable lot of record that meets the Hinckley Zoning provisions."

Ch. Kman directed the Board to Reference Guide – Create Definition for Lot, Exempted. Trustee Catherwood commented that during her conversation with Ms. Hirsch, that Mr. Thorne stated not to add a definition for Lot Exempted and that documenting the plat that it is an exemption is sufficient and satisfies all of the requirements with the sign off from both the Zoning Inspector and the Trustees.

The Zoning Commission agreed not to create a definition.

Ch. Kman directed the Board to the Reference Guide – Add Parcel and Plot. The Board agreed to add both Parcel and Plot to Chapter 3 – Definitions.

**CHAPTER 3: DEFINITIONS** - The Zoning Commission agreed to add the text as follows: *“Parcel – see Lot and Plot – see Lot”*

Ch. Kman directed the Board to the Reference Guide under Master Policy Plan – Preface. Previously the Board had discussed adding a separate paragraph to reference Master Policy Plan. Ch. Kman gave some suggested language as follows: “This Zoning Resolution was prepared in accordance with the Hinckley Township Comprehensive/Master Policy Plan.” Trustee Catherwood commented that Ms. Hirsch will be forwarding Mr. Thorne’s recommendation in her email. The Board will hold off until Ms. Hirsch’s information is received.

Trustee Catherwood stated that she had asked Ms. Hirsch what the idea was behind removing reference to the Master Policy Plan from within the Zoning Regulations. Ms. Hirsch responded that Mr. Thorne had researched some law suits where townships were sued because they put in their books that this Zoning Amendment was written in accordance with the Comprehensive Plan. But it turns out, for example that the Comprehensive Plan was maybe just updated or only two years old and the Zoning Amendment is ten years old. So the key here is the timing of the Comprehensive Plan and the Zoning Amendment. Trustee Catherwood stated that Ms. Hirsch’s suggested wording will be something like “Any future/subsequent amendments to this book will be made in accordance with or based on the most recent revision of the Comprehensive Plan. Trustee Catherwood added that this is why Mr. Thorne had asked for the reference to the Master Policy Plan be taken out of the book as a whole.

Mr. Powell asked that if the language is added as suggested, doesn’t that open the Board up to having to go back to the Zoning Book and update, as the Comprehensive Plan is updated. Trustee Catherwood responded yes, just the Preface. Mr. Marzullo asked if they could include the actual date that the Comprehensive Plan was updated? Trustee Catherwood stated to wait and see what Mr. Hirsch submits. Additional discussion ensued. Ch. Kman stated that the Board wait and review the suggested language from Ms. Hirsch.

Ms. Peterlin asked that the Board to look at CHAPTER 1: Purpose (page 1 of the Zoning Book) and go to line 16. During the August 18, 2016 Work Session, the Board agreed to remove the last part of the sentence as follows: “in accordance with the objectives contained in the Master Policy Plan and by providing for the enforcement of such standards.” The sentence begins with “It is the purpose of this Zoning Resolution....” The question is: Does “by providing for the enforcement of such standards” relate to the Zoning Resolution? After review of the sentence, the Zoning Commission agreed to leave the last portion of the sentence in.

**CHAPTER 1: PURPOSE** – The Zoning Commission agreed to leave in the last portion of the sentence as follows: (lines 15 and 16) *“.....by establishing herein standards for community developments, in accordance with the objectives contained in the Master Policy Plan and by providing for the enforcement of such standards.”*

Ch. Kman directed the Board to the Reference Guide – CH 7 – 7.2.C. Review by the Township Zoning Commission (Page 82 of the Zoning Book). The Board had a lengthy discussion regarding this text and some suggestions were as follows: 1) leave paragraph in and change the word shall to “may” (which then makes the review process optional); 2) change text to read “may upon request of said applicant”; 3) remove the paragraph all together (takes away the requirement to come in to the Zoning Commission for review); 4) make it an administrative process. Mr. Kamps commented that he thinks that somewhere in the code it offers the chance for the applicant to come in and ask for advice or consideration of their proposal – and by leaving the paragraph in is semi-redundant – if a Conditional Use Permit application. If there is uncertainty by the applicant the Zoning Inspector can recommend going to the Zoning Commission to obtain clarification.

Trustee Catherwood commented that she read in another Township’s Code that the text reads “The Zoning Inspector shall forward the Conditional Use Permit Application to the Zoning Commission for review.” It didn’t reference that the applicant had to go in front of the Zoning Commission, no letter, it just stated the application needed to be forwarded to the Zoning Commission. She added that having such text will allow the Zoning Commission to receive the Conditional application to review and then when attending the Board of Zoning Appeals Public Hearing, the Zoning Commission representative will have an understanding of the request and will be prepared to answer questions of the Board of Zoning Appeals.

The Zoning Commission agreed to remove the paragraph, but keep C. and Title “Review by Township Zoning Commission” and utilize language from Bath Township.

**CHAPTER 7 – CONDITIONAL ZONING CERTIFICATE - 7.2.C. Review by the Township Zoning Commission –**

The Zoning Commission agreed to the following: (lines 28 – 32) C. Review by Township Zoning Commission: ~~The Township Zoning Commission shall review the proposed request, as presented on the submitted plans and specifications in terms of the standards established in this Resolution and the Master Policy Plan for the Township. Such review shall be advisory only and shall be made public at the Board of Zoning Appeals Public Hearing.~~ *“The Zoning Inspector shall forward the Conditional Use Permit Application to the Zoning Commission for review.” Or similar text.*

Ch. Kman directed the Board to the Reference Guide – CH 11 – 11.1.G PURPOSE (Page 113 of the Zoning Book) During the August 18, 2016 Work Session the Board agreed to table for additional discussion/outside comment. After further discussion, the Board agreed to remove G. completely from Section 11.1. and when they review Chapter 11 in its entirety can revisit if needed.

**CHAPTER 11: SITE PLAN REVIEW SECTION 11.1.G. PURPOSE –** The Zoning Commission agreed to remove the text as follows: (lines 23 -24) ~~G. To ensure the proposals will be developed in accordance with the objectives and policies of the Hinckley Township Master Policy Plan.~~

Ch. Kman stated that the Board completed the items to be reviewed at this meeting. Ch. Kman stated at the Work Session the Board will focus on the items that have been noted as text changes by the Board up to this point, (referenced on the ZC Reference Guide) and the two items that Ms. Hirsch is sending text language for. If the Board approves all the proposed text changes, either the Board can make a motion to forward to Planning Commission formally or wait until October 6<sup>th</sup>.

Ch. Kman directed the Board to New Business and handed out a letter from the Prosecutor's Office re: ORC 512.21 (Amended) re: Medical Marijuana. Ch. Kman had general comments stating that the Zoning Commission can review the letter and come up with text language for the Zoning Book or the Trustees can address the issue by Resolution. The general consensus was that the Board would like clarification from the Prosecutor's Office and Planning Commission. Trustee Catherwood commented that the letter is addressing the cultivation and separating from agriculture and the Zoning Commission can add language to the code. Further discussion ensued – would like to see direction and standard language from the Prosecutor's Office.

Ch. Kman asked the Board what day they would like to meet for the Work Session and everyone agreed to September 22, 2016 at 6:30 p.m.

Ch. Kman commented that there are a couple of other items he would like the Board to review at the Work Session. The items are from the list that V. Ch. Spellman had put together back in May. 1) Fencing for Conservation Developments and 2) Height Regulations in Districts I1 and I2. With anticipated growth, would like to be proactive and make sure we have the mechanisms in place.

Ch. Kman thanked the Board for agreeing to another Work Session.

Ch. Kman asked for reports from the Board.  
V. Ch. Report – nothing to report  
Board Members – nothing to report

Ch. Kman noted that the next Zoning Commission meeting will be held on October 6, 2016 at 7:00 p.m. with a Work Session scheduled for September 22, 2016 at 6:30 p.m.

With no further business, Ch. Kman stated that he would entertain a motion to adjourn.

Mr. Schneider moved to adjourn the meeting and Mr. Spellman seconded. All in favor.

Meeting was adjourned at 8:52 p.m.

Suzanne Peterlin, Acting Recording Secretary

Minutes Approved: \_\_\_\_\_, 2016

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Mel Kman, Chairman

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Bill Spellman, V. Chairman

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Calvin Powell, Member

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Bruce Schneider, Member

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Matthew Marzullo, Member (Alt.)