I. MEETING CALLED TO ORDER at 7:02 p.m. by Planning Commission Chair Aaron Bowron with Roll Call and the Pledge to the American Flag.

BOWRON requested to change the order of the Agenda by adding, listed under “Unfinished Business” the Continued Discussion of the Grading Ordinance, and to reverse the order of Number 4 and Number 5 so that “New Business” would be addressed first.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Pratt to adopt the Agenda with the addition, listed under “New Business”, the Continued Discussion of the Grading Ordinance, and to reverse the order of Number 4 and Number 5 so that “New Business” would be addressed first. MOTION CARRIED.

III. APPROVAL OF MINUTES OF SEPTEMBER 12, 2005: DOYLE MOVED, seconded by Swanson to approve the Minutes of September 12, 2005 with corrections. MOTION CARRIED.
IV. NEW BUSINESS:
1. Randy Birchmeier, 12222 Carpenter Road, Flushing, Michigan 48433
   A Discretionary Special Land Use Permit to Place an Accessory Structure in
   the Front Yard (Parcel No. 08-19-400-017), Per Section 20-1804 (A)

BOWRON read Article XVIII, Section 20-1804 (A), Requirements for Permitted Special Uses:

(A) Accessory Structures
Accessory Structures in front yards in RSA and RU-1 subject to the following conditions:
(1) The lot the accessory structure shall be located on is at least 400 feet deep or
    adjacent to a river or lake.
(2) The accessory structure shall conform to all minimum front and side yard
    setbacks required for principal structures in the district it is located in.
(3) The accessory structure shall either be screened from view of the roadway and
    adjacent lots or be designed to be compatible with surrounding residential
    structures in size, height, style of siding and landscaping.

7:07 P.M. OPEN FOR PUBLIC COMMENTS:

RANDY BIRCHMEIER (BIRCHMEIER) who currently lives at 10195 Stanley Road,
Flushing, Michigan gave the following information on the request for the proposed accessory
structure and proposed home that he (Birchmeier) is planning to build:
• the proposed home would consist of 1,600 square feet
• a 32’ x 48’ pole barn type accessory structure has been requested with the following
  features:
  1. shingles and metal siding the same color as the proposed home.
  2. the approximately twenty (20) foot tall structure would set in front of the
     proposed home.
  3. electricity would be in the structure.
  4. concrete floor.
  5. proposed construction date for the structure would be this year (2005).
  6. well and septic permits have been applied for.
  7. twelve (12) foot side walls on the structure.
  8. (2) 10’ x 18’ overhead doors would be in the front of the structure.
  9. no windows would be in the proposed structure.
 10. 4/12 roof pitch on the proposed structure and home.
 11. purpose of the structure would be to park vehicles, store items, and to use as a
     workshop.
 12. no animals would be placed in the structure.
 13. currently there is a row of trees on the East property line; there would be sixteen
     (16) foot tall white pine trees on the South property line and down the drive; trees
     would block the view of the house on the South side.
• there would be seven hundred (700) plus feet to the house in front of the proposed structure.
• there would be five (500) feet to the West ditch.
• the proposed property consists of five (5) acres.

TRUDY WYATT (WYATT), fiancé of BIRCHMEIER, stated the structure would be situated on the property so that when looking out the kitchen window, to the East of the proposed home, there would be a “jog” in the property so the proposed structure could not be seen.

DESIGN OF THE PROPOSED HOME:
• 1,600 square foot ranch home
• three (3) car garage
• permits for both the house and the accessory structure will be applied for on October 4, 2005.

COMMENTS FROM THE AUDIENCE:
1. Joan Henderson, 12172 W. Carpenter Road, Flushing, Michigan – “has lived East of the proposed property for thirty (30) years; has no objections to the house but would rather not have the pole barn constructed in the proposed area.”

7:16 P.M. CLOSED TO PUBLIC COMMENTS

SWANSON MOVED, seconded by Pratt to approve the accessory structure in the front yard at 12222 Carpenter Road as per the plot plan and Article XVIII, Section 20-1804 (A). MOTION CARRIED.

V. UNFINISHED BUSINESS:
1. Continued Discussion of the Grading Ordinance

JUSTIN SPRAGUE (SPRAGUE), on behalf of Rowe Inc, had presented a proposed Grading Ordinance at the August 22, 2005 Special Planning Commission Meeting.

OBSERVATIONS:
BOWRON stated the Planning Commission, as a whole, is bound to consider and ideally equally balance the community’s’ interest and individual property owner’s interest. The community has a legitimate interest in eliminating potential and existing flooding. Individual property owners have a legitimate expectation in the interest or goal that could be realistically achieved, with an unnecessary delay and expense as would be practical. Each position would be reasonable; accordingly, should also be the means they are achieved.
At the last Special Planning Commission Meeting the following premises were established:

1. flooding is a significant problem in the community.
2. its cause, in large part, is due to improper grading connected with residential construction particularly with raised septic fields.

The assumption drawn was that many instances of flooding could be eliminated by preempting their underlined causes through the implementation of a grading ordinance. BOWRON suggested the validity of the assumption be examined; i.e., that a grading ordinance would be the most appropriate way to resolve flooding before prematurely acting upon the matter. BOWRON stated his chief concern with implementing a grading ordinance would deal with potential unnecessary expense and delay. There would be an additional expense to the applicant. SPRAGUE speculated the costs would be between $100.00 to $500.00 depending upon the scope of the project. DOYLE had previously stated there would be delays occasionally by complying with the grading ordinance which would increase immensely. The cost would be born by the applicant.

In proving the contention that a grading ordinance would cause unnecessary expense and delay is the fact that the ordinance already provides, in a less bureaucratic costlier and time consuming manner, the authority and process for heading off any potential drainage issues.

BOWRON read Article IV, Section 20-403, Lot Sizes and 20-410, Lot Grades which state:

Section 20-403:
…The final grade of the material covering the septic system, and the final grade of the lot shall be established so that any increased water run-off attributable to installation of the septic system shall drain to the front road ditch or follow drain patterns, without increasing the amount of water run-off to adjoining properties. A site plan to scale is required before a building permit will be issued.

Section 20-410 (b):
(b) Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, and shall be approved by the township building inspector and such other authorities having jurisdiction over such system.

BOWRON stated the Planning Commission had the authority to encourage and enforce compliance with the ordinances.

Article XXI, Section 20-2100 (A) (1), Administration and Enforcement states:
(1) If the Zoning Administrator shall find that any of the provisions of this chapter are being violated, he shall notify, in writing, the person responsible for such violation, or the owner of record of the lot upon which such violation is taking place, indicating the nature
of the violation and ordering the action necessary to correct it. He shall order discontinuance of the illegal use of any lot or structure; or of illegal additions, alterations, or structural changes; discontinuance of any illegal work being done; or shall take any other action authorized by this ordinance to ensure any other action authorized by this ordinance to ensure compliance with or to prevent violation of its provisions.

BOWRON stated his last concern dealt with allocation of township resources. A grading ordinance would assume it must have an appeals process. Whether the Zoning Board of Appeals (ZBA), Planning Commission, or a Special Appellate Board would hear the appeal, it would require time and manpower. Everything that would be done could be subject to appeal, but very few of the decisions, orders, or rules of the Planning Commission are ever actually appealed. By subjecting every single home builder to a grading ordinance, the pool of potential appellants would substantially increase.

There were two (2) questions proposed at the last Special Planning Commission Meeting:
1. Does the Township really need or want the grading ordinance.
2. If the Township wanted or needed a grading ordinance, what form would it take?

Currently, the Planning Commission is still at the first step as to whether the Township really needs or wants a grading ordinance.

DEBATE AND DISCUSSION:
- **DOYLE:** there is already authority in the ordinance. If any items needed to be added, it could be amended. It would be necessary to have a plot plan which would explain how a grade is designed and subject to final approval before the building inspector would give final approval as to the use of the house.
- **BOWRON:** the major cause of the grading ordinance was the residential construction which currently is exempt. **BOWRON** reviewed: Article IV, Section 20-403

> “…A site plan to scale is required before a building permit will be issued.”

- **SWANSON:** there was a requirement to have a site plan showing the location of the septic tank. The problem was a re-occurrence when people were building their homes and did not know the location to place their septic tanks; in the end there wasn’t enough room available for the system; the septic tanks would then have to be placed in the front yard.
- **DOYLE:** there were larger minimum lot sizes established.
- **FITCH:** the Land Division Act of 1999 originally stated two (2) acres or less in size would follow the rules for on-site septic systems by the rules of the Department of Environmental Quality (DEQ). In the spring/summer of 1999, the construction of septic
systems was stopped in Flushing Township; currently, one (1) acre of land is required. When someone comes into the office to divide a parcel of property, the first question asked is “what is the minimum lot size.” The ordinance requires a one hundred (100) foot frontage and 30,000 square feet of total land area. It has been very difficult to get a septic permit if there is less than one (1) acre of land. With the Land Division Act, there is a maximum length ratio of one (1) to four (4). **EXAMPLE:** If the lot is one hundred (100) feet wide and four hundred (400) feet deep which would be less than one (1) acre of land.

a. Section 20-403 was approved in 1999  
b. there will always be drainage problems  
c. would the extra cost to be added to the price of the house and the time period to review all the information be justified?  
d. the 36 inch to 48 inch above-the-ground septic system has been the determining factor.  
e. within the past three (3) years there has been more problems with sump lines and culverts than with raised septic systems

- **SWANSON:** if dealt with septic issues on a one-to-one basis, and not have an ordinance, would there be enough tools, with what the township has, to deal with the issues or should there be an ordinance?  
  - **FITCH:** the current ordinance could be “tweaked”.

- **DOYLE:** the property soil would make a difference in what type of septic system could be installed:  
  a. completely raised system  
  b. underground – depended upon the amount of sand underneath the septic bed (18” to 2’)

With the raised septic system, the end results would be as to how much water would be shed to the neighbor’s property. All houses needed to have a plot plan to show what the grades would be because in order to get a septic permit from the Health Department. If the property had a clay base, there would be no place to put a septic field.

- **DOYLE:** a lot of townships do not use the raised septic system. **EXAMPLE:** in a situation where there has to be a raised septic system and there has to be three (3) feet of fill underneath, then the tile is set on top of the fill, then another foot of topsoil - there would be a problem. The plot plan would take care of the grading.

- **DOYLE:** if there was a plot plan, which becomes like a site plan and showed grades, the water would not flow to another parcel. Why not amend the ordinance a little to take care of the issue. If a grading ordinance was in affect, it would create another hardship dealing with the construction of the home.

- **DOYLE:** if the Planning Commission wanted to add anything, it should be added to the site plan.

- **FLOWERS:** would lot sizes be an issue with the particular grading plan or would it be eliminated with larger lot sizes – perhaps an acre of land?
• **DOYLE:** originally when the Planning Commission went from one-half (1/2) acre to three-quarters (3/4) of an acre, there was enough room left for an additional system even with the 1,000 lineal feet of bed. When looking at increased acreage, would the Planning Commission be demanding the property be too large so that it would take up more property and end up with property that could not be used for anything.

• **BOWRON:** there would be urban sprawl – larger lot sizes and “gobbling” up more land. On the other side, there would be less dense development.

• **PRATT:** has a concern with larger lots. What would happen when an existing system failed when on a small lot an above-ground system has been prescribed? **FITCH:** a permit would be granted by the Genesee County Health Department.

• **DOYLE:** the septic bed would be placed together so there would not be any separated trenches. The process: there would be excavation of the full septic area, not a trench every six (6) feet; a system would be built that would be full of rock which would take less room.

• **BOWRON:** felt there didn’t need to be a grading ordinance; currently, there is sufficient authority in the ordinance. Reference was made to Article IV, Section 20-403 and Section 20-410 (b).
  
  a. **Current Section 20-410 (b):**
     
     (b) Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, and shall be approved by the township building inspector and such other authorities having jurisdiction over such system.
  
  b. **Proposed Amendment to Section 20-410 (b):**
     
     (b) Grades on any lot upon which new construction or earth movement is to be carried out shall be related to existing grades and drainage systems such as to provide adequate drainage and not jeopardize such existing drainage systems, and shall be approved by the township building inspector and such other authorities having jurisdiction over such system **WHO MAY REQUIRE A GRADING PLAN WHICH HAS BEEN DULY COMPLETED AND CERTIFIED BY A REGISTERED ENGINEER LAND SURVEYOR.** (BOLD CAPS indicate additional wording).

• **BOWRON** inquired if the current ordinance would be sufficient to eliminate the drainage problems or should the Planning Commission go with the larger lot sizes or larger frontage.

• **SWANSON:** the County has mandated there be an acre of land to install a septic system; the township should cover the issue to protect the individual purchasing the property or doing land splits so the individuals would know a septic system could be installed.

• **FITCH:** a separate set of rules is used when the perk test has been prescribed – instead of using Genesee County Health Department rules, which would be great for one (1) acre or larger, rules mandated by the DEQ are used.
• **DOYLE:** everything depends upon the septic system. If the land is sand, a house could be constructed on one-half (1/2) acre of land.

• **SWANSON:** there are no septic issues on the North section of Flushing Township due to the sand – clay is all over the South end of Flushing Township.

• **DOYLE:** if the Genesee County Health Department would tell an individual what he/she had to have for a certain size septic system, there would be no choice but to have more property.

• **BOWRON:** if the Planning Commission went to the minimum lot size of one (1) acre, it would bring the minimum lot size in conformity with the general ordinance.

• **FITCH:** an acre of land is not required, but if the property consists of one (1) acre of land, septic permits would be a lot easier to obtain.

• **PRATT:** septic systems have been designed to work with problem fields.

• **FITCH:** Some people have been denied a septic permit until sewers have become available.

• **PRATT:** there are always worst case scenarios where the lot would not be buildable.

• **FITCH:** currently, if there is an existing home on the lot, and the septic system failed, the Genesee County Health Department would come up with a system that would work on the property.

• **SWANSON:** the Owosso area required two (2) acres minimum of property for septic systems

• **GIBBS:** the State Farm Bureau has requested there be enough room for a septic system that would work. Why does the Planning Commission have to continue to add size to a lot? Every time size has been added to a lot, ground has been taken out of production in the State of Michigan.

• **SWANSON:** for the most part all the good buildable lots have been taken up.

• **BOWRON** stated there were three (3) options:
  1. go with the grading ordinance
  2. don’t go with the grading ordinance but go with larger lot sizes
  3. amend the current ordinances to make explicit what is implicit
  4. don’t do anything – there is sufficient authority (in the ordinances) to handle what has to be done.

**PRATT MOVED,** seconded by Doyle, that at the current time, that Flushing Township does not adopt a grading ordinance.
DISCUSSION ON THE MOTION:

- **GIBBS:** bigger lots are not needed in the township, but should be wiser as to the location where houses are constructed.
- **DOYLE:** at the present time there are no problems. It is always open to the Planning Commission to amend the ordinances. If a property owner had a problem with the septic system and had to put in a different system because the County felt that three-quarters (3/4) of an acre was not large enough, the property owner could still use his property. Larger parcels would cost more especially if there was more frontage. A grading ordinance would not answer all the problems; it would only make another item the proposed owner would have to pay for which would not be of any value in their particular case.
- **BOWRON:** the Planning Commission currently has full and complete authority in the ordinance. If there was a grading ordinance, it would unnecessarily cause additional expense and delay.
- **DOYLE:** ordinances could always be amended.
- **SWANSON:** the Township does not need a grading ordinance; if there were issues which the Planning Commission needed to address, the current ordinances could be “tweaked” to address the problems. In some areas where there is one (1) acre of land, there is all kind of room for septic systems; but, in other areas of the township, one (1) acre of land would not be enough. Why make the property owners in the northern part of the Township purchase more land when it would not be needed.
- **FLOWERS:** his neighbor, who lives on the South side of the road, has an 800 foot septic field because he has clay soil; **FLOWERS** lives on the North side of the road and has a 400 foot septic field but has sandy soil. Not in favor of an ordinance. Something should be done to protect the water runoff for the future.

ACTION OF THE MOTION:
(PRATT MOVED, seconded by Doyle that at the current time that Flushing Township does not adopt a grading ordinance).

ROLL CALL VOTE:
AYES: Doyle, Swanson, Gibbs, Pratt, and Bowron
NAYS: Flowers MOTION CARRIED.
ABSENT: Buell

DETERMINATION OF THE PLANNING COMMISSION:
The Charter Township of Flushing currently does not need a grading ordinance.

ADDITIONAL OPTIONS:
2. Increase the minimum lot size.
3. Amend the ordinance.
4. Don’t do anything.

DISCUSSION ON REMAINING THREE (3) OPTIONS:
2. Increase the minimum lot size
   a. **GIBBS:** if continued increase of lot sizes, it would eventually take the land out of production and there would not be any ground left.
   b. **PRATT:** doesn’t feel the problem would be solved by having larger lots. There would always be lots that would not be buildable; not a requirement or law that individuals have a larger lot, but more of an optimum situation for most lot conditions which the County required - for a normal septic system for a normal family.
   c. **GIBBS:** some of the lots in the area have a one hundred fifty (150) feet frontage but are six hundred (600) feet deep; approximately three hundred (300) feet (back property) would be a waste of land.
   d. **FLOWERS:** some houses today are only built with one (1) bathroom.
   e. **DOYLE:** the septic system is based on how many bedrooms are in the house.
   f. **SWANSON:** not against larger lots but:
      1. the requirement would not necessarily be a subdivision - one lot.
      2. many provisions in the ordinances are for higher density which is the open space condominium developments, where people can get the smaller lots.
      3. if a developer wanted to put a subdivisional septic system in, it would require 100’ x 400’ deep – would go in the direction of open space. (There could possibly be a lot split).
   g. **DOYLE:** the soil of the property determined the septic system. The ability to adjust the ordinance, by an amendment would be simple, but if found the problem continued to occur due to the Health Department demanding more than what was currently demanded as far as size, then why worry. If an ordinance was put together, it would not include what was to happen in the future. There could be a potential problem, but not sure. The drainage from the septic system has been the biggest problem.
   h. **PRATT:** should continue to have direct communication with the Building Inspector.
   i. **DOYLE:** the Building Inspector would have more tools if there was a site plan that had the grades that showed exactly where the system was to be located. A designed drawing is required in order to obtain a septic permit; the information should be on the plot plan.
   j. **BOWRON:** before the discussion, he (Bowron) was in favor of larger lot sizes; now opposed to the larger lot sizes. Felt the proposed Grading Ordinance unduly burdened petitioners with unnecessary expense. Felt the Planning Commission would be in the same situation if demanded a one (1) acre lot size. Currently, if a septic system could be placed on 30,000 square feet, he (Bowron) would be comfortable with the situation.
   k. **BOWRON:** felt the building inspector/official should have the discretion to require a grading plan.
l. **FITCH:** currently, site plan drawings are required. There are five (5) permits required to obtain a building permit: 1) Genesee County Drain Commission – Soil and Erosion; 2) Genesee County Road Commission (to cross the road ditch); 3) Septic or Sewer Permit; 4) Well or Water Permit; and 5) Site Drawing of the house and proof of ownership.

m. **GIBBS:** should be more selective as to the location of homes and the ground that is used. The elimination of farm land could come soon. Every time a house is constructed, it is adding more water to the drainage, taking more usage out of the area, and would require more water, power, to schools.

n. **BOWRON:** the PDR Program would address the concerns which **GIBBS** mentioned. The Township could not restrain a farmer from selling to whomever he/she wanted to sell to.

o. **GIBBS:** could make the property more appealing through fewer taxes which would encourage farmers to keep their land.

p. **DOYLE:** the State of Michigan has control of taxes.

q. **BOWRON:** consensus – larger lots not to be dealt with at the present.

3. **Amend the ordinance**

a. **SWANSON:** by amending the ordinance to give the building inspector more definite authority (discretion) would require the site plans, from engineering firms, be more explicit.

b. **FITCH:** would prefer to have the “discretionary” word used in written form.

c. **BOWRON:** review a sample ordinance from Holly Township entitled “Building Grades” – **BOWRON** felt if the Flushing Township Planning Commission wanted to modify the current ordinance, the following verbiage should be used:

   “the final grades shall be approved by the Building Official who may (discretionary) require a grading plan which has been duly completed and certified by a registered engineer or land surveyor.” (Interpretation: at the building inspector’s discretion, request or require of the applicant, that he bring the building inspector a grading plan per the engineer.) (hereafter known as “Paragraph A”)

d. **FITCH:** he would have no problem with the wording; the value of the property would be in the frontage. **BOWRON:** the wording is currently in the ordinance.

e. **SWANSON:** by adding the verbiage there would not be any questions in the future.

f. **FLOWERS:** are the septic systems in a one hundred (100) foot lot more difficult to achieve than having a wider lot? **FITCH:** sometimes it is
where the house would be located would determine if there would be enough room for the septic system.

**BOWRON** felt the ordinance should stay as is. **FITCH** stated the request for a Grading Ordinance had come from the Administration. **DOYLE** stated the sump lines could be placed above the ground and would be similar to the drain pipes that come down the side of houses and would then drain out onto the yard/field.

**CONSENSUS:**
1. **BOWRON:** leave the ordinance as is.
2. **PRATT:** comfortable with the existing ordinance.
3. **DOYLE:** the ordinance is fine but could amend to add Paragraph A sometime in the future.
4. **FLOWERS:** has no problem with the ordinance but could add Paragraph A sometime in the future. The Planning Commission has to look down the road.
5. **SWANSON:** agreeable to leave the ordinance as is. If **FITCH** should have a problem, the Planning Commission would work with him.
6. **GIBBS:** if **FITCH** is comfortable with the ordinance, he (Gibbs) has no problems.

**ABSENT:** Buell

4. **Don’t do anything**
   Consensus was to not do anything at this time.

**VI. PUBLIC COMMENTS:**

8:30 P.M. OPEN FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS
8:30 P.M. CLOSED FOR PUBLIC COMMENTS FOR NON-AGENDA ITEMS

**VII. BOARD COMMENTS:**

1. The next Regular Scheduled Planning Commission Meeting will be held Monday, November 14, 2005.
2. **BOWRON** would like to discuss *Conditional Rezoning* at the Special Planning Commission meeting to be held on Monday, October 24, 2005. Planning Commission please review the MTA Sample Ordinance carefully.
3. **SWANSON** stated the budget for the Planning Commission would be determined at the October 4, 2005 Board of Trustees Meeting.
4. **MORFORD** inquired as to the Planning Commission members that would be attending the Michigan Townships Association (MTA) sponsored seminar entitled *Processing Land Division and Combination Requests* scheduled for December 1, 2005 at the Holiday Inn Gateway Centre, Flint, MI.
5. **FLOWERS** stated that at the next meeting, the Genesee County Metropolitan Alliance would be putting the final figures on the long range transportation plan for 2025 and 2030, which has a lot to do with the township’s master planning for the roads. The information would save the township a lot of time because the County has already done a lot of the “leg” work.

6. **PRATT** will request from the Board of Trustees, twelve (12) special meetings for the Planning Commission for the period of 2006. It was reviewed by the Planning Commission as to what had and what would be discussed at special meetings.

**VIII. MEETING SCHEDULE:**

**PROPOSED SPECIAL MEETING** – MONDAY, OCTOBER 24, 2005 – 7:00 P.M.

**REGULAR SCHEDULED MEETING** – MONDAY, NOVEMBER 14, 2005 – 7:00 P.M.

**PROPOSED SPECIAL MEETING** – MONDAY, NOVEMBER 28, 2005 – 7:00 P.M.

**REGULAR SCHEDULED MEETING** – MONDAY, DECEMBER 12, 2005 – 7:00 P.M.

**IX. ADJOURNMENT:** There being no further business, **BOWRON** adjourned the Planning Commission Meeting at 8:50 p.m.

_____________________________  ______________________________
AARON BOWRON, Chair          JULIA A. MORFORD, Recording Secretary

_____________________________  ______________________________
ERIC SWANSON, Secretary        Date of Approval

Plannersmeetings 100305