

**CHARTER TOWNSHIP OF COMMERCE
PLANNING COMMISSION MEETING**

Monday, July 10, 2017

2009 Township Drive

Commerce Township, Michigan 48390

A. CALL TO ORDER: Chairperson Haber, called the meeting to order at 7:00pm.

ROLL CALL: Present:

Larry Haber, Chairperson
Tom Jones, Vice Chairperson
Brian Winkler, Secretary
Bill McKeever
Jay Czarnecki
John Hindo

Also Present:

Russ Schinzing
Dave Campbell, Township Planning Director
Jay James, Engineer/Building Inspector
Mark Stacey, DDA Director
Jason Mayer, Township Engineer
William Petsch, Chairperson Parks Committee

B. APPROVAL OF AGENDA

MOTION by Czarnecki, supported by Jones, to approve the Planning Commission Regular Meeting Agenda of July 10, 2017, as presented.

MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MINUTES

MOTION by Jones, supported by Czarnecki, to approve the Planning Commission Regular Meeting Minutes of June 5, 2017, as written.

MOTION CARRIED UNANIMOUSLY

MOTION by Jones, supported by Czarnecki, to approve the Planning Commission Special Meeting Minutes of June 19, 2017, as written.

MOTION CARRIED UNANIMOUSLY

D. UPDATE OF ACTIVITIES

Bill McKeever – Zoning Board of Appeals

- Nothing to report.

Brian Winkler – Downtown Development Authority

- We had a DDA meeting on the 20th of June and once again, it was pretty routine.
- Mr. Aikens made another presentation on the status of the large retail property development that's currently in the process of being leased. I welcome Mark Stacey to make any additional comments he may feel are necessary.

Director Stacey - When Mr. Aikens was in, he announced that he is hoping to come with conceptual plans to the Commission in September or October of this year. We're getting closer to the rollout and we're excited to see it.

In addition, hopefully you've noticed that the sidewalks along Martin Parkway are finished. It's a nice walking area for everybody.

Jay James – Building Department

- We're busy.
- Township Board approved the sidewalk extension, along Carroll Lake Road from Leo's up to the subdivision just north of Farr Street, to make that connection.
- We're also looking into making another potential connection down by the Library.

Chairperson Haber - Is the Township doing that?

Jay James - Yes, the Township is doing that.

E. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

Regina Fronczak-Roth, 4080 Lake Pointe Lane, Commerce Township was in attendance at the meeting last month. She was bothered by comments regarding putting luxury apartments on Haggerty Road near Home Depot. She feels that the Commission should stick to the Master Plan and that area was not supposed to be for apartments. She feels that Commerce has what Novi does not have; lakes, wetlands, beauty and trees. She is proud of Commerce and doesn't want to see it developed with 288 apartments on Haggerty Road, a two lane road.

Chairperson Haber noted that was a conceptual presentation. Dave Campbell confirmed and added that it was reviewed at the June 5th Planning Commission meeting.

F. TABLED ITEMS

ITEM F1: PSU17-001 – CLARK GAS STATION – SPECIAL LAND USE – PUBLIC HEARING - TABLED FROM 5-1-17 - REMAIN TABLED

K & S Fuel Venture of Commerce MI is requesting Special Land Use for expansion of a new fueling station located at 519 Commerce Road.

Sidwell No.'s: 17-10-404-002 & 17-10-404-003

ITEM F2: PSP17-0002 – CLARK GAS STATION TABLED FROM 5-1-17 - REMAIN TABLED

K & S Fuel Venture of Commerce MI is requesting Site Plan approval for the construction of a new gas station/retail building located at 519 Commerce Road.

Sidwell No.'s: 17-10-404-002, 17-10-404-003, 17-10-404-024 & 17-10-404-025

MOTION by Czarnecki, seconded by Jones, to leave items F1 and F2 on the table.

MOTION CARRIED UNANIMOUSLY

G. OLD BUSINESS

None.

H. SCHEDULED PUBLIC HEARINGS:

ITEM H1: PZ17-0003 – K & S FUEL VENTURES – PUBLIC HEARING

K & S Fuel Ventures of Commerce MI entered into a Conditional Rezoning Agreement with Commerce Township dated January 24, 2017 pursuant to which 1.4 acres of land was conditionally rezoned from R-1D One Family Residential & B-2Community Business to B-3 General Business, located at 519 Commerce Road, 511 Commerce

Road, 4645 Broadway & two vacant properties. Preliminary review suggests the Conditional Rezoning Agreement may have been breached and the purpose of the hearing is to hear evidence regarding a breach and to consider whether the properties subject to the Conditional Rezoning Agreement should revert back to their original zoning classifications. Sidwell No.'s: 17-10-404-002, 003, 023, 024 & 025

Chairperson Haber explained that this item was a bit unusual, and it is not a site plan review. It is strictly a review to consider rescinding a Conditional Rezoning. Comments should be limited only to reversal of the Conditional Rezoning.

Unidentified Resident - I'm confused. So, what can we talk about?

Chairperson Haber - Only about rescinding the Conditional Rezoning, that's it. Not about anything to do with the building, no traffic, anything like that. We're talking about possibly reversing the zoning.

Hindo - I've said this before and I'll say it again, based on the advice of counsel. There has been mention by the applicant and their counsel that I may have a conflict of interest due to prior representation of one of the applicant owner's ex-husband. I raise that for this body to consider. I don't believe that I have a conflict. I believe I can be fully impartial; however, the applicant has raised the concern. I'm asking this body to consider it and make a determination as to whether or not you would like me to be recused from this matter.

Hans Rentrop - That is correct. The Planning Commission has the right to determine whether to permit him, or to require him to recuse.

Jones - I personally don't see any reason for conflict. I feel we should allow John to participate in this matter.

MOTION by Jones, seconded by Winkler, to allow John Hindo to participate in this matter. **MOTION CARRIED UNANIMOUSLY**

David Campbell, Planning Director, gave a review. He explained that this public hearing is to determine whether or not K&S Fuel Ventures Inc. breached the terms of the Conditional Rezoning agreement that they entered into with Commerce Township in January 2017. He briefly summarized over a year of history relating to the Clark Gas Station site, and the surrounding properties associated with the Conditional Rezoning, as detailed in his report.

Chairperson Haber opened the public hearing. He clarified the process and reiterated that this particular hearing is only about the reversion to the original zoning. He requested that the attorneys keep their presentations to 30 minutes each, and that public comments be limited to 2 minutes each.

Hans Rentrop, Township Attorney, delivered a presentation.

Attorney Rentrop - Dave did a good job of summarizing this matter. I want to make your purpose clear. This is unique and you've probably never seen it before, and there's very little law or discussion on how this happens. The Conditional Rezoning agreement process is a relatively new area of law. It's new enough not to have a lot of challenges when an agreement has been breached.

Tonight, we will provide an opportunity for you to consider both the arguments supporting the breach of the Conditional Rezoning agreement, and in opposition of the breach of the Conditional Rezoning agreement.

My job is not necessarily to advocate for one position or another, though it may seem like I'm doing so simply because someone has to present the reason for the breach. I will walk you through the information provided throughout the term of the agreement and allow you to make a decision. Your decision here tonight has one purpose only - you are a fact-finder to determine whether there has been a breach of the agreement. There are two ways in which the agreement could potentially have been breached. One, the applicants failed to comply with the Zoning Ordinance, and two, the property was not used consistently with single-family residential purposes. If you find that one or both of those have been breached, then you probably will find a breach of the agreement. It's up to you to make a recommendation to the Township Board suggesting that the property revert back to its original zoning classification. Like all zoning changes, this board is the initiating body. Unlike all other applications, your job here is only to find out if there has been a breach.

Attorney Rentrop continued his review, providing historical background on the case. K&S Fuel Ventures was formed in 2016. Farah Karana, who also did K&S, established Brothers and Sisters LLC. In the summer of 2016, K&S approached the Township seeking rezoning of the property. That agreement was ultimately entered into, but before that happened, K&S conveyed three of the five properties to Brothers & Sisters LLC in November of 2016. This was while the discussion was going on regarding the Conditional Rezoning agreement. Brothers and Sisters in turn leased the residential property to Aaos Faraj with an effective date prior to execution of the Conditional Rezoning agreement. The Conditional Rezoning was approved by the Township on January 9, 2017. There are specific provisions in the Conditional Rezoning agreement for this. He directed the Planning Commission to Page 5 of the presentation, Paragraph M:

Use of the existing residential structure primarily situated on Parcel 17-10-404-023, referenced in Exhibit B, shall be limited to a single-family residential use. That structure shall be subject to the general regulations of the Township Zoning Ordinance, and those regulations applicable to single-family uses, unless regulations are specifically contrary to this agreement and the exhibits referenced herein. The structure may be improved, modified or altered in conformance with the Township Zoning Ordinance without amending this agreement, unless such actions would be materially contrary to this agreement as determined by the Planning Director, in his or her reasonable discretion.

Attorney Rentrop explained that this is the provision that the Planning Commission is here to decide upon tonight. On January 24, 2017, the Conditional Rezoning

agreement (CRA) was fully entered and executed. The CRA pertained to all five properties; though three of the properties the applicant didn't own at the time. It came to the attention of the Township in February of 2017 that the other three properties were not owned by K & S Fuel when the CRA was entered into. Attorney Rentrop worked with the applicant's attorney to rectify the situation. Brothers and Sisters LLC passed a resolution approving the zoning changes to the properties, and the properties were subsequently conveyed back to K&S Fuel; but Brothers and Sisters were involved in the leasing.

On or about the beginning of March 2017, someone made contact with the Township stating that they felt that the residential structure was not being used consistent with residential. They felt it was being used for a marijuana grow operation. This was investigated by Jay James, Building Inspector.

Jay James - As Hans mentioned, it was early March when I received an email concerning this property. People felt it was being used for a grow facility. I went out there and immediately noticed 90% of the windows were blacked out or covered with newspaper. The only windows that were not covered were into a vacant part of the building. There were also several video cameras installed on the outside of the building with the wires between them running up over top of the roof. I knocked on the door several times and there was no answer.

Based upon what I could see there, and what I had received from the residents, I left a red tag on the house indicating that it appears there might have been some work done without a permit, and to contact the Building Department to discuss the situation. While I was putting the tag on the door, I could smell marijuana on the outside, faintly. From there, I drove immediately to the Clark Gas Station and went in to talk to the owners. They were not there at the time, so I left a message for them that I would be back, or to call me when they were in.

I did get a call from the owner and I went out to meet with Farah and Marah at the Clark Gas Station. I explained to them what I felt was going on in that structure. They seemed surprised and acted as if they didn't realize what was going on. They asked me how I knew that's what was happening. I explained that the video cameras are there for a reason, and I could smell the marijuana. I walked them out into the parking lot to look at the building. I said, "Can you not tell something is going on there?". They seemed surprised and that they didn't realize. I told them that I would bet my paycheck that there was marijuana being grown in that house, and that is a big issue in the Township, and it's something that could affect their plan. They had gone through all of these steps to get to the point where they had received approval, and this could be a big stumbling block. It was something they needed to address immediately.

Attorney Rentrop - Jay, could you see the house from the parking lot of the Clark Gas Station?

Jay James - Yes, as you pulled up, if you're looking at the Clark Gas Station from Commerce Road, on the left side of the building if you pulled into those spaces, which is where they parked, the house was immediately in front of you.

Attorney Rentrop - Could you see from that position the video cameras and windows blocked?

Jay James - Yes.

Attorney Rentrop - Could you smell marijuana from that location?

Jay James - Not from that location, no.

Attorney Rentrop - I assume you've seen more than a few residential structures during your time as Building Inspector?

Jay James - Yes.

Attorney Rentrop - And would you say that, based upon your observations that day, that was being used consistent with a single-family residence, or would that be different than what you've seen in the past?

Jay James - It was different in the fact that there were cameras, and all the windows were blocked out. Those were immediate indications to me that it wasn't being lived in. You only see that when there are grow facilities going on.

Attorney Rentrop - Thank you. After Jay's inspection, on or about the 7th of March, and visiting the property subsequently on March 15th of this year, Brothers and Sisters sent a letter confirming that the tenant would vacate on April 15th as they would need 30 days to evict. While that eviction period was pending, the Oakland County Sheriff's Department (OCSD) made an investigation of its own. At this point in time, I would ask that Detective Sergeant Dare come up. Detective Sergeant Dare was not the author of the police report; the author was Detective Liggett. Detective Liggett is an undercover officer with narcotics enforcement. We are asking that his identity not be revealed; however, Detective Sergeant Dare was present at the scene when everything happened and he can testify to what was noted in the police report as well.

On April 12, 2017, the OCSD obtained a search warrant for the property. I'm referring to Paragraph E of that search warrant affidavit, and mind you, this is a sworn statement. It says:

On March 13th of 2017, the Sheriff's Narcotic Enforcement Unit received an anonymous tip regarding a complaint of an illegal marijuana grow operation located at (redaction due to FOIA request through which these reports were obtained; however, the address is known for this investigation and the FOIA request) ____ address. The tip states people were observed bringing marijuana grow operation supplies into the vacant home, with no observed current occupants living at the residence. That the windows had paper coverings to block the view inside the residence, and that the exterior surveillance cameras were recently installed with the cable thrown on top of the roof.

Attorney Rentrop - This is what was reported to the Sheriff's Department. Detective Liggett then confirmed in Paragraph F that *the property belonged to K&S Fuel Ventures,*

as we know. In Paragraph G, *the detective performed surveillance on the residence and detected an odor of fresh marijuana while he sat just east and downwind of residence, standing on a neighboring business parking lot.*

We don't know what parking lot that is, but he could smell marijuana and I'm sure he's an expert in that area.

Also, on March 14, 2017, *detective performed surveillance on the residence and observed all windows and doors had white blinds that were closed, black curtains, and black plastic coverings on the inside blocking the view of the residence.*

Paragraph 5, on March 14, 2017, *the detective performed surveillance on the residence and observed condensation on the windows of the residence.*

Paragraph J, on March 14, 2017, *when the detective performed surveillance on the residence, there were 4 exterior white surveillance video cameras attached to the structure; 3 cameras were observed on the east side of the residence, 1 camera observed on the west side. The wires on the cameras were not attached to the building and were draped from one camera location to the next location.*

On March 14, 2017, *detective observed that the top 5 feet of the roof approximately from the peak down was free of snow that had recently melted. The current outside weather temperature was 22 degrees Fahrenheit and there was a recent snowfall that still covered the remainder of the roof. Several similar neighboring residences were observed in the area that the snow covered with no exposed shingles due to melting snow.*

Paragraph L, on March 14, 2017, *detective observed that the residence is equipped with a very large air conditioning condenser unit on the rear side of the residence.*

Finally in Paragraph M, *from the time period between March 13, 2017 and March 20, 2017, detective performed surveillance on the address on 5 occasions at varying times in the morning, afternoon and evening and did not observe any activity at the address, nor vehicles parked in the driveway as would typically be observed at an occupied residence.*

On the next search warrant affidavit, Paragraphs E and F are the same as before, but G is different. On April 11, 2017, *detective performed surveillance on the residence and did detect an odor of fresh marijuana just east and downwind of residence standing on a neighboring business parking lot.* So a second time he observed the smell of marijuana. On April 11, 2017, *detective performed surveillance of the residence and observed all windows, doors and blinds were closed, black curtains and paper bags ... again, the windows were covered.*

Finally in Paragraph M, this time between the periods of March 13, 2017 and April 11, 2017, *he observed on 8 occasions at various times during the morning, afternoon, and evening hours, and did not observe any activity at the address, nor vehicles parked in the driveway as would typically be observed in a residence.*

The point of all of this is, on at least 8 occasions, Detective Liggett visited the property and never saw anyone there.

On April 12, 2017, the Sheriff's Department executed the search warrant upon the property. Again, we obtained this report through a FOIA request. The report states first off, *an anonymous tip was forwarded to the Sheriff's Department by Township Supervisor, David Scott. The tip reiterates that the windows were covered, everything was blocked and cameras were thrown across the roof of that building, et cetera.*

Again, under investigation, he lists the things he observed, *the condensation, the windows, cameras, the large AC unit, et cetera.*

On the next page, they did do an aerial search on the property and that's why there were two warrant requests.

Ultimately, they did obtain a search warrant for the property. Under Observations, the property is described as *a residence, a 1,532 square foot ranch style home with 2 bedrooms, one bathroom, on a slab foundation. The residence was disorderly, sparsely furnished in the living room, with no clothes, beds, dressers, or personal care items located at the residence. There was no shower curtain in the bathroom. The northwest bedroom was empty and unfurnished. The second bedroom contained spare reflective ductwork, extra HID lighting and bulbs, marijuana drying racks, wire fencing, spare air filters, and other marijuana cultivation materials. The living room contained two couches and a television set. There was a surveillance system, DVR and Wi-fi router on the table in front of the TV, and an abundance of wiring on the floor that led to 8 different surveillance cameras inside and outside the residence. The kitchen was empty with no cooking utensils, pots or pans, drinking glasses, or silverware located. There were two basic tools on the counter with an Xfinity internet bill, and the mailing address on the front showed Alex Faraj.*

On the south side of the kitchen was a closed, unlocked key door that led to the utility room. The keys that fit the lock were observed, and confirmed for the door, hanging on a nail on the top of the door.

Another door to the south did not have a keyed entrance, but a turn knob bedroom door where the locking turn knob was on the utility room side.

The reason I bring this to your attention is this goes to compliance with the Michigan Medical Marijuana Act (MMMA) and compliance with the Township Zoning Ordinance. At this point in time, I'll ask Detective Sergeant Dare, is that consistent with what you observed as well, and if you would like to add anything?

Detective Sergeant Dare - Yes, I would say it was consistent to what we saw the day the search warrant was executed.

As far as adding anything, there were no beds. There was a couch in the living room that had a blanket on it. The rafters were exposed from a piece of drywall missing and those were very rotted. Other than that, I think that clarifies all of it.

Attorney Rentrop - Did you observe anything in the house besides the couch with the blanket on it that would suggest that someone was living and residing in that residence? Was there any food there, were there dishes in the sink? It doesn't sound like it, but did you observe anything like that?

Detective Sergeant Dare - No there was no food, no dishes in the sink or cabinets. Other than that, no. I would say it was an empty house, but it wasn't because it was a marijuana grow operation.

Attorney Rentrop reviewed the Actions Taken section of the report. *It was indicated that attempts were made to identify and locate the marijuana cultivator. Alex Faraj was located as residing in Lyon Township. A request was made to Lyon Township Deputies to make contact. Alex was not at the address but contact was made with the mother and she was asked to have him contact authorities.*

At the bottom of Page 9 of 12 of the report, *Alex Faraj called the detective's cell phone after leaving the address. Alex did not know what marijuana growing operation was being referred to and he did not know anything about the address or anything in Commerce Township. Alex came to the Sheriff's office for an interview. He was read his Miranda rights and he waived them. Alex stated he does not know anyone in Commerce Township and he felt that someone had fraudulently used his name for the Xfinity-Comcast bill.*

The next Interview was with Jacqueline Husak. She stated that she had been *approached by two younger, middle eastern men last fall whom had come from the subject residence to introduce themselves. They introduced themselves as Aaos and Jovan or Jovar, who were friends with Clark, the gas station adjacent to the property. They stated they refurbish houses and would be working on the home, and lived nearby.*

Down farther to the Investigation, *they obtained DVR surveillance. During the course of this they observed stored data video to further ascertain the responsible marijuana cultivator. On the video dated April 8, 2017, at approximately 1930 hours, I observed an unknown white male subject drive up in a white Dodge Ram pickup, park at subject residence, unlock the front door and enter into the marijuana grow room where he tended to the plants and was using his cell phone to take pictures/video of the grow. At this time the subject is still unidentified. The Xfinity statement at the residence showed a username of ____ .aaos. I located an Aaos Abed-Kadhim Faraj, DOB: ____ whose address with the Secretary of State was in ____ and obtained a photograph of Aaos Faraj from MIDRS. The photo did not match the person on video dated April 8, 2017.*

Attorney Rentrop noted that the photo on the overhead, according to the Deputy, was not the person who was the resident of the house. He returned to the report, discussing the interview with *Aaos Faraj, who stated the marijuana grow op was his and that he had been renting the residence for about 9 months from the lady who owns the Clark Gas Station. Aaos stated he had been to the house since the search warrant and stated he read the search warrant. Aaos stated he does have a ____ (medical marijuana ID card). Aaos stated he was upset with the condition the house was left in, and that he didn't know what the \$4600 on the tabulation was about. Aaos stated the money wasn't his.*

Authorities had found \$4600 cash underneath the couch during the raid.

In the second paragraph of Further Action Taken, *after reviewing the evidence and information discovered later through the investigation, there was a command decision that in lieu of prosecution for violating certain points in the Michigan Medical Marijuana Act, that in this particular case it would be better suited to educate Aaos Faraj of the infractions.*

It was a command decision not to prosecute. It was not a decision that there was no crime committed in violation of the Act; it was simply a decision made by the command officers not to pursue it further.

At the bottom of that in the Follow-Up Report, note that *Aaos Faraj and his attorney Michael Kemnitz came to the OCSO to return the seized property from the address. Both were advised they were free to leave at any time and shown the interview room door was unlocked and closed only for privacy. Aaos Faraj was advised of the infractions to the MMMA statute. Aaos Faraj and his attorney read a drafted form stating*

the seized money from the address was being returned to Aaos Faraj where his signature states he was and is the owner of the seized money.

Attorney Rentrop reiterated all of the items listed in the report suggesting that something was different with this residence, and suggesting that it was not being lived in. He also addressed the Xfinity bill in detail that identified Alex Faraj, and another invoice located at the residence which showed electrical updates which were done without inspections. The presentation progressed into photos of the inside and outside of the house, and Attorney Rentrop reviewed the items in each photo, which supported the statements made in the reports previously reviewed herein, including the locks on the doors, the keyed doors, wires across the building, evidence of forced entry into the house, and evidence of the grow operation throughout the house including grow lights, preparations for an additional grow room, wiring, grow equipment, additional locks, and a calendar identifying the harvesting days for the operation.

Fire Marshal Todd Martin had taken photos. He approached and he and Attorney Rentrop went through each photo in detail and confirmed the observations of the grow operation. There was improper electrical work, fuses that had blown, extra fuses for replacements, barrels of chemicals, and curious electrical work at the furnace, along with random extension cords run by switches, pots, filters, ventilation to counteract the heat from the lights, a remote AC unit, timers, transformers and more. The limited furniture in the house was also reiterated in the photos as previously discussed herein.

Chairperson Haber noted that Attorney Rentrop's presentation was running overtime.

Attorney Rentrop noted that due to the extensive electrical issues, Jay James had inspected and red-tagged the property, saying the property could not be used. He also took a number of photos. The violations are being dealt with through building code enforcement.

He added that Aaos Faraj entered an affidavit, dated June 6, 2017, swearing under oath that he did reside in the house and that he treated it as his place of residence. He also provided copies of the utility bills in his name. He also indicated that he has a license to grow marijuana and the OCSD confirmed that. Aaos stated that he had not violated the MMMA, however from the observations, that is probably not true.

After this occurred, the Township Board directed the Planning Commission to consider whether there had been a breach of the CRA, and specifically whether or not the property is in compliance with the Zoning Ordinance for single-family residential uses.

Attorney Rentrop reiterated the above testimony and facts presented for the Commissioners. He also elaborated on the violations of the MMMA by Aaos Faraj. In closing, Attorney Rentrop stated that arguably, there had been a breach of the CRA. He also requested that each counselor be given equal time to summarize a rebuttal at the conclusion of the hearing.

Attorney Peter Webster, Dickinson Wright, was present on behalf of K&S Fuel Ventures, along with Farah and Marah Karana.

Attorney Webster - I appreciate the presentation that Hans provided, and I'd like to go over a couple things. First, I want to make sure that as part of the record, that it includes the residential lease that was entered into here.

Framing this, the question is whether K&S Fuel Ventures breached the Conditional Rezoning agreement (CRA). As it's presented to you, K&S Fuel Ventures entered into a residential lease with Mr. Faraj. That lease was supposed to start in December, and they thought that they were leasing it to an individual who was going to live and reside in the property. That's what their intent was. That's what the lease document says that should be included as part of the record. Nothing you've heard here tonight makes that any different. In fact, Mr. James the Inspector stated that when it was first brought to their attention that there was an issue here with this particular house, that there was some surprise that there was an issue because they thought they had been using the property consistent with what they said they would do, and that is to lease it out for single-family residential.

The sole focus is whether the property was used as single-family residential. The MMMA and its violations is somewhat peripheral, but I'll address that as well. Part of this is that the intent of the owners was to lease this out for single-family residential, and that's what they thought was done. When it was brought to their attention, they moved swiftly and decisively to correct the situation. Clearly, what the tenant was doing was unusual, but he was a permitted user under the MMMA, that the quantity of the plants ... It's not my style, but he was using it consistent with the MMMA. As I understand it, the concern of law enforcement was that the property was not locked and had only access to the person who was in charge of that. There weren't any charges brought here. When this was brought to the attention of K&S and the gals, they worked with the Township and entered into a lease termination agreement. Within 30 days, from March, Mr. Faraj was out of the building. That's documented by the lease termination of April 15th or thereabouts. On the heels of that, they worked with Mr. James as well to hire a contractor to bring the building up to code so that they could lease it for single-family residential use. That is ongoing and a major hurdle of that work was correcting the electrical issues. I wanted the record clear that after being made aware, the owners took swift action to evict and renovate.

It wasn't the owners who were doing this. The documentary evidence of the lease doesn't show that they had any intent on allowing this to happen. The lease is not for a commercial grade operation, or anything of that nature.

Further, what you heard here is that the use of medical marijuana, the plant cultivation, could be done at anyone's home as it's a residential use. Everything that was confiscated during the raid was actually returned to Mr. Faraj, and there was not a charge brought here. The issue is whether there was access to the property.

With respect to the affidavit of Mr. Faraj, it clearly states that he entered into this residential lease and that he intended to treat it as his residence. There were some leading questions that were asked here. I appreciate the responses of the Detective Sergeant, and of the Inspector and Fire Marshal, and if need be, I can ask questions as well; but when you look at the photographs, indeed, again not my style, and it's by far not where one would want to raise kids, but that's not the test here. The test is whether Mr. Faraj was living there, and there's an uncontroverted affidavit that says that he was living there. When we look at the photographs, he said that he slept on the couches. He said that he lived there. He has his entertainment system, he had the television, he

had the X-box there, his guitar was there. He said that he ate there. Some of the photographs evidence where he would bring carryout food there and that's where he ate. He used the bathroom facilities, that is clear; the toilet is there, the toilet paper is there, so there's significant evidence that he actually lived there. Again, not my style, but that's what he did and that's what his affidavit says. In addition, utilities indeed were in his name, and to our information, they were sent to the house. The Xfinity bill was put in his name and was sent to this house.

There were comments made by the Fire Marshal about all of the electrical equipment. There is no doubt this was a medical marijuana growing operation, and there's no doubt that those things occurred. His comment though is that somehow this makes it not residential. You can't make that leap. The fact is that if you had a similar operation where he actually lived there, then that same type of electrical equipment could be brought to bear. It is not indicative of the fact that he didn't particularly live there.

If the focus here is on whether this was being used a single-family residential, what you have is the statement of the person who was actually living there giving testimony saying he actually lived there. There was also comment saying that he said he lived nearby. That is indeed an attest; he had lived nearby with his mother. We're only talking about a short period of time, technically about a 90-day time period.

There are other indications that you might look for, such as whether he changed his driver's license, but there simply wasn't enough time for that to occur. Further, as part of the investigation, Mr. Faraj talked about holding down two jobs. That's an explanation as to why you may not see him there all the time. He also worked both day and night.

This is a very unfortunate circumstance. The applicant here very much is chagrined at how it came to light to them, and that is very much a complicating factor. But, once they became aware of this, they moved very quickly and swiftly to correct the situation and to address the concerns of the Township.

The technical argument that's being made or presented for you all to consider is if there is a violation of the MMMA, that there, by definition, is then a violation of the Zoning Ordinance, which by definition is a breach of the Conditional Rezoning act. So who violated the MMMA? It was not K&S Ventures and it was not the gals here who are just trying to improve their gas station. Did K&S Ventures have any intention or take any activity to violate the MMMA? The answer is no. Did they have any intention or take any activity to violate the Zoning Ordinance? The answer is no. This is a bootstrap argument in which a tenant's actions are now being used to assert that there was somehow a breach of the Conditional Rezoning act. That's not right, and that's not fair, and frankly, that's not what the facts show.

With respect to this claimed breach, you have to make these findings and make a recommendation. Are the actions of K&S consistent with that? The answer is no. Moreover, they've spent over \$20,000 plus now to correct and fix what this tenant did. All of their actions since they've known or became aware of this is consistent with trying to use this as single-family residential. That's what they intend and want to do.

Remember, the purpose of having single-family residential in the CRA in the first place is the fact that this was to ensure that this property would not be commercially developed and it would be used as residential in two parts; one, to lessen the intensity of the gas station operations, and two, to provide some buffer to the surrounding areas. While that is a "key" provision of the CRA, it is ancillary to the core purpose of the CRA.

The gals have taken corrective steps and want nothing more than to live up to their part of the obligation under the CRA and that is to lease this out.

Certainly, where you're looking at any residential use, where there is a medical marijuana grow operation, is that a normal household? That's the value judgment that you've heard some of the commentary from either Mr. James or Fire Marshal Martin, but that's not what you have to look at here. What you have before you is the person was living there and actually says that. Look further closely at the police report itself that's before you that refers to this property being his residence and that he lived there, and that's included as part of the case report that has been provided to you.

There was some comment about the property deed transfer. When this property was initially presented to the Planning Commission and to the Township Board, that the property was all owned by K&S Fuel Ventures Inc., that upon advice of separate counsel, because they were going to rent out the property as single-family residential, a separate piece for a separate building, they were advised to put that into a separate LLC for that express purpose. Then, after the agreement was signed and recorded, title work was performed that revealed that indeed, it had been transferred. As Mr. Rentrop mentioned, that was called to our attention and that was an objection, so we quickly transferred that back under a quit claim deed to straighten that issue out. I don't think that that is a particular concern here, but if you have questions, I'm happy to answer those.

Further, I should point out, even if there is an issue with respect to the CRA, what we're talking about here was a matter of weeks. Just a little over three weeks after it was brought to the attention of the landlord that it was corrected. As part of your two-part process of what you have to do, the other feature is, should that, once it's brought to the attention of the landowner and then corrected in record time to get a residential tenant out and to start with a construction contract to fix this issue, whether that merits a recommendation for reversion of the property. I would suggest to you that it doesn't. The understanding they that they reached with the Township Board shouldn't be undermined because of one tenant, who had a proper permit and a proper number of plants, who had a technical violation with respect to the MMMA. That shouldn't be the case here, and there should not be any reversion. It's not my lifestyle, but that gentleman was living there and that's what his testimony is and that's what he submitted. That's the end of my time, but I would suspect that the applicants themselves might have something to say as well.

I want to confirm with Hans that the lease is included as part of the record.

Attorney Rentrop - We can add it to the record. I have no objection doing that. It's not part of the packet I prepared, but I can add it.

Attorney Webster - We had provided that some time ago to the Township and I was wondering why that wasn't included.

Attorney Rentrop - What the lease says doesn't matter - it's what actually happened on the property.

Attorney Webster - I understand your argument and so it's a consequence. My response is that the lease is an indication of what the landlord intended. We're happy to answer any questions.

Chairperson Haber - Depending on what happens here with the public, you may get a chance to address that.

Attorney Rentrop - I suggest you receive public comment, and then each of us can have a 5-minute rebuttal or comments on whatever has been said.

Chairperson Haber - I'm going to open this up to public comments and you'll each have 2 minutes. Comments should be limited to the reversion of the CRA.

Dave Petchell, 4684 Ponderosa, Commerce Township - I live kitty-corner from K&S. A couple things have come to my attention here. First of all, are you kidding me? I'm sure this guy had a license to do this and an okay to do that, but if I do, I'm not going to black my windows out or run cords over the top of the roof. Maybe you guys acted swiftly, but that's your responsibility. I would too. What else are you going to do? And him, of course I'm going to say I live there and I'm going to leave right away. You did what you were supposed to do. What scares me the most is you didn't know this. I've owned rental properties. You pull in there every day and you look at this building. Quite frankly, I don't buy any of this and none of this makes sense.

Donna Petchell, 4684 Ponderosa, Commerce Township - I'm Dave's wife. I think this is completely ridiculous and all the neighbors are saying that nobody was living there. The house clearly looks like nobody was living there. How was this house rented out? Who rented this house out? Did you get a realtor to sign-up and do this, or is this a friend of yours, or a cousin, or somebody that you know very well? Second of all, to say that in 90 days, you don't have time to change your license? You can do it online in 60 seconds. If the only documentation this board has that he was living there is that Xfinity bill and that's all you can bring to show he was living there, that is a joke. Come on guys, if it walks like a duck and talks like a duck, it's a duck.

Jacquelyn Husak, 4690 Camelina, Commerce Township - I am the property that faces our local drug bust. I'm a little remiss that the police did not come to me to ask more information; they said they would. I can, for a fact, state that I did see construction begin on the home sometime near Thanksgiving, into December. Not sure how they found a lease, where it came from, but I know for a fact that they were working on the house at least 45 days prior to this lease agreement. Secondly, I respect that they want to grow. I have no problem with that, but I do have a problem when people do things ... I wish I had \$20,000 to cover my tracks.

Bob Husak, 4690 Camelina, Commerce Township - Jacquelyn is my wife. To address past experience with K&S, they were aware of a lot of different things. Right when they're aware, they executed the eviction. Right when they were aware of the Blazing Bagels situation, they executed to fix the parking lot. Right when they were aware of an illegal spillway coming off their gas station's stormwater runoff, which runs back to the back of my house and Renee's, and you've heard it from Renee, someone in Commerce Township had to put up sandbags. That thing is still there and half the sandbags are gone. That gentleman is not here today.

I'm wondering, what is it going to take every time you guys do something, that's going to happen. Just like the Cooley Lake Inn for you guys, the embarrassment, they just kept pushing things and the same will happen here. I don't mind the expansion and I think it's great. I think we do need a gas station in the area, but not the way that they're doing business. There was nobody living in that house. I live there and there was nobody driving back and forth unless they were trying to do things.

Kevin Smith, 4620 Alban, Commerce Township - I think the bottom line here is that there was a technical violation on the property and it's the property owner's responsibility, with or without a lease. They are to know what's going on. That's why there's property management companies. If you can't get to all your properties and inspect them regularly like you're supposed to, then you hire a management company. It is the property owner's responsibility.

John Rabban, Annie's Party Shoppe, 535 W Commerce, Commerce Township - I'm the business owner next door to them. For as long as I've known them, they've been doing illegal business there. We see it all the time, and our customers tell us how they operate. They've been bad business owners.

As far as the house and not knowing, we own a lot of property around here, and for them to say that they don't know what's going on right behind them, especially when they operate there ... If I had a house right behind my business, I know exactly everything that's going on with my properties.

Andrew Summerhill, 717 Andrews St, Commerce Township - Even if you play devil's advocate, I still say they're willfully ignorant of the operations. It's right behind them and they didn't see anything that looked suspicious? They could have investigated and knocked on the door. It wasn't long ago, I could walk into their gas station and buy the paraphernalia to smoke the drugs that had been bought there and that always bothered me.

Sindi Rabban, Annie's Party Shoppe, 535 W Commerce, Commerce Township - We do park our vehicles directly behind our building, facing that house's backyard, my back alley. We usually close at midnight on weekends. I leave around 12:30 and I've seen them with flashlights, running around. There was no one living there. They would come after hours so no one would see them. Everything was pitch dark all the time.

Mary Zeiss, 520 Commercial St., Commerce Township - If they can't even properly vet a rental, somebody to rent a house, how are they going to be able to oversee the reconstruction of their business?

Chairperson Haber closed the public hearing.

Attorney Webster - I'd like to make sure that as part of the record, in addition to the lease, we had included our communications with the tenant. Part of that is we had a separation or eviction correspondence that we had countersigned with the tenant. We submitted that.

We identify that the issue is not the medical marijuana grow operation. That is not any indication that it's not being used for a residential use. Frankly, it could happen and be used in anyone's residence. The question is whether someone was living there. We have submitted the direct testimony of the person who was living there saying, I lived there as a tenant. He was asked to leave because of these extremely complicated situations that we moved quickly to correct, to bring the property up to code so it can be leased out as residential. I wanted to make sure that the correspondence terminating the lease holding was also included as part of the record.

Farah Karana, K&S Fuel Ventures, 519 W Commerce Rd., Commerce Township - Good evening, thank you so much all for coming today, and for everybody who showed up today. That's what makes Commerce the city I love the most. That's the reason I decided to move here, and have my business here and to grow here, because people in this community, they do care. I've been here 13 years, in the course of all this time I have never turned a customer down. If somebody is short, we never turn people down. What happened with this house, to answer the lady's question, we were here in October, actually two times, and there was a recommendation of denial. We were supposed to go to the Board and this was totally empty. The way the house is, if you drove by it, it's so hard to see. It's easy for someone to vandalize it, and that's exactly what happened when we first bought it, it was all burnt. Twice, a neighbor came in and told me, we know you guys own this building and there's somebody, a homeless guy, living in it and scaring my kids. I had to go there and board it up. One time I got a call from the Township and they told me somebody else was in there. So the idea was not to leave this house empty.

Because the whole Township heard of the Tim Horton's at the time, I wanted to show Commerce Township and the public that we are going to try to do a workable plan. We figured the best way to do this was to lease the house. I had a customer, the tenant's mom, she walked in asking questions and she said her son would lease the house. It was the first time I'd ever leased a residence so I asked them to prepare the lease agreement. The tenant asked for a break and said he would clean it up and paint it. It's better than empty.

I feel all these people here are my family and this is how I consider them, and everybody has an opinion. I'm okay with that and I respect that. If someone would have told me they thought something was wrong, I would have took care of it. I don't appreciate the comments that we are not good business owners. We had an honest lease for a guy to live in there. I didn't know. I saw Jay James. I didn't sleep for a month after Jay left. I called a lawyer, the counsel who originally did the paperwork for the house. He said draft a letter and if he agrees to sign it, we're good to go, because even if we file with the court, she will give him a month. He signed it and I said I'm good to go, he is leaving.

But the police walked in before the time was up and they found the plants. I did not know anything about marijuana, I didn't know it was legal in Commerce Township, for him to grow only 12 plants, and I understand now that people can do it. With that said, I hope you will not hold this against us. I had no idea. We are good business owners and our reputation is everything to us. We tried our best. When Jay James came in, after the raid, he showed us what was going on. We hired a contractor; we have the

power back on and they're working on drywall today to get the final inspection done. Thank you.

Attorney Rentrop - First of all, you need to determine whether he was living at the residence. As far as the lease goes, I will point out a couple of provisions which I think the applicant should know about. It does say in the lease, *the tenant is to use and occupy the premises exclusively for residential purposes, and only by the tenants and occupants in this agreement. Tenants agree that drugs or intoxicating liquors will not be sold or manufactured on the premises.*

It also says, *tenants shall allow code enforcement inspectors in at any time, and, in a breach of this, they should vacate within 7 days notice.*

Attorney Rentrop reviewed the Destruction and Repairs sections of the lease agreement, and noted that *tenant shall not make any repairs to the building without permission of the landlord.* He felt it was pretty standard lease language, but to that end, the lease doesn't matter. The intent of the applicant doesn't matter. The applicant entered into a CRA with the Township and thereby, it is property that is held to a higher standard because they're under obligations. They are bound by the terms and conditions of the CRA.

Attorney Webster - I think intent means a great deal. It's clear that there was no intent of the landowner to use this property in any way other than as a residential structure. I want to point out, the purpose of the existing residential use, Paragraph M in the CRA, is so that it wouldn't be torn down, so it wouldn't then be used as a business consistent with B-3. That's what this provision was intended to address because the original concept was much larger, which needed to have this structure torn down so it could be used for the path for the drive-through. That went away, and so this provision was to ensure that the expansion of the business in the future wouldn't happen, and the applicant was willing to enter into that. The intent of this is not to find a situation, even if we found this to be the case, a use of the residential property in technical violation of one law, which then bootstraps into a violation of a Zoning Ordinance, which then bootstraps into a violation of this use. Once the building is renovated, it is a single-family structure. It was not intended to be used in any way for anything else. Look at this and whether this is a reversion and an undoing of this whole thing has to be done because one person who was in here used this property in a technical violation of the MMMA. I don't think that's what was intended as a breach of this agreement to cause reversion.

Attorney Rentrop - They mentioned they corrected it within a few weeks because Jay pointed out that marijuana was being grown there and it was an issue. The fact that the Sheriff's Department walked in and found the grow operation was compliant shouldn't come as much of a shock.

Second of all, he mentioned that the affidavit is uncontested, and it was indicated that he lived there and his possessions were there; however, all those items were left there after he vacated the premises; the guitar, the TV, et cetera. I'm not sure those qualify as his personal items at his residence.

The statements of the affidavit are somewhat inconsistent. He makes statements in the affidavit, but at the same time with the police, he signed an affidavit saying the money was his, but then he told the police it was not. I'm not sure there isn't some self-serving going on with what his testimony.

Finally, Mr. Webster made a point of the technical violation of the MMMA. While there were technicalities involved, and it is a linking system, there is still the other issue of whether he was using it for residential purposes.

Attorney Webster - Hans has said his peace. It boils down to, did K&S Ventures violate this, or was it the tenant? Was it their intent to do this?

Commission Comments:

McKeever - I don't, for one minute, believe that anyone ever lived in that house. I'm somewhat insulted that they're trying to make the case that this is what it was being used for. I don't, for one minute, buy it. I find it odd ... Yes, they're quick to respond and say, "We'll do this and this and this", but it's always after they've been cited for this and that. They're property owners. You're responsible for that property. You guaranteed Commerce Township that would only be used as residential, and it wasn't. You failed. You breached. That's the way I feel.

Hindo - No comments.

Czarnecki - Bill summed it up.

Jones - Based on the evidence presented tonight, I believe the Conditional Rezoning agreement has been breached.

Winkler - I agree with Bill's comments.

Haber - I have a question; are you related to this person?

Farah Karana - No.

Haber - Did you know him prior to this?

Farah Karana - No.

Haber - Hans, I'm going to ask you to read the two motion documents that we have to consider.

Attorney Rentrop read the draft motion language for the two options, from the Planning Director's report dated July 6, 2017, including; Option #1 – A motion to recommend the subject properties' zoning classifications revert to their original zoning classifications based on the Planning Commission finding of a breach of the Conditional Rezoning Agreement, and Option #2 – A motion to recommend the subject properties' zoning classifications remain as approved with the Conditional Rezoning Agreement based on

the Planning Commission finding that there has been no breach. He recommended that the Commissioners add to that, upon what basis the conclusion has been reached.

Chairperson Haber noted that he is in favor of rescinding the CRA. He added that the Township Board will have the final say in this matter.

MOTION by Jones, supported by Czarnecki, that the Planning Commission recommend reversion of the Conditional Rezoning Agreement with K&S Fuel Ventures Inc., as based on the evidence presented, it is believed that the Conditional Rezoning agreement has been breached.

Move to recommend the Commerce Township Board approve PZ #17-0003, a reversion of the zoning of the properties included in the Conditional Rezoning Agreement between Commerce Township and K&S Fuel Ventures, Inc.

The Planning Commission's recommendation is based upon a finding that the terms of Section 7.m of the Conditional Rezoning Agreement were breached because the house at 4645 Broadway was not used for residential purposes as required by the Agreement but was instead used for the purpose of cultivating marijuana contrary to the Township Zoning Ordinance.

AYES: Jones, Czarnecki, McKeever, Hindo, Haber, Winkler

NAYS: None

ABSENT: Schinzing

MOTION CARRIED UNANIMOUSLY

I. NEW BUSINESS

ITEM 11: PSP17-0007 –VERIZON WIRELESS/TOWERCO – SITE PLAN

Verizon Wireless and TowerCo of Novi MI is requesting site plan approval to construct a new communications tower located at 2399 Glengary Road. Sidwell No.: 17-21-351-006 David Campbell, Planning Director, gave a review.

David Antoun, TeleSite Wireless, Inc., 1015 S. Lake Drive, Novi, MI, 48377, was in attendance, representing TowerCo and Verizon, to answer any questions. He was accompanied by Jason Woodward, Verizon Wireless and TowerCo, who noted he resides at 5808 Strawberry Circle, Commerce Township, MI, and counsel for the parties was also present, Attorney Robert LaBelle.

Commission Comments:

Jason Woodward - I would like to address one item on the project. I worked very diligently with the Township and Phil Adkison, your legal counsel for the lease. One of the provisions he put in this lease that concerns me which will affect this tower is his reference that we have to paint this tower gray. Being a guy who has built towers for over 17 years, I can tell you that every time I've painted a tower, anywhere where you have expansion and contraction with weather, you are going to have cracked paint that will chip and it's going to look like heck in the next couple years.

Haber - Then you'll paint it again.

Jason Woodward - Usually when you paint it again, it makes it worse. We just built an identical tower at Fire Station #2 and that is galvanized metal.

Haber - Was the provision in that other agreement for painting the tower?

Jason Woodward - No.

Haber - Why was it in this one?

Jason Woodward - That was my question.

Dave Campbell - That was likely language that was lifted from the Zoning Ordinance, which says the tower shall be painted ... I think it says or otherwise treated. No, the Zoning Ordinance does say, *monopole design and painted a color so as to minimize distraction*.

I think it's a question of semantics, if the tower is treated in such a way that it's a color that tends to blend in with the background, which traditionally is a matte gray color.

Jason Woodward - Yes, when the pole is initially designed and galvanized, it comes up very shiny because of the process, but as it weathers, it turns into like a guardrail, that dull gray. In the lease provision, it states that we are supposed to paint the tower a gray, or a grayish color. I'm just bringing this to your attention. I can do it either way. I can paint it, we don't have an issue with that, but being a resident of Commerce, I personally don't want a chipping tower.

Haber - The question I have is why they've asked you to paint this one and not the other.

Dave Campbell - When the Planning Commission approved the tower behind Fire Station #2, it was approved with the matte gray finish, which is what he's describing, the weathered finish. I don't see a rationale why this tower at Fire Station #4 would be treated any differently. If you want to include as a condition of site plan approval, resolution with the Township attorney on the final coating or treatment or paint, whatever it may be, on the tower. Then if site plan approval is granted tonight, we can work with Mr. Adkison to ensure that the lease agreement reflects what they want to do.

Haber - Okay, so you can work it out with them. That's good.

Jason Woodward - Thank you.

MOTION by Winkler, supported by Jones, that the Planning Commission approves, **with conditions**, Item PSP17-0007, Verizon Wireless/TowerCo Site Plan, the request by Verizon Wireless and TowerCo of Novi MI for site plan approval to construct a new communications tower located at 2399 Glengary Road. Sidwell No.: 17-21-351-006 Move to approve PSP# 17-0007, a site plan for a new wireless communication tower at Commerce Township Fire Station #4 at 2399 Glengary Road.

Site plan approval is conditional upon the following:

1. Review and approval by the Township Engineer and Fire Marshal of engineered construction plans;

2. Planning Director and Building Official to walk the site prior to any vegetation clearing to confirm the extents of proposed clearing are consistent with the extents shown on the approved site plan;
3. Administrative approval of the finish of the tower, to the satisfaction of the Planning Commission as discussed herein.

AYES: Winkler, Jones, Haber, Czarnecki, Hindo, McKeever

NAYS: None

ABSENT: Schinzing

MOTION CARRIED UNANIMOUSLY

ITEM I2: BEYOND SELF STORAGE – CONCEPTUAL REVIEW

NorthPoint Development of Clayton MO is requesting a conceptual review of a proposed self storage facility located on the south west corner of Oakley Park and Haggerty.

David Campbell, Planning Director, gave a review. He noted that the site, located in the DDA, includes a large, underground gas main for Consumers Energy, and on top of that is a 75-foot wide easement that precludes anyone from building anything vertical on top of that easement. NorthPoint does indoor, climate-controlled self storage. They are proposing that the building sit at an angle at the back part of this property, on one side of the gas main easement. He reviewed the site in detail, along with the proposed circulation and footprint. This would be a 3-story building, with an enclosed, drive-in area to access the storage building and units. Some preliminary building elevations were provided. Self storage is not a permitted use in the TLM district. However, indoor self storage is allowed as a Special Land Use in the Haggerty Road Corridor (HRC) Overlay District. This property is in the HRC, and upgrades to meet the higher building design standards and other requirements have been included in the conceptual proposal to coincide with the HRC overlay in this area. The Special Land Use request would go through the public hearing process, and any approval would be subject to the standards for the HRC Overlay District.

Chairperson Haber noted that everything presented today is non-binding.

Dave Hunter, Engineer for the project, was present along with J.J. Jenkins of NorthPoint, which is headquartered in Kansas City, Missouri, and with offices in St. Louis, Cincinnati and Chicago.

Mr. Jenkins - We have four main development types; industrial, multi-family, senior living and self storage. The Beyond Self Storage concept is brand new. It was launched this past year, and we now have eight properties under construction. We have a deviation from the typical self storage, where you think of rows of garage doors off in isolated industrial areas. We think this takes it to the next level. It's all indoor, climate-controlled, so all loading and unloading is done inside. There is a drive-through inside of the building for tenant access. There are two elevators located just off the entry point where folks can take their stuff up to the second or third level, or back into the first level.

Security is a big deal with our facilities. They're highly monitored. We have 25 to 30 or more security cameras recording what goes in and what comes out. We have on staff

management there 7 days a week. It is not a 24-hour facility, so the office is open from 9AM to 6PM, Monday through Friday, 10AM to 6PM on Saturday, and 11AM to 4PM on Sunday, so staff is in at those times to work with tenants who come in to rent units. Once you've rented a unit, the facility is open from 6AM to 10PM daily, and no access is granted after those hours. There's no electricity to the individual units so people can't work out of the units or manufacture anything in them. In the lease, storage of illegal or hazardous materials is prohibited.

This is a site that has some difficulties to it with the easement running through it. We think we've come up with a way to effectively develop the back portion of this with a use that will be private, and obviously it leaves the front portion of the property open for future developments. Our building will serve as a shield to the other industrial development behind us.

Mr. Hunter - Our parcel is 2.27 acres in size, which is approximately half the size of the total parcel. Dave did a great job describing the challenges that come with the pipeline running diagonally through the property. We tried to orient the building so that we can use the site effectively. Along that northeast side of the building, that is a brick facing and that is the side that faces the majority of the public on Oakley Park and Haggerty.

Mr. Hunter continued his detailed review of the building design, the high quality building materials, the elevations and architectural features. He stated that the dumpster enclosure would match the building materials.

Commission Comments:

Czarnecki - I'm going to disclose; I'm not going to make any comments on this because I worked for PEA.

Winkler - First, when considering the potential uses for the site, this is a really low impact building, with a minimal impact on the community services, police and fire. One question I do have is regarding the HVAC. We realize it's a tall building. Would you have a number of rooftop units on the roof, or how is that taken care of?

Mr. Hunter - Good question. The HVAC system will actually be ground mounted. We have not exactly considered where to put it here yet, but I would anticipate that it would be at the back.

Mr. Jenkins - On other projects so far, we've been able to utilize ground mounted units and a building this size would be about 12 split systems. We orient them at the corners of the building to reduce the runs. This depends on the layout.

Winkler - Would you screen those?

Mr. Hunter - We would screen those, typically with landscape material.

Winkler discussed incorporating landscaping with Dave Campbell. Dave explained that this conceptual proposal had not quite gotten that far, and therefore no preliminary landscape plan had been submitted.

Mr. Hunter - We would look at the Ordinance criteria and we would certainly meet that. My client wants to present a nice looking building with adequate landscaping and something that looks tastefully done.

Mr. Jenkins - On most of our projects, we exceed the landscaping requirements. It is a priority.

Winkler - Working further with David on the exterior materials would be advisable to ensure they are very high quality. I'm glad to see the sign is smaller than the rendering.

Jones - How do you work this inside drive-in?

Mr. Hunter - You don't drive into the units themselves. There's just a drive-through portion of the building. You pull your car in. There's room for about 7 or 8 cars in there, and there's usually only 2 or 3 at a time. You unload your stuff in the loading area onto carts, then use the elevators to access the units. Access is all keypad controlled.

Mr. Hunter reviewed the building design on the overhead for clarification. Discussion continued regarding the time to load and unload, parking and circulation.

Hindo - No comments.

McKeever - No comments.

Haber - This is an unusual spot. If we do this project, it leaves the site with another piece of land that is odd-shaped and not very big. What can we expect to go there?

Director Stacey - I've had Giffels Webster Engineers look at what we can fit on the remainder piece of the property. They feel quite confident that they can get an L-shaped building fronting Haggerty and Oakley Park that would be of significant size and quality for that corner, and make it work. Parking would be available over the underground pipe which is allowed, and once you put in the finishing building, we think this is going to make a huge improvement to that corner. We're very excited, and we're confident we can find something for that.

Dave Campbell - Procedurally, with this being Special Land Use, we would have to schedule a public hearing. The applicant would be looking to hold that hearing as soon as the Planning Commission's August meeting. We need to get the notice in the paper, so let's talk more about getting that setup and the Commissioners should expect to see this back in one month.

ITEM 13: PEBBLECREEK VILLAGE – CONCEPTUAL REVIEW

Joe Schulist of Farmington Hills MI is requesting a conceptual review of a proposed single family site condominium development located on the south west corner of Loon Lake and Benstein Roads. Sidwell No.: 17-28-451-006

David Campbell, Planning Director, gave a review of the revised proposal, which has been before the Commission a number of times before. The revisions were made in

response to discussions held recently, with another developer, regarding this parcel, to eliminate some of the cul-de-sacs, improve circulation and create inter-connectivity between the residential neighborhoods. With this iteration of the plan, Mr. Schulist is able to get 23 potential home sites, which is one additional buildable lot over the recent plan layout.

Joe Schulist, 32969 Hamilton Ct G-110, Farmington Hills, MI, was present to address the proposal.

Mr. Schulist - Dave said everything pretty well. I wasn't at the last meeting, but I think this current design meets with what the board was asking for with connectivity. We also show a sidewalk that connects the subdivisions.

Commission Comments:

McKeever - I think this is what we were looking for first time around. I think it's a vast improvement.

Hindo - I agree.

Czarnecki - I agree too. One of the other issues was the sidewalk. By cutting out that piece of land, there will be no sidewalk. Who will be responsible for building the sidewalk in that area?

Dave Campbell - That piece was split from the rest of the property. When this was combined with the rest of the property a year ago, and you saw a version of this concept plan, the idea was to provide a sidewalk along the entirety of the Loon Lake frontage. Subsequent to that, this piece was split off and would be under separate ownership; not necessarily obligated to the requirements for site plan approval that the rest of the neighborhood would be.

I don't have a great answer for how we would convince someone to bear the cost of making that sidewalk connection from this proposed neighborhood, across to Maple Brook. It should be noted that Maple Brook is required on their approved site plan to put in their own frontage sidewalk along Loon Lake Road. Nobody would want to see a gap through here. It's probably important for Mr. Schulist to hear that, one way or another, the expectation of the Planning Commission would be to not have that gap in the sidewalk connection. As he moves ahead with his project, he will hear that the Township wants to see that connection.

Czarnecki - I think the layout is great, but that's my main concern.

Dave Campbell - That gap in particular?

Czarnecki - Yes. Who's responsible for filling in the gap?

Dave Campbell - The concern with that sidewalk, and I believe the reason the church opted to split it off, was this regulated wetland. It would require most likely some sort of a boardwalk to get across there, and boardwalks get expensive.

Joe Schulist - We have nothing to do with the lot split. We didn't own the property. When we originally brought this plan to you, you said we'd have to build a boardwalk and we were out of the picture as we don't have \$200,000 for that.

Haber - It was a very clever way of not building a boardwalk.

Joe Schulist - It's not something we did, but we couldn't afford to build that boardwalk.

Haber - We understand.

Jones - I noticed that Lots 16, 17 and 18 have some portion of a non-regulated wetland. I assume that the DEQ would comment regarding their concerns, or indicate that you are allowed to fill that in.

Dave Campbell - With that being a non-regulated wetland ...

Jay James - Yes, it can be filled.

Jones - I don't have any other comments as long as Mr. Martin says fire equipment can get through those cul-de-sacs.

Dave Campbell - For a conceptual review, we don't typically have Mr. Martin do any type of review.

Winkler - The connectivity of the road to Drakeshire is great. The connectivity of the sidewalks is an improvement within the proposed development. I'd only add that I would suggest some kind of signage be added to the Loon Lake Road entrance to identify it. Otherwise, you've been very responsive to the previous comments.

Haber - Mr. Schulist, it's good to see you again. The sidewalk issue is a sticky subject. Dave, I don't know the answer to this.

Discussion continued regarding the sidewalk issues, the potential boardwalk, the split of the parcels, and the fact that the other site is private property with private ownership. Answers to the questions regarding the sidewalk could not be provided at this time.

Joe Schulist noted that the church is asking to close for cash by the end of the month.

ITEM 14: ONE UNDER RESTAURANT/BANQUET FACILITY – CONCEPTUAL REVIEW

Brian and Steven Tominna of Commerce MI are requesting a conceptual review of a proposed restaurant/banquet facility located south off of Oakley Park Road, just east of the Martin Parkway. Sidwell No.: 17-24-201-008 & 009

David Campbell, Planning Director, gave a review of the proposal for two buildings, including an office building toward the west, and to the east, the primary user, which is a combined restaurant, bar and banquet center. The applicants currently operate One Under, a restaurant/banquet center in Livonia. Several endorsement letters were

included in the packet. Procedurally, this would require the developers to jump through some hoops, particularly because this property is zoned TLM but it is not in the HRC. This standalone restaurant use would not be permitted in TLM. One of the options would be to request to extend the boundaries of the HRC Overlay to pick up these properties, because that would allow a standalone restaurant.

Chairperson Haber questioned amending the boundaries of the HRC with Dave Campbell. This would be an amendment to the zoning map, which requires a public hearing and approval by the Township Board, but Dave's opinion was that this is a better procedural process than trying to rezone the base zoning of the property.

Brian and Steven Tominna, One Under, 35780 Five Mile Road #2, Livonia, MI, the potential developers, were present to address the proposal, along with Ben Ridderbos and Harvey Schwager of OHM Advisors, 34000 Plymouth Rd, Livonia, MI. They provided handouts to the Commissioners.

Winkler asked Dave Campbell to identify the parcel on the overhead. Dave obliged and reviewed the site.

Ben Ridderbos - We came here to talk about the concept of amending the Haggerty Road Overlay. Our property, as you can see on the diagram, is immediately adjacent to the Overlay.

Harvey Schwager - We've been talking about this in our studios. It's taking a rubber band approach to extend the Overlay District. We would adhere to the highest standards of development.

I read through the Ordinance and the requirements and intent of the HRC District. You're talking about diversification of businesses, and creating an attraction for businesses and services, regionally and locally. I'd like to point out that I believe, in today's world of high-tech business and competition, high quality employees and staff to work at these businesses is hard to come by these days. We need a certain level of sophisticated, ancillary services such as a nice restaurant. It's aiming at people who are going to work in this district, as well as the residents, in and around Commerce Township.

Mr. Schwager continued his review, discussing building facades, architectural articulation, with a strong emphasis on masonry, as well as other complementary materials. He added that the building would offer opportunity for a variety of uses, if for some reason down the road this use had to change. The idea of the office building on the site would be to attract high-tech businesses. Shared parking is also being considered between the two facilities, and the operating hours were discussed.

Mr. Ridderbos stated that this is very conceptual, but they needed to present the idea to the Commission to receive feedback. He reviewed the floor plan and division of the building between the restaurant and the banquet center, which would be similar to One Under in Livonia. The commercial kitchen would share services with the banquet center and restaurant. The dining space is two-story, and there is a long bar which would

feature craft brews. There are a few private dining rooms that can be rented. He elaborated on additional, unique interior design features for the space, along with outdoor seating proposed.

Mr. Tominna - We opened One Under in 2007 in Livonia as a family operation. Since then, we've grown that into a very successful, local community establishment. It's high energy food and local craft beers that people just love. The emphasis on the food is a big deal of what we want to do. The level we try to operate at is comforting for people. Locally, we will use local farmers for produce in the area. Other than that, there is a need for something like this in that area. I've grown up in the area my whole life with my family, and we're looking to locate closer to home. I have two small kids. My brother lives in Wynclyff, and I live in Birkdale Pointe. We're looking to be a part of the community and grow with it.

Director Stacey - There certainly is a need for this type of facility in this portion of Commerce. In talking with business owners in the HRC, they have pointed out to me that they have nowhere to take any of their clients and business associates to lunch. They're looking for something of this level. I think the building looks very interesting.

Haber - You don't have any problem with the Overlay?

Director Stacey - No.

Commission Comments:

Winkler - David, has an amendment to the boundaries of an Overlay District been done before in the Township?

Dave Campbell - Not under my watch, and I don't know if anyone has ever petitioned to have the boundaries amended. I will do some homework to see if it has been done.

Winkler - I just wanted to make the petitioner aware of that.

Dave Campbell - It's a comparable process to rezoning property. They're asking you to change your zoning map.

Winkler - I'd love to see a facility like this. I don't know the petitioner personally, but I've been to One Under in Livonia several times. My daughter had her baby shower there and they did a fabulous job. It's fabulous and it's something I'd like to see in the Township.

Jones - I have no problems with it.

Czarnecki - No comments.

Hindo - No comments.

McKeever - No comments.

Haber - The only problem I have is the zoning. Are we opening Pandora's box here?

Dave Campbell - Obviously, any time we talk about rezoning or changing the zoning map, that's always the concern is what sort of precedent are you setting.

Dave reviewed the zoning map on the overhead, showing how the site is directly adjacent to the HRC Overlay, and open discussions continued in this regard.

J: OTHER MATTERS TO COME BEFORE THE COMMISSION:

None.

K: PLANNING DIRECTOR'S REPORT

Dave Campbell discussed the following:

- Paula wanted to relay that all Commissioners need to use their Township email addresses.
- The Township closed on the purchase of the Touby property on the southwest corner of Commerce and S. Commerce.
- The self storage request may be on the August agenda.
- **NEXT REGULAR MEETING DATE: August 7, 2017 at 7:00pm**

L: ADJOURNMENT

MOTION by Czarnecki, supported by Jones, to adjourn the meeting at 10:04pm.

MOTION CARRIED UNANIMOUSLY

Brian Winkler, Secretary