

**CHARTER TOWNSHIP OF COMMERCE
PLANNING COMMISSION MEETING**

Monday, February 6, 2017
2009 Township Drive
Commerce Township, Michigan 48390

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

ROLL CALL: Present: Tom Jones, Vice Chairperson
Brian Winkler, Secretary
Bill McKeever
Jay Czarnecki
Russ Schinzing
John Hindo (arrived at 7:14pm)
Absent: Larry Haber, Chairperson (excused)
Also Present: Dave Campbell, Planning Director
Jay James, Engineer/Building Inspector

APPROVAL OF AGENDA

MOTION by Czarnecki, supported by Schinzing, to approve the Planning Commission Regular Meeting Agenda of February 6, 2017, as presented.

MOTION CARRIED UNANIMOUSLY

APPROVAL OF MINUTES

MOTION by Czarnecki, supported by Winkler, to approve the Planning Commission Regular Meeting Minutes of January 9, 2017, as presented.

MOTION CARRIED UNANIMOUSLY

UPDATE OF ACTIVITIES

John Hindo – Township Board of Trustees

Vice Chairperson Jones asked if Dave Campbell could provide an update from the Township Board since Hindo had not yet arrived. Dave Campbell stated that Hindo was here earlier and is expected for the meeting. He added that the Board continues to work on the intergovernmental agreement with City of Wixom and City of Walled Lake on the acquisition of the former rail corridor, to convert it into a trail. They held a special meeting last week to pass a resolution to keep this moving forward.

Brian Winkler – Downtown Development Authority

- The DDA had another routine meeting in January.
- There was some discussion about Parcel B-1, on the northeast corner of Pontiac Trail and M-5, and how the developer is moving ahead with signing some major leases for the retail development.
- The rest of the developments continue to move forward.

Bill McKeever – Zoning Board of Appeals

- Nothing to report.

Jay James – Building Department

- You will see a couple of projects that have gotten started.
- Zerbo's Health Food, on Maple Road, broke ground.

- Meijer on Haggerty Road started their facelift and pharmacy drive-through.
- People will be seeing some clearing between Welch Road and Martin Parkway. That is the beginning of Barrington Apartments. They will be putting in utilities this spring and possibly starting building in the fall.

Jones - Dave, will the Township Attorney be here?

Dave Campbell - He will not be here tonight.

PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

ITEM 1: PCZ16-0003 – COMMERCE LAND DEV. – CONDITIONAL REZONING – PUBLIC HEARING

Commerce Land Development Co., LLC of West Bloomfield MI is requesting a Conditional Rezoning of a parcel of land consisting of 0.43 acres from B-2 Community Business to B-3 General Business, located at 9555 Commerce Road.
Sidwell No.: 17-11-332-029

David Campbell, Planning Director, gave a review of the Conditional Rezoning request and the process. He provided details of the Master Plan and Future Land Use Map designation for this site. The Planning Commission's role in this process is to hold the public hearing, and then make a recommendation to the Township Board. If the Township approves, the petitioner returns to the Commission for their Special Land Use and site plan review.

One of the items submitted for the record was an objection packet, drafted by an attorney representing the Maple Pointe Beach Homeowner's Association, along with the applicant's response to the allegations made in those documents.

He explained that the Township Board and Planning Commission held a joint meeting recently to address two topics relevant to this item. There was concern regarding the number of new gas stations proposed in this condensed area of Commerce Township, and also regarding the proliferation of alcohol retailers in this area, as the recent proposals all included an alcohol retail component. The message conveyed from the discussion held that evening was that neither body was inclined to look favorably upon any rezoning proposals that are contrary to the Township's Master Plan. The Township Attorney is drafting a zoning ordinance amendment for regulatory control over the location of alcohol retailers, which may include; spacing requirements relative to other establishments; spacing requirements relative to schools, churches, parks, libraries; restrictions to certain zoning districts; et cetera.

John Hindo entered the meeting.

Hindo - Gentlemen, I'm sorry for arriving late.

Jones - Is there anything you'd like to say regarding the last meeting of the Township Board?

Hindo - I'm sure Dave summarized it very well, and you gentlemen were all there at the joint meeting. There's nothing new.

With respect to this matter, I know Township Attorney, Hans Rentrop is not here, but I have been directed by our Township Attorney to recuse myself from this matter due to the fact that the applicant is a client of my firm (for other matters). I don't represent him in this matter, nor does anyone in my firm.

MOTION by Hindo, supported by Czarnecki, to recuse Hindo from any review and subsequent action on this matter. **MOTION CARRIED UNANIMOUSLY**

Vice Chairperson Jones explained that the applicant would deliver a presentation, and then the public hearing would be opened. He added that there would be no crosstalk permitted, there would be a limit of two minutes per member of the public for their commentary due to the number of people planning to speak, and that answers may not necessarily be provided this evening to the questions that are presented.

The petitioner Iven Sharrak, 6770 Enclave, West Bloomfield, MI, was present along with Iden Kalabat, Kalabat Engineering, 31333 Southfield Road, Beverly Hills, MI, Jim Adams, Attorney, Butzel Long, 301 E. Liberty, Ann Arbor, MI, Gus George, Environmental Resource Group, 28003 Center Oaks Ct #106, Wixom, MI, and Todd Perry, Petroleum Installation Contractor, Oscar W. Larson, 10100 Dixie Hwy, Clarkston, MI.

Iden Kalabat set up renderings and prepared for the presentation.

Jim Adams - I'm here as counsel for the petitioner of Commerce Land Development Company, LLC, and Iven Sharrak, Principal. Mr. Campbell did a nice job of giving you a preview of this. Uncharacteristically for a lawyer, I'm going to try to be brief to allow the rest of these gentlemen to present the bulk of this.

The petitioner is the owner of 9545 Commerce Road, the southwest corner of Commerce and Newton, which is currently zoned B-3 and used as Papa's Rental. The petitioner is also the purchaser of 9555 Commerce Road, which is immediately to the west of 9545, currently zoned B-2 and used as a multi-tenant office building. The application is solely to rezone 9555 from B-2 to B-3 and to do so as a Conditional Rezoning under Article 36 of your Zoning Ordinance. The property is not within the Village Overlay District.

The most important thing I can convey is the narrow scope of what we're here for, which is only for Conditional Rezoning of the 9555 parcel. This is not the application for the Special Land Use permit or site plan approval. That comes into play only if the Conditional Rezoning is ultimately approved by the Township Board and a Conditional Rezoning agreement is signed. I hope we can keep that as the frame of reference. We're well aware of the concern of the Township Board and the Planning Commission about a potential proliferation of gas stations in the area. We would remind you however, that each site has to be independently reviewed. They're entitled to a review on their merits, individually, and not as part of a larger spectrum. Additionally, I think we

can demonstrate that while the Township does have some concentrations of gas stations, it's not here; it's in the eastern part of the Township.

The subject property is within a strip that's been used for decades as commercial. The 9545 parcel, long Jerry's Rentals, for nearly 60 years, has been viewed as an eyesore and still is today. It's dimensionally nonconforming to current requirements including setbacks and buffering.

The 9555 parcel is a single-story office building which also does not conform to current setback requirements. The parcel immediately to the west of 9555 is a radiator shop, which I believe is a nonconforming use that's been operating for quite some time.

Across the way is another B-2 parcel.

The petitioner's proposed use is a community market with 6 fuel pumps, 12 nozzles. It represents a substantial upgrade to historic and current uses. It will mitigate an environmentally unfavorable situation, improve sight lines and provide an attractive alternative that would be in the public interest.

There are a couple things that have been called out that I need to address. One is the Master Plan. We are well aware of the 2015 Master Plan and I think it was very well done. I can't criticize it. As a document, it's pretty good, but a master plan is a macro vision of the Township and you've covered a lot of territory in this Township. It's not an immutable law of the land. Under zoning law, there are exceptions. The one we don't have today is a change of circumstances because it's the 2015 plan, but there are others. You have to look at what the historic uses are and what you have here is a commercial strip that's been there for 50 to 60 years. It's unlikely that it will change on its own to lesser uses.

Parcel 9555 is now zoned B-2; 9545 is already zoned B-3, and we've got commercial use to the west. The master use land plan suggests that it be downsized to cottage residential. One other factor in looking at a master plan is whether the use laid out is economically feasible. In this case, that corner is very pricey. These parcels were assembled for \$1 million. With 3.5 or 4 units within that acre, and the character of the cottage residential around it, it's almost impossible for a developer to economically develop and market the property. It doesn't work.

Another issue has been raised by the Township Attorney and the Planning Director, which is a historical fact that with the Conditional Rezoning Agreements (CRAs) that you have approved, you had stipulations voluntarily given by the developer that there would be no variances. That's something that we can't do in this instance. We know that given the configuration of that site, for almost any development with a 90' setback, there will have to be some give on the setback. We are looking at probably a 12.5' setback variance, and that could be less, we don't know. The question of whether or not there is a variance required is not timely before you tonight in conjunction with the CRA. If the CRA is approved, we have to come back before you for Special Land Use and site plan, and we will have to get a variance from the Zoning Board of Appeals. If we can't get the variance then we can't develop and the zoning will revert back.

We have voluntarily put forth several CRA restrictions that we would put on this property in terms of our use that benefit the Township. The Township has asked and we voluntarily agreed that for simplicity sake, these parcels would be combined into a single tax parcel. There will be no car wash. Hours of operation will be limited from 5AM to midnight. The petitioner will not apply for a resort liquor license. We know the

sensitivity of the Township to the liquor license issue. We also know that there are four resort licenses in play now. We're not going to do that. We have to be able to comply with whatever it takes to get an SDM and an SDD. We have to work within the State and Township regulations; yet we are not applying now.

We are aware in the objection that was filed by the association's attorney that there are allegations of reported violations at other stations. Understand that Mr. Sharrak owns and controls about 15 stations. He's the largest independent gas station operator in Southeast Michigan. He has independent liquor control counsel and our firm does not represent him in connection with that. He has asked that counsel to review these allegations and they did so on a last minute basis and quickly prepared the report that you were given tonight. From my review, it appears that the allegations are a tempest in a teapot. They are at best, misleading; at worst, they're simply untrue. Mr. Sharrak will be subject to what everybody else is that wants to apply for an SDM or SDD license. Outside storage and sales will be screened from view and placed in one area. No drive-through will be put into the community market. The market will not exceed 4,500 square feet. Pumps will be limited to 6 with 12 nozzles.

Iden Kalabat - Before I start my presentation, I'd like to give these gentlemen a chance to introduce themselves and speak.

Gus George - I recently joined Environmental Resource Group. Previously, I owned a consulting firm called 21st Century Resources for over 20 years.

Mr. Sharrak contacted us to do an environmental assessment of 9545 Commerce. We did a Phase 1 which entails to doing historical work, visiting the site and seeing the kind of operations that are conducted at the site. The reason for that is to give us an idea of any red flags that need to be addressed as a Phase 2 to determine if there is any impact. Our investigation found the following; the site has been used as a rental facility since the early 70s. Throughout these years, they've used a lot of petroleum products, which is a red flag. The other issue we found is in the use of Building 1, which is used for oil changes and equipment. The other item was that they stored some drums in unpaved areas. The drums don't have secondary containment and they may leak. They also have two above ground tanks, one diesel and one gasoline. These have secondary containments, however we were worried from fueling and refueling operations. The last issue was that Building 2, parallel to Commerce, used to be a transmission shop.

We recommended a Phase 2 which entails going in with a probe and drilling for soil and water samples. The results we found were that there was only one location behind the building with the offices - they had some drums that had some contamination. It was merely from heavier petroleum, but it was low contamination below the residual criteria. Then, the site location did not meet the definition of a facility, which means has had substances which abut residential and need to be monitored.

During the work, we knew that the area was all supplied by water wells. We looked into the wells. Although the location itself has a water well, we couldn't find any reference for that well. However, we looked for wells within the vicinity and we found two records from MDEQ. One of the wells is very close to the property, at 9526 Garden Terrace, which is a few hundred feet from their property. We looked there for where they draw

the water. Based on this, at about 18', there is a 40' confining layer of clay, all the way down to 70'. The location they pump the water from is situated between 69' and 70', and there is 40' of confined layer so there is no chance of impact.

The other well record we checked was also very close, and it showed 36' of confining layer and the water is drawn from about 78'.

Based on this, we concluded that no further action is required at this time.

Todd Perry - I was asked to go over some of the safeguards that are in place on newly installed stations. The tanks are double-walled tanks. There is a minute space in between the primary and secondary tank. In the event of a breach of either the outer or inner layer, a sensor will immediately sound off an alarm inside the building, which could program the entire system to shut down. The same is true for the piping. We'll be using double-walled piping on all these stations right now, and sensors underneath the dispensers and at the tanks which would then capture a leak, and again, the entire system can be programmed to shut down.

The amount of liquid that would trigger the alarm is an immeasurable amount. It's just the presence of liquid that would force the sensor to go into alarm. Any leak would be completely contained before it ever reaches the environment.

These safeguards are in place in all the new stations we build today and have been for a number of years. They've all been very successful and virtually failsafe.

Iven Sharrak - I want to speak to the area. A lot of the applicants have mentioned that the area is underserved with gas stations. I want to point out a few things of how we vet the sites and how we come to a conclusion that there is a gas station needed in an area or not. All the gas stations in the Township are located at Union Lake and Commerce. (Iven gave a review of the map on the overhead, identifying local gas stations in the area, including Clark).

For the entire 19.2 mile area, there is only one gas station. When we do our homework, we know that there's 100,000 gallons for every square mile that can be sold. We account for a negative multiplier, such as water, lakes and open land. We still think this equates to 1.9 million gallons available for sale per month, but there's only one gas station servicing that. This is why we said there is a need for a gas station in this area. We are a commissioned marketer and we get paid by how many gallons we sell a month, versus everyone else with fluctuating gas prices as they're based on margin. In my opinion, that's why there is a need for another gas station in the city.

Iden Kalabat - Thank you to everybody for your patience in hearing from everyone here and giving everyone an opportunity to speak.

Iden reiterated several items that had been covered previously, including the details of the current zoning, and the rezoning request. He noted that this is the smallest incremental step in zoning from B-2 to B-3. He presented renderings of the proposed station with a focus on the green space offered, landscaping and natural features. He discussed the design intent, which is to mimic residential architectural features, and to modernize and improve the area through the development. Iden elaborated on the aesthetics, elevations, building materials, low-profile branding and signage, walk-ability

and the 8' sidewalks, landscaping, circulation, mitigation, economic growth and the need for a gas station in this location. He also reiterated the wholesaler gas station concept which allows them to set their market prices based off the gallons that are sold versus their competitor's pricing.

Iden discussed the potential for requesting a variance, the setbacks, buffer yard requirements, and their effort to bring two nonconforming properties into conformance, with the exception of a front yard variance.

Iden compared Conditional Rezoning requests with straight rezoning and stressed that the Township has control over the development with the CRA and the Special Land Use. He elaborated on site development data, environmental assessments, community growth, promoting a higher taxable value and revenue to the Township, and the risks to the petitioner in this type of project.

Iden discussed the CRA and the reversionary protection for the Township. He began reviewing the criteria for Conditional Rezoning requests.

Jones - You've been nearly an hour and there are a lot of folks here waiting to speak. Your presentation is very lengthy.

Schinzing - We already know the 9 conditions for rezoning. Are you teaching them to us, or are you trying to explain this to everybody else?

Iden Kalabat - I'm trying to display the merits of this petition with regard to those 9 considerations.

Unidentified Resident - We get two minutes.

Iden Kalabat - I will speed it up. I am sorry. (Crosstalk) With all fairness, this is the first time that anyone has heard us speak in regard to this petition.

Unidentified Resident - We get the point and it's time...

Jones - Please, we don't allow cross-conversation. Please let him finish his presentation, then you'll have a chance to speak.

Iden Kalabat reiterated the proposed improvements, including environmental, storm water, walk-ability and landscaping. This use is a Special Land Use and they are trying to rezone one small portion of land so that the overall land may be one consistent zoning classification, proper for redevelopment. He also addressed capacity of public services and infrastructure. This will serve as a cornerstone for promoting future developments. He added that this will seek to help collect and calm some of the traffic by bringing it into a development that can be used. Public health and safety is also improved by enhancing the commercial for the benefit of the residential located behind it.

Iden also addressed the master plan and reiterated that the cottage residential use was not economically feasible. He noted that he would skip many other points that he had in

his presentation for everyone's best interest, considering the time. He concluded by comparing approval versus denial and the pros and cons associated.

Jones - I believe the attorney said that this would require a decision for the Zoning Board of Appeals to grant a variance. One of our goals for 18 years I've been here is that we don't make decisions that require variances.

Iden Kalabat - Currently, the only variance would be the front yard setback from Commerce Road. The variance issue is something we intend to work through during site plan approval and Special Land Use. We understand the desire to eliminate the need for any variances and it is our intention to fully work with you in that regard. Right now, it's premature to address that issue until we get to the next stage where we can manipulate our site plan to see how we can minimize. We just wanted to prepare you with the worst case scenario.

Jim Adams - You're not boxing this in because this still needs to be approved by you as a Special Land Use and a site plan. If you say you can't approve this because it needs a variance from the Zoning Board of Appeals, we're not boxing the ZBA in by this.

Vice Chairperson Jones opened the public hearing and explained the process again for the residents.

Dave Campbell - We received written correspondence, all opposed to the proposal, including 4 letters, 4 emails, a 300-signature petition submitted by the owners of Clark Gas Station, and the objection narrative mentioned earlier from Maple Pointe Beach Homeowner's Association, along with the petitioner's response to that document. We also received a petition with 7 signatures that was in favor of the proposal.

The above mentioned items were included with the record as follows:

1. Letter, opposed, Jeffrey West, 3065 Fox, Commerce Township
2. Letter, opposed, Dolores Dertinger, 3071 Chenoa St, Commerce Township
3. Letter, opposed, David Tolbert, 3140 Brookneal, Commerce Township
4. Letter, opposed, Mr. & Mrs. Larry Krystof, 3259 Rio Vista, Commerce Township
5. Email, opposed, Robert Troutman, 3269 Twinleaf, Commerce Township
6. Email, opposed, Andrea Goodwin, 3105 Mapledale, Commerce Township
7. Email, opposed, Peter Webster, 2600 W. Big Beaver, Ste 300, Troy, CRA comments and suggested edits
8. Email, opposed, Brian Sheena, 420 W Commerce, Commerce Township
9. 300-signature petition, opposed, provided by Clark Gas Station Owners
10. Objection Narrative, Michael Lebow, 838 W. Long Lake, Ste 100, Bloomfield Hills, on behalf of the Maple Pointe Beach Combined Association
11. Petitioner's response to the Objection Narrative
12. 7-signature petition, in favor of the proposal, provided by the petitioner

Michelle Castrodell, 9526 Garden Terrace - Can we go back to the map?

Mario Castrodell, 9526 Garden Terrace - This is our daughter, Ariana.

Michelle Castrodell - Two years ago we got married and sought out a house where we could start a family. We found this perfect house which backs up to the office building. Our back yard is the office building. We had our little girl. All I want is to have my little girl grow up in this house and play in this backyard. I do not want a gas station there that's going to be open until 12:00, serving alcohol, having people coming in and out. My daughter goes to bed at 9:00.

Mario Castrodell - We actually moved from Livonia which is a very traffic-filled area. At every corner there's a gas station. If you were within 100 yards of that gas station, the scent of gasoline is throughout the entire air. I love waking up, opening my sliding door, walking on my deck and breathing fresh air. I don't want to breathe in gasoline and see a bunch of loiterers at a convenience store.

Michelle Castrodell - Besides that, the fact that he proposed the dumpster would be right there, where our back yard is. I want to look at the fence and the office building that's quiet on the weekends - it's closed. My daughter can play outside in the backyard, safely. It's not safe with this gas station until 12:00 at night, 1:00 when the employees leave. We plan to have future children. This is not looking like a place I want to live anymore. It was very safe. It's a neighborhood filled with children that play outside every single day. That's why we moved there and put all of our money into this house. I'm asking please, do not put this gas station there, for me, my husband, my daughter and my future children.

Jones - Thank you.

Danielle Muller, 9511 Garden Terrace - I've lived in Commerce Township most of my life. My husband and I got married and I moved out of Commerce. I had a daughter and moved back to Commerce because it's always had that small town feel. I don't know about you gentlemen, but I don't want a gas station in my backyard. I have a well. I have a septic. I don't care how much you guarantee me that they're not going to leak, I'm not going to trust you. I don't want to have to put up with the traffic. It's bad enough I've got to listen to it at the corner. Every week there's an accident at that corner, and now you're going to put a gas station in with three entrances?

Living in Commerce, we've all had to deal with the traffic. We all know the route we have to take to get back and forth to work and we plan accordingly for getting gas. It's not just the impact on the traffic or neighborhoods, it's the impact on my house. You're talking about all the taxes that we're going to make off of it. What about our home values that are going to drop? Who's going to want to live behind a gas station? I will protest.

Carrie Shellhorn, 9600 Garden Terrace - On the Google map, you can see my garden in the backyard with the white driveway. I enjoy gardening. We have drilled our well three

times in the last 10 years. We've gone through 5 water softeners. We finally have good water. I don't want that in my backyard. The radiator station is bad enough.

Mike Humann, 3233 Chenoah - I live on the south side of the subdivision. I looked up the prices of gasoline in the Commerce area. \$1.96 versus Auburn Hills which is \$2.06. In Walled Lake, it's \$2.19, so gas prices in Commerce aren't that bad. Economically, it's not really going to give a huge benefit. When I pull out onto Newton Road, on a good day, I can peel out and get out good; but if there's snow or rain, it's really tough. Even though there might be a buffer, you mentioned that there is 19 square miles, and that would mean there would be more traffic coming to the area. That will make it more dangerous to pull out.

Mark Miller, 9511 Garden Terrace - You've got to worry about tankers; tankers have sprung leaks and that goes into the watershed, which is right down the road. That's my concern, the environmental. They leak as they fill the tanks and that goes right into the sewer, into our watershed and our backyards.

Mary Tederington, 9683 Nestoria - Gentlemen, if I understand correctly, even if all of you vote against this, and you make your recommendations to the Township Board, the Township Board can override you and still pass this? Yes. I guess my problem is, you're all spending copious amounts of time to listen and care, and you're concerned residents, as we all are, but how do we really get to the meat of the problem? I'm seeing that the Board is elected by residents, we the people, so you work for us. I just became aware of this on Friday. I was out yesterday in the cold trying to gather signatures for all of you that care about our small community. The reason we are here is because we like our small community. People move out of Livonia. They don't want to live in West Bloomfield. I'm at a point in my life where I can live or build wherever I want, but I like and I trust Commerce Township and our Board that works on the best behalf of every single resident in this community.

Mike Lebow, Attorney, 838 West Long Lake Road, Ste 100, Bloomfield Hills - I represent the Maple Point Beach Combined Association, over 300 homes, many of which have spoken tonight more eloquently than I can speak. I want to point out a distinction between the people who have spoken tonight and the developer. I give the developer credit for being honest. He said, this is about selling cheap gas, as much of it as we can, at the corner of Commerce and Newton, on a lot that still doesn't come up to an acre when you add it all together. An acre is needed for this type of zoning. Newton Road is curves and we don't want to see big trucks and tankers there. We don't want to risk that. On one side you've got the lake and on the other side you've got conservation area. Maybe like Costco, we'll get a line stretching out like them. Do you want that? I attended the meeting on January 24th between you folks and the Board of Trustees. I heard what they said - nobody is complaining about running out of gas in Commerce Township. Nobody's saying we need more gas stations. Not at all. The road is too narrow for emergency vehicles to pull out onto Commerce and head over to Newton. When you have cars who want to buy that cheap gas waiting to turn left off Commerce, you're going to have back-ups.

The Michigan Liquor Control Commission records are public. A good example is the gas station in Milford, on Commerce Road, owned and operated by the applicant. When that license was first applied for, I quote, *...after considering the past operating record of the stockholder, who has an extensive violation history as a licensee of the Commission at multiple locations...*

William Archambeau, 9650 Ideal Place - One of the things we keep hearing tonight is that's already zoned business, but it's a very low impact business; open most days 9-5, very few cars pulling in and out, making left-hand turns in and out. That is not going to be the case with the gas station. I can tell you, having lived there for 30 years, I have never ran out of gas. We are smart enough to know where to go buy our gas. He did not include any of the stations along M-59 or any of the stations in Milford. It's not needed.

Perry Elio, Arcade Petroleum Companies, 28340 Wick Rd, Romulus, MI - I've know Iven Sharrak for 23 years. I have to say he is the finest owner-operator of petroleum convenience store businesses in Southeast Michigan. He builds beautiful stores, as you can see; the before and after pictures are quite stark. I don't live in Commerce, but if I did, and I saw what was existing and what could be, I would want to go with the future and build a beautiful facility like that. Also, I want to mention that he employs a lot of people in the community where he does business. This will be a positive development for the community.

Bob Holmes, 4282 Creedmore - I think we've heard enough from the gasoline people. We listened to them. The variances seem to be kind of smoky. Are they not in the plans?

Jones - The variances are in their plans. They would need to apply for them first.

Kimberly Lehman, 3120 Silverberry - I've lived there for approximately 30 years. We have a nice little neighborhood that's nice for our children to play. They can walk back and forth to the lake. From our side, they have to cross the 2-lane road to get to the beach. It's been a nice little community for 30 years. You put that gas station there, we are going to have transient people stopping. They will be in the area. We don't want that for our children. We want our bedroom community to stay a bedroom community. I understand that Commerce is growing. We have 3 gas stations within 2 miles ... or 5, okay 5. We don't mind the little businesses that are there. They're quaint and quiet. This is a residential area with 2-lane roads. There's too much traffic now from 4:00 to 7:00. We don't have a direct thoroughfare going to Waterford and they all come through our community. You're going to increase traffic. Those are our homes.

David Vidlund, 3262 Brookneal - At one time I lived across the street from Jerry Rents. There isn't even a shoulder on the road for that corner. I don't think the logistics will work with cars pulling in and out of the gas station on that little corner. The other businesses have been here and we've supported them. There's 5 gas stations within 2 miles of my house, and then on my way to work. I've lived in Commerce Township my

whole life and grew up on Wise Road. I can plan where to get gas on the way to work. As for the price of gas, I drive a delivery truck and I've been to the airport and all the way to Flint. Commerce had the cheapest gas right now. I don't want a gas station on every corner. We'd like to keep this the Lakes Area and less commercialized.

Regina Fronczak-Roth, 4080 Lake Pointe Lane - Where is the sidewalk going? Are you going to put a sidewalk all the way to the new Library, or will we have people just pacing in front of the gas station? I don't see that sidewalk going anywhere. There's a book, *Where the Sidewalk Ends*.

I see on the master plan it's cottage residential. We want it cottage residential. They kept talking about bringing in more tax base, but what happens to the poor people living around there? Channel 7 last night reported gas prices and the lowest were in Commerce Township. (Crosstalk) You said you live around Hiller and Commerce. I don't see them petitioning for more gas stations down there. We need to keep the Lakes Area the residential cottage lake area.

Venus Girjis, 1720 Sadie Shore - I have been living in Commerce for 17 years. Commerce needs more office buildings, doctors offices and medical buildings. I'm very surprised that we are here today to discuss demolishing an office building to replace it with a liquor, beer and wine store and a gas station when we have already so many of these in the area. Plus, there is not enough room on the site for a gas station according to the guidelines. One acre is required and the applicant has only 0.88 acres.

Steve Girjis, 1720 Sadie Shore - I've passed by that road every day when I go to work so I never need gas. I'm in the gas business actually and with all due respect, Gus George has represented me a couple times on different jobs for the environmental assessment. There is a tank in the ground and maybe two above ground, and maybe they took samples from different areas to make sure there's not going to be any pollution, but to start with that Phase 1 and 2, then they needed closure. One way or the other, there is overflow from people when they put gas in the car, or when the tanker brings gas. It penetrates the ground and it's going to create pollution. We don't need another gas station. We've got plenty here. I'm 100% against it.

Mark Kendall, White Lake resident - I am a practicing chiropractor who has practiced in Commerce Township for 33 years now. I would be one of the businesses that would be displaced if this were to go through. One of the things we haven't talked about it, Papa's Rental also has a U-Haul store, so that's two businesses in one. You have my practice, the massage therapist next door to me and you have the attorney's office. In essence, you're displacing five businesses to build one. You'll have a larger tax base, but some of these people are my patients and may be clients of the other offices. What about us? We provide tax base to the Township. Why don't you plan on people getting around in this community? The traffic congestion is just terrible - fix that if you want to fix something.

Michael Farrell, 3161 Newton - I've lived in Commerce Township for 27 years. I'm just 300 feet from the gas station. My heart goes out to all the people on Garden Terrace

when I hear the fact that they're going to have the setbacks, so they're going to have buildings moved even closer to them. We've got traffic going through there and at times I'm not able to get out because people block my driveway. They don't obey the speed limit. I back my boat into my driveway and go past my neighbor's driveway, and then they give me the one finger salute and tell me to do something with myself. I live there and they're the idiots that are in a hurry to get to the traffic light. In my past life, I was pollution control inspector for Wayne County. I got into leaky underground storage tanks, for which the gentleman at Larson spoke about the equipment that they have. They do a good job, but this is not the place to do it. It certainly isn't benefitting me. I thought it was the second coming of Christ after their presentation about how much we need gasoline. It's ridiculous and it's a slick presentation, and by that I mean oily. This is not doing us a favor. Thank you very much.

Michael Shammass, 8091 Arden Lane - I'm here in support of the gas station, but my support is biased because I'm also Chief Operational Manager at five existing sites. I want to explain to the community that we hear your voices and your complaints, but I also want to reiterate how much support we give back to the community. In 2016, we supported many sponsorships and charities. We raised, directly and indirectly, over \$100,000 directed toward the communities. We just built a site in Orion Township about 8 months ago and we went through the same review. There, we had over 100 oppositions. Currently, I have those same oppositions coming into the site thanking us for how beautiful we created the site. We are also a safe zone for the Independence Township substation in Clarkston, which means anyone who feels in any sort of danger, they can come into the gas station and we will protect them. We have taken in K-9s as our own. We are a huge advocate to the community.

Sara Henderson, 3076 Ridgemont Street - Are there any representatives from Walled Lake Schools transportation department here, and if not, has anybody reached out to them to find out what their input is on some of these developments that are going on? I drive my son from Ridgemont to Clifford Smart School every day. I pass that intersection every single day. It's 2.2 miles, and I can't get him to school in less than 20 minutes, on a normal day with nothing going on. The intersection we are discussing right now is the worst. I'm just curious, being there are so many Walled Lake consolidated schools within 5 miles of this intersection, what is their input and how is it going to affect all the families with children that go to any one of these schools in this district? If we don't have their input, what do we need to do as parents and as a community to get it from them? I also want to know that if we do, it's going to be recognized and appreciated for what it's worth, because I trust these people to drive my kids to and from school most days of the week. How do I get an answer?

Jones - We don't necessarily provide answers this evening. Dave, I'll let you decide how to handle that.

Sara Henderson - I can give you my business card and you can get back to me.

Dave Campbell - Sure, let's do that.

Dave Sommerville, 3134 Mapledale - The gentleman in the suit and the other guys there, they all painted a real glossy, nice picture of why we need that gas station. When you guys are voting, just keep in mind, all the stuff that they're spewing out here is all leaning toward benefitting them and it's not necessarily as accurate as it should be.

Jaclyn Husak, 4690 Camelina - I live directly behind this. We've already been through this with the Clark Station. I want to introduce a couple things you guys have not thought of; light noise, sound noise, trash noise. I don't begrudge anybody who wants to be successful, and I think they're doing a fine job in their presentation, but in our community, we are over-capacitated with everything. This is your fight and you better stick together, because these guys denied the Clark Station's progress, and it was put through anyway, so good luck.

Unidentified Resident - What do they plan to do with the road? I didn't see that in the plans and I meant to ask that.

Deb McClellan, 1720 Petunia - I've lived in the Township for 52 years. I remember when Jerry Rentals was built, but that's not the property that's being discussed here. It's the building next to it that they want to change the land usage. There's a reason why that was always just a little brick building with four little offices, because that's what we want our Township to be. We don't need a big huge convenience store. We have Kroger's, we have Commerce Lake Market, we have the Clark Station, we have Annie's. We don't need another convenience store anywhere in our area, and we have 7-Eleven. Also, the entrance coming off Commerce Road to the convenience store - you tell me how a truck is going to know that he can only use the entrance and exit off Newton Road, and the entrance and exit off Commerce Road to get to those gas pumps behind the gas station. Is he going to try to use the entrance and exit for the convenience store to get to that gas station? Newton Road is only a 3-lane road, we have a left turn lane, a right turn lane, and a lane coming off Commerce Road. Some nights you're backed up to Lower Straits Lake to make a left turn onto Commerce Road off Newton. If you have a tanker truck sitting in the left turn lane, trying to turn into that gas station, how long is he going to block that intersection to take gas to that gas station? Jerry's is already there. It's not the gas station - it's the convenience store that he is trying to get changed. We don't need it. The reason the site plan was put for cottages is because that's how we want to stay. Build this in West Bloomfield where you live, but leave our Township alone.

Farah Karana, 519 Commerce Rd., Owner of the Clark Station - I live in Commerce Township and I own the Clark Station. I know Mr. Sharrak very well. He is my sister's ex-husband and he was my partner for years. I know all about the gas station business. My question today is to the counsel of Mr. Sharrak; when he started this he said, we don't need to get into the details of the site requirements because it's not important. I agree with him. It's not important to him because he doesn't live right back there. He's not the one who's going to get hurt, the people are. Actually, this building is a commercial building that doesn't match with the residential area. The parking proposed in the plan is the future road right-of-way of Commerce Road. The lighting glare under the canopy will spill into the adjacent residential yards, eliminating the view of the night

sky. Also, there will be traffic increase for the use of the property. There's not even close to enough space for the storm water and underground and normal retention basin. The buffer proposed is the minimum allowed by the Township. Also, there are many variances for this to even be suitable for a service station. In addition, I don't agree with the beautiful picture of the gas station. He never mentioned how it's all about beer, wine and liquor sales. Mr. Sharrak sent an email to Mr. David Campbell showing how his stations look. I would like you to have pictures of those. I appreciate your time.

I den Kalabat - I would just like to address some of the things that she said that are inaccurate.

Public - No.

I den Kalabat - My time was rushed by everyone yelling at me in the back.

Vice Chairperson Jones brought the meeting back to order.

Jones - I've tried to explain the rules. You'd have your presentation, people would then be allowed to speak. There would not be any crosstalk. If we have questions we want to ask you, we will do that.

Mike Cantonella (No address provided) - I live right behind this. Something this lady brought up that lives behind the Clark Gas station; she said the people voted it down but yet the Township went ahead and snuck it in behind their backs. Well, we have a president now who is trying to give the government back to the people so the people have the last say. How come you have the last say and the people don't vote for this? Why are you voting for it and why is the Township voting for it? The people are the ones who should be having a say for this.

Mike Morris, 3101 Mandrake - Just a general question; is this going to have a vapor recovery system? A rubber boot?

Vice Chairperson Jones closed the public hearing.

Commission Comments:

Winkler –

- The project is not in compliance with the current Zoning Ordinance, nor with what the Master Plan reflects, which was updated in 2015.
- When this site plan came in front of us originally for preliminary review back in November, there were many concerns that the Planning Commission raised. I don't see any of those addressed in this current proposal. I'm not going to repeat those concerns.
- The fact is that this project does not fit with the Master Plan, and the Township Board made it clear, at our joint meeting in January, that they would not be receptive to any proposals to rezone properties for a new gas station when the proposed zoning was inconsistent with the Master Plan.

Schinzing – I have nothing more to say. Brian has already said it all.

McKeever - It's been covered.

Czarnecki - It's not consistent with the Master Plan.

Jones - I spoke with the Chairperson. He is in Florida and he does not get a vote. He feels as though we ought to stay with the Master Plan.

We just got our Michigan Zoning Guidelines folder here today. One of the things they address is 10 common zoning problems, with #1 as spot zoning. Our Attorney, Phil Adkison, lectures us at joint meetings regarding avoiding spot zoning because it opens us up for lawsuits. The other thing here is that we did spend a year, with Township input, to revise the Master Plan. We do that every 5 years. It took us more than a year and a half to cover everything. We broke the Township up into 4 sections because we had so many residents that wanted to speak. We spent days and weeks on just one section to get their input into every parcel, not just an area. The Township residents have spoken to us and they've asked us to maintain this Master Plan and the Zoning Map. It's my opinion that we want to maintain the Master Plan.

MOTION by Schinzing, supported by Czarnecki, that the Planning Commission recommends denial of Item PCZ16-0003, to the Commerce Township Board of Trustees, the request by Commerce Land Development Co., LLC of West Bloomfield MI for Conditional Rezoning of a parcel of land consisting of 0.43 acres from B-2 Community Business to B-3 General Business located at 9555 Commerce Road. Sidwell No.: 17-11-332-029

Move to recommend the Commerce Township Board **deny** PCZ #16-0003, a conditional rezoning application by Commerce Land Development Co. for the development of a gas station with retail building at the southwest corner of Commerce and Newton Roads, encompassing a total of five properties with one of the properties to be rezoned from B-2 Community Business to B-3 General Business.

This recommendation to deny is based on a finding by the Planning Commission that the conditional rezoning application does not meet the applicable standards of Articles 3 and 36 of the Commerce Township Zoning Ordinance, and does not meet the intent of the Commerce Township Master Plan.

Specific findings by the Planning Commission include the following:

1. The Minimum Standards for a conditional rezoning contained within Section 36.04 of the Zoning Ordinance have not been met.
2. The factors to be considered for a request to amend the Township's Zoning Map contained within Section 3.03.D.3 have not been adequately satisfied.
3. The conditional rezoning application is inconsistent with the intent of Commerce Township's 2015 Master Plan, including the intent for properties designated as Cottage Residential on the Future Land Use Map.

AYES: Schinzing, Czarnecki, McKeever, Jones, Winkler

NAYES: None

ABSENT: Haber

RECUSED: Hindo

MOTION CARRIED UNANIMOUSLY

Brief Recess as the members of the public exited, 8:55pm to 9:00pm.

ITEM 2: PZ17-0001 – COMMERCE TOWNSHIP – TEXT AMENDMENT – PUBLIC HEARING

An amendment to the Commerce Township Zoning Ordinance 3.000, to amend Article 41, Zoning Board of Appeals, to make it consistent with the Michigan Zoning Enabling Act.

Dave Campbell, Planning Director gave a review. Concurrent with this housekeeping item, the ZBA is also reviewing their by-laws.

Vice Chairperson Jones opened the public hearing.

No comments.

Vice Chairperson Jones closed the public hearing.

Commission Comments:

Winkler - Bill, do you have any objections to any of this?

McKeever - No.

MOTION by McKeever, supported by Czarnecki, that the Planning Commission moves to forward application PZ #17-0001, text amendment 3.031 to the Commerce Township Zoning Ordinance, to the Commerce Township Board with a recommendation of approval as written. An amendment to the Commerce Township Zoning Ordinance 3.000, to amend Article 41, Zoning Board of Appeals, to make it consistent with the Michigan Zoning Enabling Act. **MOTION CARRIED UNANIMOUSLY**

ITEM 3: DISCUSSION ITEMS: Fences - vacant property

Jay James - If items come up on a regular basis, I bring them to you for input and discussion. One of those items is people who want to fence their vacant properties. Some are individuals, some are associations with lake lots for access. They repeatedly call wanting to fence their lots in to prevent trespassing, encroachment, dumping and other issues.

According to the Ordinance, without a principal, primary building on the site, you cannot put in any structures, and by definition a fence is a structure. In the past, we have not allowed vacant lots to be fenced in.

Jones - Dave, is there any precedent to this? Does this condition of no fences on vacant lots exist anywhere in the general area?

Dave Campbell - I would have to do some homework to get a good answer on that. I would assume something like this varies significantly from one community to the next, as far as how they handle it.

Jay James - We can bring back more research. I don't need an answer today, but it's something I would like input on.

McKeever - I don't necessarily have an issue. I understand the desire to be able to do it. I wouldn't be opposed to seeing how our neighboring communities handle it.

Hindo - I don't really care either way. I would be more interested to see what Larry would say because he always has thoughts about these types of things. We might be opening Pandora's Box here. What will we really be getting? A fence on a corner vacant lot on a road that we don't want?

Jones - Dave, would you mind contacting Larry to get his thoughts?

Dave Campbell - I do not mind at all.

Czarnecki - My only thought is that it's adding more fences to the Township and then they go unmaintained. I know we have regulations about that but it makes it harder on you. This could open us up to more blight.

Schinzing - I would want to fence my property just so those collection bins don't get put on there, but I think we've dealt with that. I agree with Jay (Czarnecki). How do we force maintenance, especially with the fact that we're not driving around trying to find things today. I think it opens up a lot more issues.

Czarnecki - Either illegal dumping takes place, or eventually, there's an unmaintained fence after a period of time.

Jones - They could throw it over the fence.

Winkler - Whatever fence is proposed, it would have to meet the current Ordinance.

Jay James - Yes.

Winkler - Maintenance might be an issue. Is there any other downside there that we should be aware of? I'm not against it, but I would be interested in more information about what it really entails and the impacts.

Jay James - I will look and see what neighboring communities do and I'll present some pros and cons.

Jay James also discussed signs in the Commerce Village Overlay. He recently realized that wall signs in the Village are not supposed to be illuminated internally. This has been an oversight. Jay would do additional research on the Overlay District to ensure that this was the intent, and if so, he will proceed accordingly and enforce this moving forward.

ITEM 4: PLANNING COMMISSION ANNUAL REPORT

Dave Campbell stated that if the Planning Commission is inclined to approve the annual report, it would then be forwarded to the Township Board.

MOTION by Czarnecki, supported by Czarnecki, to approve the Planning Commission Annual Report as presented. **MOTION CARRIED UNANIMOUSLY**

ITEM 5: OTHER MATTERS TO COME BEFORE THE COMMISSION:

None.

ITEM 6: PLANNING DIRECTOR'S REPORT

Dave Campbell stated that there are text amendments that will be coming before the Planning Commission within the next couple of months. One is relative to adult oriented businesses, and another addresses new State Law for medical marihuana licensed facilities. Lastly, there will be work on the Zoning Ordinance for the standards and limitations relating to locations for off-premises liquor licenses.

ITEM 7: NEXT REGULAR MEETING DATE: March 6, 2017

ITEM 8: ADJOURNMENT

MOTION by Czarnecki, supported by Schinzing, to adjourn the meeting at 9:16pm. **MOTION CARRIED UNANIMOUSLY**

Brian Winkler, Secretary