

**CHARTER TOWNSHIP OF COMMERCE
PLANNING COMMISSION MEETING**

Monday, December 2, 2019
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
Brian Winkler, Secretary
Tom Jones
Bill McKeever
George Weber
Absent: Brian Parel (excused)
Russ Schinzing, Vice Chairperson (excused)
Also Present: Dave Campbell, Township Planning Director
Hans Rentrop, Township Engineer
Mark Stacey, DDA Director

MOTION by Haber, supported by Jones, to yield the chair to Secretary Winkler if Chairperson Haber found it necessary to leave the meeting early for medical reasons.
MOTION CARRIED UNANIMOUSLY

B. APPROVAL OF AGENDA

MOTION by Winkler, seconded by Weber, to approve the Planning Commission Regular Meeting Agenda of December 2, 2019, as presented.
MOTION CARRIED UNANIMOUSLY

C. APPROVAL OF MINUTES

MOTION by Jones, supported by Winkler, to approve the Planning Commission Regular Meeting Minutes of November 4, 2019, as presented. Winkler commended Recording Secretary, Deborah Watson, for a great job on the 23 pages of minutes.
MOTION CARRIED UNANIMOUSLY

D. UPDATE OF ACTIVITIES

Bill McKeever – Zoning Board of Appeals

- There was a variance granted for a property located at 301 Charlevoix to construct an attached garage onto a nonconforming home that will encroach into both required front yard setbacks. He's on a corner lot.
- We still have tabled items, and we also re-elected officers.

Dave Campbell – In addition, the house on Watuga needed multiple variances, and the ZBA opted to table that request to give them a chance to rework their plans.

George Weber – Township Board of Trustees

- At the last Board Meeting, Brian Parel was appointed for another three years to the Planning Commission.
- We had final approval on the 2020 budget.

- We are in the process of interviewing for the new Library Director. We received nine resumes. We paired down to four candidates and interviews will take place in about two weeks.
- The subcommittee working with the Friends of Windmill Farm, the Horse Farm, is moving forward and slowly making progress on that property.

Brian Winkler – Downtown Development Authority

- It's worth repeating that the most exciting thing that has taken place in the DDA recently is the closing of the Aikens property in October.
- \$3.5 million of the funds received from Aikens for that purchase was transferred to Michigan Class for holding to maximize the interest income.
- The Outrun Hunger race was held on the DDA property 11/9 and they raised over \$18,000 to feed the hungry for the holidays. They have raised over \$100,000 in the past 9 years.
- Lastly, Galbraith is progressing on Barrington, which is on the northwest corner of Pontiac Trail and Martin Parkway. The roads are paved and the clubhouse is going vertical. The project is moving ahead very quickly.

Dave Campbell – You can actually drive back there now and see the result of all the dirt they've been moving over the last few years.

Chairperson Haber – Mark, do you have anything to add?

Mark Stacey – No, I think he covered everything. Thank you.

Chairperson Haber – Dave, a question to you. I see some of the lights are missing on the bridge?

Dave Campbell – Yes, somebody helped themselves to 3 of our 7 ground-mounted lights on the bridge. It actually made the Channel 7 News. We're getting quotes on the cost to replace those, and hopefully we can do so as quickly as possible, given that this is the time of year where you would really like to have the bridge fully illuminated.

E. PUBLIC DISCUSSION OF MATTERS NOT ON THE AGENDA

None.

F. TABLED ITEMS

ITEM F1.: PSP19-0007 – HOMESTEAD INDUSTRIAL PK UNIT 19 – TABLED FROM 11-4-19 – REMAIN TABLED

David Biel of Commerce MI is requesting site plan approval to construct a new light manufacturing building located on Unit 19 within the Homestead Industrial Park on the south west corner of Pioneer and Richardson Roads. Sidwell No.: 17-13-326-042

ITEM F2: PPU19-0001 – COMMERCE TRAIL – PLANNED UNIT DEVELOPMENT – TABLED FROM 11-4-19 – REMAIN TABLED

Samona Weiss Properties of Royal Oak MI is requesting approval for a proposed PUD (Planned Unit Development) for a multiple-family development to be located on an

undeveloped 5.3 acre property along the north side of Crumb Road, west of Haggerty Road. Sidwell No.: 17-25-426-015

G. OLD BUSINESS

None.

H. SCHEDULED PUBLIC HEARINGS:

ITEM H1: PZ19-0002 – BRUCE ROSENTHAL – TEXT AMENDMENT – 2ND PUBLIC HEARING

An amendment to the Commerce Township Zoning Ordinance No. 3.000, to amend Article 26, Use Standards, Section 26.316, Off Premise Alcohol Sales Outlets, to amend the standards for requiring a special land use.

Chairperson Haber – This is the second public hearing, so we may go through this a little bit more quickly than we usually do. Dave, do you want to bring us up-to-date as to why we're having a second public hearing?

Dave Campbell gave a review of the Planning Department's report dated November 27, 2019, including the background and timeline of events that have taken place since July 2017, and since the text amendment was proposed in September 2019 when the Planning Commission unanimously recommended that the Township Board deny the petition.

At their October 8, 2019 meeting, the Township Board approved the proposal with a 4-3 vote. The Township Attorney then assisted with revising language accordingly as the text amendment did not meet Mr. Rosenthal's original intent.

At their October 22, 2019 meeting, the Township Board agreed to consider the revised language; however, it would first have to be referred back to the Planning Commission for another public hearing.

Dave also reviewed the public hearing process. Typically the public is asked to limit their comments to a reasonable amount of time, usually about two minutes. The public is also asked not to repeat things that have already been said.

Jones – I'd like to ask a question. Is it legal for someone in the audience to record this meeting?

Attorney Rentrop – According to the Open Meetings Act, it is legal to record a public meeting, so long as it does not interfere with the conduct of the meeting.

MOTION by Weber, supported by Jones, to open the public hearing.

MOTION CARRIED UNANIMOUSLY

Chairperson Haber opened the public hearing. He explained that all questions and comments would be heard, but answers would not necessarily be provided this evening. He requested that previous comments not be repeated and that comments be kept brief to two minutes.

Bruce Rosenthal, 33751 Heritage Hills, Farmington Hills, MI – I am the petitioner for two clients. Thank you for your time this evening. We've met before on this same issue. The text amendment language that is before you this evening was a culmination of work between ourselves, the Township, the Township Attorney and the Board of Trustees. There were some questions about types of SDD licenses. I think those were quashed. So, the language that comes before you this evening is all bodies trying to put their heads together to create something that we requested that I hoped that the Township would approve, and did back in October.

We have opted, as I said previously, not to work against the Township. We sought to work with the Township. We've been through this before where the licenses are in fact in place. As recently as Wednesday, I spoke to the Liquor Control Commission. They're fully advised of what's transpiring with the Township and the position with our two clients. I know everybody has a copy of the proposed language, and I'm very happy to answer any questions. I know that we have been through this chapter and verse. I don't want to go through it again and I'm trying to be mindful of time.

Robert Ficano, 33751 Heritage Hills, Farmington Hills, MI – I am co-counsel with Mr. Rosenthal. He summarized it. We've been through this at least a couple times and I think you're very familiar with the issue and what's involved. It's our understanding that it was the intent of the Township Board that they're in favor of this particular language.

Chairperson Haber stated that public comments would be limited to two minutes each.

Craig Mierzwa, 37000 Woodward Ave, Ste 250, Bloomfield Hills, MI – I represent Annie's Wine & Liquor and Commerce Wine Shoppe. The point of my comments here today, on behalf of my clients, is the fact that the Township back in 2017 drafted language to limit the proliferation of alcohol sales establishments in Commerce Township. What the petitioner wants to do is take those off the table 100% and anybody that is selling beer and wine, an SDM license as of July 2017, can choose to change their mind and decide to start selling spirits if they wanted to without any Township approval necessary. It goes against the whole crux of the 2017 ordinance language that was approved at that time. I think there was a 7-0 vote before. I would imagine that is probably not going to change. I would recommend that the Planning Commission consider that language again and vote the same way that they did before. Thank you.

James Coolican, 2000 Ridgemont St, Commerce Township – I'm here representing voting members of Commerce Township. When they passed that law in 2017, they did it for a reason, and that was non-proliferation of liquor around the Township. Now, you're going to give two people a license, and that will open up the doors for probably another 10 or 12 in the Township. It's a matter of economics. We're not going to sell any more liquor; we're just going to take from the people that have the liquor licenses and give it to the new people who are going to get a liquor license. So we're taking profits away from somebody, and adding profits to somebody else. These businesses exist right now the way they are without the liquor licenses. I would hope that the Board would go ahead and disapprove it like they did the last time.

Cheryl Gingras, 1916 Applebrook Dr., Commerce Township – I own The Bottle Shop, and I do not agree with this happening. I thought there was a rule that you had to be a mile away?

Chairperson Haber – It's two miles.

Cheryl Gingras – Two miles, okay. Well, then how can Marathon sell if Annie's is right next door? That's not two miles.

Chairperson Haber – That's the problem.

Cheryl Gingras – It's not a problem. I don't think they should sell. I think there's enough places to buy liquor in Commerce Township and to support the small business owner.

Ms. Rabban, 535 W. Commerce Road, Commerce Township – I am one of the owners of Annie's Party Shoppe and Commerce Wine & Liquor, and property down the road at Carroll and Commerce Road.

I'm an advocate of the beer and wine. I was up here when they were trying to propose this language in the first place. Here's what you guys need to understand, and what the public needs to understand. First, as a potential home buyer in the area, you do realize that now, with this text amendment that's going to change, there's going to be five potential liquor licenses on Commerce Road, within a quarter of a mile of each other. There's an elementary school across the street. There's a creamy freeze that basically serves the community and all the children. I've seen it because we have windows, and I see the school children walk over there. You're basically telling me that the kids are going to go get ice cream and they're going to see five within a quarter of a mile. Let's talk about Union Lake, starting at Main Street Market, which I approached them. Now you go to Speedway, Kroger, the gas station across the street, Union Lake Liquor Station, and then the other gas station, and Walgreen's. You have seven potential liquor stores. Are you serious right now? Is that what we want for our community? If I'm a home buyer looking to buy a house in Commerce Township, I'm driving down Union Lake or Commerce Road and I see liquor stores? Give me a break. I don't see that congestion not even in urban Detroit or Pontiac city. I'm sorry I'm using those as my language as an excuse for what's going on here, but do we need to be Liquor City? We do our best to control it, so everybody has a niche. Here's what the community needs to look at. If we want to grow, and we should grow, we should look at maybe Milford, Sylvan Lake, Walled Lake and see how they're growing without basically adding on the same exact businesses. If we're going to add liquor stores, how does that benefit the community? Shouldn't we work together? There are already liquor stores that are grandfathered in. How about next door if they do what they do best and sell at the gas station and add on to what they do? They want to grow and expand; they're doing fine as it is. They're not going to die if they don't sell liquor. They can expand without it. Maybe we should start thinking about how we're going to benefit the community without saturating the community with what we already have. All you guys are doing is basically saturating the community with the same stuff so it doesn't add any benefit. They basically went ahead without your wishes or approval, without caring what the ordinance is, but on what consequences? Let me explain this to you because I have a

liquor license. They can put it in an escrow. They could turn around and sell it and they make a lot of money on it.

Chairperson Haber – Okay, you're about 10 minutes over your two minutes.

Ms. Rabban – Well, how about this? I'm sorry, but I own 4 businesses, so can I sit there and say, for Annie's Party Shoppe, the Papa Romano's, you know I think I've earned the right because I have 4 businesses, so maybe give me 8 minutes if I can.

Chairperson Haber – Two minutes.

Ms. Rabban – So, if my brother has to get up, then fine, so be it. All I'm asking you guys is that maybe as a Township, you guys should start looking at, how does this benefit? Instead of saying, okay we're going to saturate the community with the same stuff. Nowhere else does this happen, and if it does, it doesn't add any benefit to the community. If you're saying, if they sell vanilla and chocolate, let them sell strawberry. No, it doesn't work that way because the other businesses that thrive selling vanilla and chocolate...

Chairperson Haber – Okay, I'm going to ask you to stop now.

Ms. Rabban – I understand that. I'm just trying to make a point.

Chairperson Haber – We've got your point.

Sara Henderson, 3076 Ridgemont St, Commerce Township – Last time I was up here, I said I wasn't going to do a bunch of quotes, but this time I am. From the January 24, 2017 meeting minutes from the Commerce Township website, we have Supervisor Scott stating that, *We need to look at all the possibilities, that our master plan will be taxed, and reaffirm and attempt to adhere to, as Vice Chair Jones said, the law of the land.*

Same meeting minutes; Planning Commission Vice Chair Jones read from Dave Campbell's report, where Planner Campbell states that; *The Township Zoning Ordinances, enforced by the Zoning Map, are the land use law of Commerce Township. The Township Planning Commission and the Township Board should hear very compelling reasons why their law should be changed, and particularly so when the proposed change is contrary to the Township's Master Plan that was adopted in 2015.* There's just so many. I have two minutes, right? To shorten it for you guys. From those same meeting minutes, Trustee Sovel stated; *The Clark Gas Station went through 3 different plans. All were denied for not having met Township Ordinances. They are now on their second attempt to amend our Zoning Ordinance and Master Plan to serve themselves and not the community. Is it the intention of the Board and the Planning Commission to allow this type of taxpaying dollar wasting, relentless nit-picking of our valued Master Plan and Ordinances until a petitioner now, or in the future, gets their way? A bully is someone who seeks to cause harm, intimidate or coerce, and at what point do we say, "This is bullying."?*

Regarding the State of Michigan and the MLCC, it is my understanding that Commerce Township submitted their written objection to the issuance of both SDD licenses being discussed, and for that I am grateful. I do wish to extend my sincere thanks. It also seems that the Planning Commission has valued the opinion of Commerce Township residents, held true to the Master Plan and Zoning Ordinances, and their decisions reflect that. That said, if the Planning Commission and the Board truly have been stripped by the State of Michigan of all control, regardless of whether approvals of additional licenses are in direct conflict with their local ordinances, do the Commission and the Board feel as though the efforts of Commerce Township residents to voice opinions would be better served by reaching out to State representatives? I'm choosing to stand up here today, and instead of taking an aggressive or angry stance toward the Board's or Commission's recent votes, I'd like to ask you, how can we help?

John Rabban, Annie's Party Store, 535 W. Commerce Road, Commerce Township – My sister said a lot of stuff, so I'm not going to touch back on that. A lot of people are talking about three licenses on this particular street. We had one license, which was Annie's, and then we bought the store across the street which was for sale for a long time and anybody could have bought it, after you guys put this ordinance in place. Basically, if you guys were to open this up, why would I have bought that business? I didn't spend all this money for you guys to open it up. We were once here also for a gas station on Carroll Lake and Commerce. If they're going to start opening up all these ordinances and changing all these laws, I'm sure you guys put a lot of work and time into it, we'll be right back at it too. We thought about doing something different, but we decided to wait just in case for this reason. Honestly, you guys are put here for a reason, to do good for the city. I know that's what you guys are here for, and to help small businesses thrive. This is an up and coming city that doesn't need businesses being hurt. Annie's and the former Clark; 5' of grass separates our driveways, and building to building, 20'. We bought the store that's across the street after you put the ordinance in place, just to protect the one asset that we have, which is liquor. That driveway is next door and across the street, probably another 30'. It's literally liquor, to liquor to liquor, and then you have a 7-Eleven that's not even a quarter of a mile down the street that has potential to get a liquor license. I hope you guys do the right thing and deny this application.

Monte (Cameron) 2435 Ivy Hill Lane, Commerce Township – I've been out here about a year now. Growing up in Hines Park area and seeing all the liquor establishments in the cities down there, I think you're just going to add more congestion and more traffic to Commerce Road already, which is only two lanes in and out. With all the kids in the neighborhood, I don't think it's an appropriate decision to add more liquor stores, when you already have two or three within the area. You're just going to open up the floodgate to set up this Township be a failure in property values.

Chairperson Haber closed the public hearing as there were no additional questions or comments.

Commission Comments:

Chairperson Haber – Bill, do you have any comments?

McKeever – I do not.

Weber – I have a question for Hans. I appreciate the work everybody has done. If I distill this down from the last time that the Planning Commission voted on this, a key element of that from Mr. Rosenthal and Mr. Ficano centered on the resort license, and the restriction of the resort license. I believe there were 15 per year granted by the State statewide. In order to meet the intent of the discussion with the Board, that now is no longer applicable. The resort license is no longer restricted?

Attorney Rentrop – That is correct. It is my opinion that there is no legal difference between a resort and non-resort SDD license from the standpoint of the criteria used for zoning classifications. There is a legal difference in terms of mobility, number issued, difficulty and cost. Those are distinguishing characteristics, but from the standpoint of what you can actually accomplish once you have one of those licenses, in my opinion, there is no significant legal difference.

Weber – I don't have any other questions.

Jones – Back on September 9th when we discussed this, I had asked Dave Campbell how many establishments we have in Commerce, and there's somewhere around 60. We also determined that within a short distance of Walled Lake, et cetera, we're approaching 100 places that sell beer, wine and liquor. Having moved to Southfield many years ago in 1962, and having left there 30 years later, the changes were terrific. A lot of the people that went out there, they looked at it as a total residential community, and it changed. You have the opportunity to either stay or leave. We finally left. We came out to Commerce 27 years ago, and I realize it's going to change, but I do feel very strongly that this is a residential community. I think we have to preserve that if we want to attract people to come and live here. I don't think having 5 liquor stores within a quarter mile, next door to each other, is a good thing. I feel very strongly that after all the work that we spent researching this, with Mr. Campbell's help, that we determined there was a reasonable spacing we should hold to. I'm not even sure in trying to read what we have here whether those limitations for the spacing are going to hold; apparently not if they're going to be next door to each other. I feel very strongly that we need to preserve the residential community and not add any more liquor stores. I'm opposed to this.

Winkler – No comment.

Chairperson Haber – Tom, you stole my thunder. I feel exactly the same. We put a lot of time into this ordinance. I wanted it at one mile, not two. I didn't get that, so I succumbed to the two miles. I'm definitely against this. If you need to walk more than 10 steps to buy gas or liquor, you can go miles in your car. We don't need this in our community.

MOTION by Weber, seconded by Haber, that the Planning Commission **recommends denial**, to the Commerce Township Board of Trustees, of Item PZ19-0002, the request by Bruce Rosenthal for an amendment to the Commerce Township Zoning Ordinance No. 3.000, to amend Article 26, Use Standards, Section 26.316, Off Premise Alcohol Sales Outlets, to amend the standards for requiring a special land use.

Move to once again recommend the Commerce Township Board of Trustees **DENY** PZ #19-0002, a petition to amend Sec. 26.316 of the Commerce Township Zoning Ordinance, including the proposed revisions to the originally-submitted text amendment. This recommendation is based upon a finding that the proposed text amendment, including the proposed revisions, is contrary to the intent of the Planning Commission when it approved the Use Standards of Sec. 26.316 for Off-Premises Alcohol Sales Outlets, and specifically the Purpose statement of Sec. 26.316.A. If the Township Board opts to approve the text amendment despite the Planning Commission's two formal recommendations to deny it, the Planning Commission believes that the revised text amendment drafted by the Township Attorney achieves the petitioner's original intent of excluding pre-existing SDM licensed Off-Premises Alcohol Sales Outlets from the special land use approval requirements of Sec. 26.316.C and the Limitations of Sec. 26.316.D when they seek to add an SDD license.

AYES: Weber, Haber, McKeever, Jones, Winkler

NAYS: None

ABSENT: Parel, Schinzing

MOTION CARRIED UNANIMOUSLY

I. NEW BUSINESS

None.

J: OTHER MATTERS TO COME BEFORE THE COMMISSION:

None.

K: PLANNING DIRECTOR'S REPORT

NEXT REGULAR MEETING DATE: Tentatively JANUARY 13, 2020 @ 7PM

Dave Campbell initiated discussion with the Commissioner's regarding a unique proposal for a standalone, small, drive-thru only coffee shop. It was basically a kiosk with no indoor seating. It would occupy an existing parking lot in the surplus parking area of a big box store where there is an expanse of asphalt. He presented a rough site plan and photos on the overhead. Weber compared it to the old Photomarts.

The Commissioners were generally not in favor of the concept and discussed numerous challenges. The facilities are somewhat mobile and were compared with setting a shed in the middle of a parking lot. The building does not have plumbing or restrooms. There is no benefit to the site from the addition of this type of facility, such as landscaping which is required with other permanent buildings, and other businesses who are committed to the community. It was discussed that this use might need to be treated as an accessory structure, or similar to a seasonal sale. It was also mentioned that a drive-thru use is usually an accessory to the principal use; however, the drive-thru would be the primary and only use in this regard. In addition, the Zoning Ordinance does not allow a drive-thru lane to face a road. The use would be restricted because it is only a drive-thru and it does not meet the ordinance. Dave Campbell may bring additional information on this proposal back to the Commission at a future meeting for further

feedback, as the Zoning Ordinance does not yet specifically address this issue, which is akin to a transient use.

Dave Campbell also discussed the following with the Commissioners:

- As far as the items that were on the table this evening, Mr. Biel who was looking to do the new building for Homestead #19, took Mr. Weber up on his offer to go for a ride around the neighborhood and look at some of the other buildings. I went with them. I think it was a good conversation. Mr. Biel is still on the fence as to whether or not he wants to come back with something.
- It's sort of the same story with the Commerce Trail Luxury Living, the 100 apartments proposed on the north side of Crumb Road. They're still weighing their options and whether they want to scrap the concept and start something else, or whether they want to push ahead with what they've got.
- Pulte is still looking at the former driving range property on the east side of Martin Road, across from the Township Hall. They're looking to do 100 townhomes. They would demolish the existing office building. They need some cooperation from the industrial park to the north as far as access. They're trying to negotiate before putting together plans for the Planning Commission.

Dave Campbell wished everyone Happy Holidays!

Chairperson Haber inquired about the January 13th meeting date and why it is shown as tentative. Dave Campbell explained that the Township Board still needs to adopt all meeting schedules for 2020 at their December 2019 meeting, but he does not anticipate any changes to the calendar.

Chairperson Haber wished everyone Happy Holidays!

L: ADJOURNMENT

MOTION by Jones, supported by Winkler, to adjourn the meeting at 7:51pm.

MOTION CARRIED UNANIMOUSLY

Brian Winkler, Secretary