

**OSHTEMO CHARTER TOWNSHIP  
PLANNING COMMISSION**

**MINUTES OF A MEETING HELD MAY 11, 2017**

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**Agenda**

**PUBLIC HEARING: SPECIAL EXCEPTION USE (WEST PORT VILLAGE)**  
CONSIDERATION OF THE APPLICATION FROM VISSER DEVELOPERS OF KALAMAZOO FOR AN AMENDMENT TO THE PEDESTRIAN FACILITIES WITHIN THE WEST PORT VILLAGE PLANNED UNIT DEVELOPMENT, WHICH IS A SPECIAL EXCEPTION USE, PURSUANT TO SECTION 60.460.C OF THE ZONING ORDINANCE. THE PEDESTRIAN FACILITY IS LOCATED AT THE SOUTHEAST CORNER OF WEST PORT DRIVE AND HARBOR VIEW PASS, KALAMAZOO, MI, WITHIN THE "R-2" RESIDENTIAL DISTRICT. PARCEL NO. 3905-12-200-301.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (RESTAURANT PAD WITH DRIVE THROUGH)**  
CONSIDERATION OF AN APPLICATION FROM WESTMAIN 2000, LLC FOR A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW TO CONSTRUCT A NEW RESTAURANT WITH DRIVE-THROUGH WINDOW JUST WEST OF PANERA BREAD (5119 WEST MAIN STREET) ON THE SOUTH SIDE OF WEST MAIN STREET, PURSUANT TO SECTION 30.407 OF THE TOWNSHIP ZONING ORDINANCE. THE PROPERTY IS LOCATED IN THE C-1: LOCAL BUSINESS DISTRICT. PARCEL NO 3905-13-430-050.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (PRESSURE REDUCTION STATION)**  
CONSIDERATION OF AN APPLICATION FROM OSHTEMO CHARTER TOWNSHIP FOR A SPECIAL EXCEPTION USE TO CONSTRUCT A NEW WATER PRESSURE REDUCTION STATION AT 10146 WEST MAIN STREET, PURSUANT TO SECTION 20.408 OF THE TOWNSHIP ZONING ORDINANCE. THE PROPERTY IS LOCATED IN THE RR: RURAL RESIDENTIAL DISTRICT.

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A meeting of the Oshtemo Charter Township Planning Commission was held on Thursday, May 11, 2017, commencing at approximately 7:00 p.m. at the Oshtemo Charter Township Hall.

ALL MEMBERS WERE PRESENT:      Wiley Boulding Sr., Chairperson  
Fred Antosz, Vice Chairperson  
Cheri Bell  
Ollie Chambers  
Dusty Farmer, Secretary  
Mary Smith  
Bruce VanderWeele

Also present were Julie Johnston, Planning Director, James Porter, Township Attorney, Martha Coash, Meeting Transcriptionist, and approximately eight interested persons.

**Call to Order and Pledge of Allegiance**

Chairperson Boulding, Sr., called the meeting to order at approximately 7:00 p.m., and the “Pledge of Allegiance” was recited.

**Agenda**

Chairperson Boulding, Sr. asked if there were any additions, deletions or corrections to the Agenda. Hearing none, he asked for a motion to approve the agenda.

Mr. Antosz made a motion to approve the agenda as presented. Ms. Bell supported the motion. The motion passed unanimously.

**Public Comment on Non-Agenda Items**

The Chairperson called for public comment on non-agenda items. Hearing none, he proceeded to the next agenda item.

**Approval of the Minutes of April 27, 2017**

Chairperson Boulding, Sr. asked if there were any additions, deletions or corrections to the Minutes of April 27, 2017.

Ms. Farmer asked that page three of the minutes be changed to correctly reflect her comments regarding closed connections.

Hearing no further corrections, he asked for a motion to approve the minutes as corrected.

Mr. VanderWeele made a motion to approve the minutes of April 27, 2017 as corrected. Mr. Antosz supported the motion. The motion was approved unanimously.

Chairperson Boulding, Sr. moved to the next item on the agenda.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (WEST PORT VILLAGE)  
CONSIDERATION OF THE APPLICATION FROM VISSER DEVELOPERS OF  
KALAMAZOO FOR AN AMENDMENT TO THE PEDESTRIAN FACILITIES WITHIN  
THE WEST PORT VILLAGE PLANNED UNIT DEVELOPMENT, WHICH IS A  
SPECIAL EXCEPTION USE, PURSUANT TO SECTION 60.460.C OF THE ZONING  
ORDINANCE. THE PEDESTRIAN FACILITY IS LOCATED AT THE SOUTHEAST**

**CORNER OF WEST PORT DRIVE AND HARBOR VIEW PASS, KALAMAZOO, MI,  
WITHIN THE "R-2" RESIDENTIAL DISTRICT. PARCEL NO. 3905-12-200-301.**

The Chairperson asked Ms. Johnston to review the request.

Ms. Johnston said West Port Village is a 128-unit site condominium on the south side of H Avenue between Drake Road and US-131. The project was developed under the Planned Unit Development (PUD) ordinance, Section 60.400, which requires amendments to be approved by the Planning Commission. The applicant was seeking Planning Commission approval to modify the PUD conceptual plan to alter the location of the non-motorized pedestrian path and to reduce the lots in Phase II by one.

She said, from historical planning files, it appears the first time the West Port Village PUD Conceptual Plan was presented to the Planning Commission was in June and August of 2003. Phase I of the development was approved on November 18, 2004 as an attached condominium development with 73 dwelling units and one nonresidential unit (sales and recreational amenities). On June 9, 2005, amendments were approved to convert the development to a site condominium, approve Phase II, establish a phasing plan, and approve other minor deviations. In June of 2006, the project was further amended to reduce the number of units in Phase I to 70, reduce the zero lot line units from 34 to 6, allow additional recreational amenities, and approve other deviations and changes. This reduced the number of residential building sites from 134 to 129.

Ms. Johnston noted in 2014 some additional changes were made to Phase I, including converting six units that were intended to be three duplexes to five stand-alone houses, and shift two units from Phase II to Phase I. An extension to the approval of Phase II was granted in 2010 but expired. Step 1 approval for Phase II came back before the Planning Commission in December of 2015 and was approved by the Township Board in January of 2016. Step 2 drawings for Phase II were approved in February of 2016. The applicant has been completing the infrastructure for Phase II and hopes to receive Step 3 approval this year.

She said the original location of the non-motorized path in question was along the rear property line of lots 22 through 30 of Phase I of the development. While included in Phase I, the non-motorized path was never constructed. The applicant would like to amend the location of the path and place it more central to the open space found between Phases I and II. The path has three connections to the larger sidewalk system within the development. A gazebo is now planned as part of this path system.

Ms. Johnston explained Staff was originally concerned with the requested location of the non-motorized path because this open area is also part of the storm water management system. However, infiltration units were installed within the detention area and water no longer sits at the lowest point of the open space. In addition, the applicant intends to use crushed concrete for the path, which should survive any episodes of standing water. Mark Elliot, Township Engineer, reviewed the plan and approved the use of crushed concrete to address the water problem.

She explained that in order to achieve a connection point at the northern portion of the open space, the applicant needed to remove lot 77 from the plan and reduce the lots within Phase II from 27 to 26. This was required for a number of reasons. First, the homes developed on lots 16 and 17 were set back farther than planned, which encroached on the open space connection. Second, the elevation of lot 77 caused some difficulties with connecting public infrastructure. Finally, Township staff requested a connection at this location to ensure a “looped” as opposed to a “dead-end” non-motorized system. Based on all of these considerations, the applicant felt it was better to remove lot 77. By removing this lot, the pedestrian connection could be achieved without encroaching on neighboring property and the adjacent lots were allowed to be slightly larger than originally planned.

Ms. Johnston said Staff recommended the Planning Commission approve the developer’s request to amend the PUD plan to reduce the lots in Phase II by one and to relocate the non-motorized pedestrian path, with the following conditions:

- 1) A revised set of Step 2 plans for Phase II be provided that show the removal of Lot 77.
- 2) That the revised non-motorized path be developed as part of the Phase II construction, to be completed no later than October of 2017.

Chairperson Boulding, Sr. thanked Ms. Johnston for the review and asked if there were any questions from Commissioners.

Ms. Bell asked what would trigger the path in Phase I.

Ms. Johnston said she did not have a good answer; as Staff reviews building progress it is hoped they would recognize what needs to occur and would talk with the developer.

In answer to a question from Ms. Smith, Ms. Johnston said PUD developments do not require 40% open space; the non-motorized path would be considered part of the required open area.

Hearing no further questions, Chairperson Boulding, Sr. asked the applicant if he wished to speak to the Board.

Mr. Dan Lewis of Prein & Newhof, 7123 Stadium Drive indicated he and Mr. Steve Visser of Visser Developers were in attendance. Mr. Lewis indicated they had no objection to the two Staff conditions and noted they were backtracking to change the location of the path and that one lot would be eliminated to achieve the change. He said they are ready to move ahead and plan to submit documents for steps 2 and 3 early next week.

In answer to a question from Ms. Bell regarding why the path was not built during Phase 1, Mr. Lewis said it was always the intent to build it at the end of Phase 1, before lots would be sold for Phase II. This is the last thing to be done before Phase 2 begins. Equipment will be in place to begin Phase II and will be utilized to first construct the path.

Chairperson Boulding, Sr. moved to Public Hearing and asked if anyone wished to speak.

An unidentified member of the audience asked whether the path will be wheelchair accessible.

Mr. Lewis said the path will be constructed with crushed concrete which is smoother than the wood chip version originally proposed; it is similar to the Kal-Haven trail between 10<sup>th</sup> Street and Bloomingdale. ADA requires smooth concrete or asphalt.

Mr. Durrell McKenzie, 2544 Westport Drive, wondered what size the planned gazebo would be and commented the common existing path coming out at the SE corner of the woods is very low and one often needs boots to walk through the standing water. He hoped that would be addressed as part of Phase II.

Mr. Lewis said the gazebo would be similar in size to the one near the office.

Mr. Dick Hertzell, 2484 Arbor Ct, had concerns about the planned bike path route and the 5-foot walking path as well as the standing water issue on the existing path. He said he would like to see connectivity and increased length to about 1-1/4 miles. He wanted it brought into compliance with the 2005 plans as distributed to each homeowner.

Mr. Steve Visser, Visser Developers, 6279 Shugarbush Trail, noted the paths were completed within Board requirements.

Hearing no further comments, Chairperson Boulder moved to Board Deliberations.

Ms. Farmer asked whether the issue of standing water raised by Mr. McKenzie could be addressed.

Mr. Visser indicated there is one spot that holds water; wood chips are added every spring to address the standing water. He said they could put six inches of crushed concrete in that area to try to alleviate some of the water problem, but noted the ground is heavy clay soil and there will always be a water problem there.

Mr. Lewis added the open space areas are lower areas and that they are wet sometimes, but they wanted to include paths in the open space areas.

Ms. Farmer noted that walking paths are included on written plans for purchasers that sometimes cannot be used. Putting a path in the drainage area using an infiltration system should be better, but it would be a good idea to fix other areas when stand standing water occurs.

Mr. Lewis said noted there was a miscommunication regarding units 34 & 35 in their marketing materials; the error there was not repeated on the materials that went to the Township. The marketing materials will be corrected.

Ms. Johnston said the marketing materials showed a path going around 34 & 35. The plan is for the path to go between 34 & 35 on an easement for utilities and the path and is what is shown already on the documents submitted to the Township.

Ms. Farmer indicated the marketing materials should match what was submitted to the Township similar to what is required for a Hawkers and Peddlers license. If the information provided for that license does not match their intended door-to-door sales, the license can be revoked.

Ms. Johnston said she talked with Mr. Lewis about this issue and they confirmed the path was always intended to be on the easement between 34 & 35 and that if it was behind the lots it would be on someone's building site. They will fix the marketing materials.

Ms. Farmer thanked her for the explanation.

Ms. Bell said the path was supposed to be completed in Phase I, which provided ample time and was reviewed several times. She felt it was not an oversight that it was not completed during Phase 1 but instead at the beginning of Phase II.

Mr. Antosz said all sidewalks were to be completed before Phase II started; he believed that is what is occurring.

Ms. Bell repeated her previous comment.

Hearing no further discussion, Chairperson Boulding Sr. asked for a motion.

Ms. Farmer made a motion to approve the developer's request to amend the PUD plan to reduce the lots in Phase II by one and to relocate the non-motorized pedestrian path, with the following conditions:

1. A revised set of Step II plans for Phase II be provided that show the removal of Lot 77.
2. That the revised non-motorized path be developed as part of the Phase II construction, to be completed no later than October of 2017.

3. That the low areas in the current walkways near lots 34 and 35 be repaired with crushed concrete to elevate the path out of the periodic standing water.

Mr. Antosz supported the motion. The motion was approved unanimously.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (RESTAURANT PAD WITH DRIVE THROUGH)**  
**CONSIDERATION OF AN APPLICATION FROM WESTMAIN 2000, LLC FOR A SPECIAL EXCEPTION USE AND SITE PLAN REVIEW TO CONSTRUCT A NEW RESTAURANT WITH DRIVE-THROUGH WINDOW JUST WEST OF PANERA BREAD (5119 WEST MAIN STREET) ON THE SOUTH SIDE OF WEST MAIN STREET, PURSUANT TO SECTION 30.407 OF THE TOWNSHIP ZONING ORDINANCE. THE PROPERTY IS LOCATED IN THE C-1: LOCAL BUSINESS DISTRICT. PARCEL NO 3905-13-430-050.**

Chairperson Boulding, Sr. moved to the next item on the agenda and asked Ms. Johnston to review the request.

Ms. Johnston said proposed to be located on the south side of West Main Street, between the existing Panera Bread restaurant to the east and the Shell gas station to the west, the applicant intends to construct a new, 5,090 square foot restaurant with space for three tenants. The inclusion of a drive-through window requires special exception use approval from the Planning Commission, per section *30.407: Drive-in service window or drive-through services for businesses* of the Zoning Ordinance. An already developed site, the proposed restaurant will be located on the same parcel as Panera Bread.

She noted all significant zoning compliance considerations not otherwise discussed in this report have been satisfied: The proposed use is permitted by right, although the desired drive-through window is a special exception use, and the building placement is in full compliance with any and all applicable setbacks.

She explained the development is situated on an already developed property. The applicant is not proposing any new connection points to West Main Street, and the existing circulation patterns into the site will not significantly differ from what is already present. One alteration of note is that the project site plan does indicate that the driveway connection to the gas station to the west near the northwest corner of the subject parcel is to be closed. Staff is in favor of this change, as it will help to move interior vehicle circulation away from the gas station's eastern driveway connection to West Main Street, eliminating a possible conflict point between internal parking lot-to-parking lot traffic and cars entering and exiting the Shell Station property. To staffs' knowledge, the closure of this connection point will not violate any cross-access easements between the two properties. In order to improve vehicle circulation on the south end of the site, the applicant also intends to realign and shift a few of the irregularly-positioned parking lot islands. This will allow the south circulation aisle that straddles the southern boundary of the project site to be better defined, helping to ensure improved traffic flow. Staff would also like to see centerline pavement markings

added, due to the aisle's meandering nature, as well as directional arrows, as the aisle abuts the drive-through lane.

Once on the site, she said, vehicle circulation around the building is generally two-way, aside from the drive-through aisle that wraps around the south and east side of the structure. The one-way drive-through feature is designed to accommodate at least six stacked vehicles—the Zoning Ordinance requires room for only five—and the lane will be separated from the adjacent general circulation aisle by a two-foot wide, six-inch high concrete curb. Staff would like to see a stop sign added to the southwest corner of the site, near the dumpster enclosure area. This will help to ensure that motorists exiting the property give way to cars already traveling on the ascendant circulation aisle south of the new structure.

Ms. Johnston noted that currently 119 parking spaces are present on the site. With the addition of the building, 52 spaces will be removed, leaving 67. Per section *68.000: Off Street Parking* of the Zoning Ordinance, a stand-alone property such as this, given the proposed uses, would typically require around 175 spaces on-site. However, being part of a larger commercial development under one owner, section *68.302: Mixed uses in the same building or joint use of facilities* of the Zoning Ordinance does allow adjacent developments to share parking facilities. Just to the south of the project site is the Kohls store, as well as a handful of other retail businesses. In aggregate this collection of business, including those located on the subject property, have in excess of 728 spaces available for use. Per the Zoning Ordinance, only around 700 are required, leaving a surplus of nearly 30 spaces. Given the situation of the existing parking lots as well as the fact that the parking area immediately to the south of the project site is typically underused, staff is confident that sufficient parking is available for patrons of the proposed restaurant as well as other surrounding businesses. If the current owner does ever intend to sell either property, however, a cross access and parking easement agreement should be signed and recorded with the County Register of Deeds.

She said as the addition of the gross floor area of the proposed building means that the amount of structural footprint on the site is being increased by more than 20%, the applicant must install all required plantings, per section *75.210: Provisions for existing sites* of the Zoning Ordinance. The applicant has largely provided all necessary plantings, although two additional canopy trees are required in the east landscape buffer of the property.

She explained that given that the site is already developed, is largely composed of impervious surface and that practically no storm water infiltration happens on site, runoff management cannot be handled to the same extent as a new project on vacant land. Acknowledging this non-conformity, staff has determined that forcing the applicant to bring the *entire* property up to current storm water management standards is unreasonable. However, in the interest of promoting and improving the health, safety and general welfare of the public, staff does request that any storm water runoff generated by the new building at least be managed on-site, most likely through subterranean infiltration. Any such system shall be able to accommodate at a one-hundred-year rain event.



She said the Fire Marshal is generally satisfied with the site layout as presented, but Staff requests that one additional fire hydrant be added along West Main Street.

Ms. Johnston noted Section 60.100 of the Zoning Ordinance provides additional review criteria for consideration when deliberating a Special Exception Use request and went through them:

**A. Is the proposed use compatible with the other uses expressly permitted within the C: Local Business zoning district?**

Proposed to be located on a busy commercial corridor, populated with many similar foodservice establishments, the planned use is very compatible with its surroundings as well as uses permissible in the C district in general.

**B. Will the proposed use be detrimental or injurious to the use or development of adjacent properties or to the general public?**

Staff does not anticipate that the proposed use will have any negative impacts on adjacent properties or the general public. Sufficient parking is available, with a surplus of spaces just to the south, vehicle flow into and out of the property should be improved with the closing of the connection to the gas station, and there will be a considerable increase in the amount of landscaping present on the property.

**C. Will the proposed use promote the public health, safety, and welfare of the community?**

In general, staff is not concerned that the proposed use will be detrimental to the public health, safety, and welfare of the community. However, providing for the infiltration of some storm water on site, therefore reducing the amount of untreated discharge into the Arcadia Creek watershed, will help to slightly improve public surface water resources in the area.

**D. Will the proposed use encourage the use of the land in accordance with its character and adaptability?**

Located in what is arguably the preeminent commercial corridor in the Township, the proposed project is certainly in accordance with the land's character and adaptability.

Ms. Johnston said Staff is comfortable recommending approval of the site plan and special exception use for the presented project, but recommended the following conditions of approval, to be satisfied prior to the issuance of a building permit and administratively approved, be added:

1. Additional pavement markings, including an aisle centerline and directional arrows, in the south circulation aisle and adjacent to the drive-through lane shall be added to an amended site plan.
2. Two canopy trees shall be added to the east landscape buffer.
3. Should the current property owner ever sell either the subject parcel or the property immediately to the south, then a cross-access and shared parking easement agreement shall be entered into by all relevant parties and recorded with the Kalamazoo County Register of Deeds' office.
4. One additional fire hydrant shall be provided along the subject property's West Main Street frontage.
5. Storm water runoff *equal to the amount generated by the new building only* shall be retained and infiltrated on site, and the system shall be designed to accommodate a 1% chance rainfall event.
6. A revised photometric plan and associated light fixture information shall be submitted to the Township, indicating that light levels at the property lines are in compliance with the Zoning Ordinance, and that all intended fixtures are of a full cut-off style.

Chairperson Boulding Sr. thanked Ms. Johnston for her presentation and asked whether Board Members had questions for her.

Ms. Smith confirmed with Ms. Johnston that because there is so much parking available near Kohls, there is ample parking for the new development and Panera Bread, although customers may have to park a little further south than currently.

Commissioners discussed storm water runoff and how it might be measured and handled. Mr. Johnston explained the Planning Department wanted to try to bring the new development into compliance as much as possible.

Ms. Farmer wondered what would happen if the Planning Commission denied the drive-thru.

Ms. Johnston said they could condition approval with review of the drive-thru by the Zoning Board.

There was extended Board discussion regarding the request to close the driveway connection to the gas station to the west near the northwest corner of the subject parcel. Several Board Members cited the current difficulty in trying to turn left onto West Main Street there and their concern that this would exacerbate the problem. Members considered a stop sign to help with expected traffic congestion and confusion.

Attorney Porter said it was questionable that the Board could compel the driveway connection to remain open as a condition.

Ms. Farmer asked when the option to require compliance with the Ordinance regarding handling storm water runoff might be considered again if not required now.

Ms. Johnston said it would come up again only if everything on the site were demolished and rebuilt. Any time there is redevelopment they are trying to bring everything closer to compliance.

The applicant was asked if he would like to address the Board.

Mr. Tim Timmons, Meyer C. Weiner Co., 700 Mall Drive in Portage said the developer is generally in agreement with Staff and feel they are following the rules for site plan approval. He asked the Board remove condition #5 from the Staff recommendation, saying it is not necessary and is costly for a small project.

He added that the development was done in 2000 and the handling of storm water has been done wonderfully. He said the added landscaping will reduce the impermeable surface so drainage will be better post-development than currently.

Ms. Farmer asked whether they could meet the current Ordinance requirement for storm water.

Mr. Timmons said no and pointed out that currently the site has 5.77% greenspace and when the project is complete there will be 14.87% greenspace and cited the expense again. The increased percentage includes the landscape islands.

Ms. Farmer said there is a cost for putting storm water into the Arcadia system, a major reason the Ordinance was changed to require handling storm water on site for new construction.

Attorney Porter said the proposal from Staff regarding capturing storm water coming off the building is reasonable from a legal perspective. It is not an increase in water, but a different use that is desired. He said the original policy was totally inadequate, did not capture water; that too much water was going into the system. Standards were changed to increase the amount of water captured on site. He said the focus of the Board should be whether the application meets the Ordinance.

Ms. Johnston explained that over time codes change to better reflect how a community is developing. Many suburban communities have these requirements. She noted the Township Engineer understands the importance of bringing new development into current codes to the extent possible.

Ms. Farmer noted all the water is handled on site by Costco and that MDOT has also provided retention basins to capture the water at that highway intersection to keep filthy water from going into Asylum Lake.

Mr. Timmons discussed the curb cut, indicating the gas station does not have legal right to the curb cut and has 5 curb cuts, something that would not be allowed now for new construction. He said the drive-thru restaurant is committed to the project, the middle store in the building will be committed within the week, and the end building will be leased after it is built.

Mr. Pat Flanagan, Ingersoll, Watson & McMachen, Inc. said he worked on the original project 17 years ago and talked about the decrease in percentages of paved areas, the increase in green space, and resulting runoff rates and volume as a result of this project.

He asked the Board to consider 1) a 7% less water runoff and 7% less runoff rate; 2) 2 islands reconfigured will be a little bigger than currently; 3) in future as more islands added to improve site will increase greenspace; 4) no drainage problems in the area since at least 2000 – system is working fine, and 5) if required the soil may be poorly drained and they may have to go through a lot of clay to get to sand.

He ended his comments noting the north exit allows traffic to go only north and the south exit allows traffic to go north or south.

Chairperson Boulding, Sr. asked for public comments on the application.

Ms. Justine Hertzell, 2484 Isle Harbor Ct., asked what provision would be made to address the huge snow pile that takes up so much of the parking lot, reducing available parking and impeding driving in the lot.

Mr. Timmons said they would have to accommodate both buildings and noted hauling snow is expensive.

Mr. Dick Hertzell, 2484 Isle Harbor Ct., said he uses the Shell station and Panera and described difficulties and safety issues he sees currently and with the proposed plan.

Mr. Lawrence Klimczak, 2216 Skyline, was also concerned about eliminating a curb cut which would no longer allow a left turn exit which services a number of businesses. Backups in traffic reduce the ability to use curb cuts to exit. He thought a stop sign might be an answer and wanted to see the curb cut left open. In answer to a question from Attorney Porter he said he runs, but does not own a business there and so does not know whether there is an access agreement in place, but feels it will be a benefit to businesses there to leave the curb cut open.

In answer to a question from Ms. Farmer, Attorney Porter said if the application follows the access plan it is the Board's job to follow the Ordinance. He does not believe the Board has the authority to compel property owners to work together.

Ms. Johnston said the Board could make the suggestion for the property owners to work together. The site plan now shows the curb cut closed.

There were no further comments from the public; Chairperson Boulding, Sr. moved to Board Discussion.

The Chairperson said water runoff surface is the same whether from a roof or the pavement. He said he understood the Ordinance but did not feel a catch basin is logical in this situation that there should be a way to compromise with the applicant so as not to be detrimental to the development.

Attorney Porter said balance must exist with non-conformance; the Board must decide what is reasonable.

Ms. Farmer felt anytime a property can be brought into compliance that is what the Planning Commission should do. She felt the argument by the applicant that the old method of dealing with runoff is insulting, since we now know all the water we use is from groundwater. The longer water is held onto and filtered naturally before it is sent off to the watershed yields water that is better to consume. The argument that the method in place has been there so long that it must be reliable is a bad argument.

In answer to a question from Ms. Bell wondering if it is Commissioners' role to consider costs to the applicant, Attorney Porter said generally it is not.

Ms. Smith asked if the application is an and/or proposition or whether both site approval and special exception must be acted upon.

Attorney Porter said the Staff recommendation is an "and" proposition and that both need to be approved.

Ms. Bell asked if there was earlier development in the Township that required all water to be held on site.

Ms. Johnston said the recent construction at Wendy's retains all water on site – most is underground and a small basin was constructed at the back of the property.

Ms. Bell felt the Staff recommendation brings the project closer to compliance than further away. If that is not required in this case, it might be creating a precedent and could open a can of worms.

Chairperson Boulding, Sr. asked whether Wendy's site options were comparable to this one.

Attorney Porter said Wendy's had more alternatives than does this site.

Mr. VanderWeele said the bulk of the Township offers no other way to deal with storm water and said he leaned toward the developer's side on the storm water issue.

Ms. Johnston noted that what was being proposed by the applicant for greenspace was not included for adding greenspace only. It is a requirement of the Zoning Ordinance to add what is proposed.

Mr. VanderWeele noted the added greenspace does reduce the volume of water to deal with.

Mr. Antosz said he felt it is a bad precedent to not follow the Ordinance.

Attorney Porter said that is somewhat true but this property has an existing system. Most others could not point to an existing system.

Ms. Farmer said she does not understand the relation to the Ordinance. The facts from professionals say that on site capture is the best way to filter the water.

Chairperson Boulding, Sr. said storm water can be reclaimed for potable drinking water by other methods.

Ms. Smith wondered about the amount of clay that is present at this site, which would be a factor.

Ms. Johnston said she did not know how much clay is present.

Mr. Chambers commented on the access issue, saying whoever makes a motion might include suggesting the parties get together about closing off the access at the Shell station. The issue of turning left onto West Main is a safety issue and he would like to see the property owners talk to each other to work it out.

Ms. Bell said her expectation is that Ordinance should be complied with; it affects the entire Township – she was concerned if the storm water requirement to bring the project more up to code is eliminated. This is an opportunity to do something better.

Mr. VanderWeele said this is a nonconforming site. Staff always tries to bring sites into conformance with code. They could have asked the Planning Commission to bring the entire site into code but are trying to be fair and reasonable in their approach. They took the same approach with landscaping. The Township Engineer felt this was the most reasonable approach to try to bring the site closer to compliance with how storm water is handled today. The recommendation is not for total compliance.

Ms. Farmer agreed it wouldn't be reasonable to require total compliance. The least that should be done is to ask for a re-developed site to be brought closer to compliance.

There was no further discussion; Chairperson Boulding, Sr. asked for a motion.

Ms. Farmer made a motion to approve the special exception request and site plan subject to the conditions recommended by Staff, and with the recommendation that the two property owners attempt to come to an agreement regarding the curb cut between the Shell station and the new development. Mr. Antosz supported the motion. The motion carried unanimously.

Chairperson Boulding, Sr. moved to the next item on the agenda.

**PUBLIC HEARING: SPECIAL EXCEPTION USE (PRESSURE REDUCTION STATION)**  
**CONSIDERATION OF AN APPLICATION FROM OSHTEMO CHARTER TOWNSHIP FOR A SPECIAL EXCEPTION USE TO CONSTRUCT A NEW WATER PRESSURE REDUCTION STATION AT 10146 WEST MAIN STREET, PURSUANT TO SECTION 20.408 OF THE TOWNSHIP ZONING ORDINANCE. THE PROPERTY IS LOCATED IN THE RR: RURAL RESIDENTIAL DISTRICT.**

Chairperson Boulding, Sr. asked Ms. Johnston to review the recommendation.

Ms. Johnston said the placement of a pressure reduction station (PRS) at the requested location is necessary to connect residents in the western reaches of the Township to the public water system due to groundwater contamination from the old KL Avenue landfill. In determining an appropriate site for the PRS, the Township identified a small, relatively unusable piece of land that was formerly attached to the south end of 854 Josiane Drive, within the Maple Hill Estates #2 subdivision. Being of limited utility to the private property owners, who were willing to sell the land in question, as well as having frontage on West Main Street, the Township opted to purchase the land for the planned PRS. Per Section 20.408, buildings and regulator stations for essential services are a special exception use in the Rural Residential District, which requires Planning Commission approval.

On March 28<sup>th</sup>, she explained the Zoning Board of Appeals granted a number of variances to allow for the development of the PRS. While the site's location is ideal for the public water system, its size and proximity to West Main Street means that complying with sections *64.000: Setback and Sideline Spacing* and *66.000: Area Requirements, Dwelling Standards, and Residential Occupancy of the Zoning Ordinance* is practically impossible. In addition, the proposed 16-foot by 24-foot PRS qualifies as a structure, making compliance with sections 64.000 and 66.000 technically required, necessitating the requested variances.

She indicated Planning Department staff was satisfied that the project meets all Special Exception Use requirements and recommended the Planning Commission grant

approval for the PRS, subject to the final landscape plan being reviewed and approved by Township staff.

Ms. Smith made a motion to approve the special exception for the reasons provided by Staff. Ms. Farmer supported the motion. The motion carried unanimously.

Chairperson Boulding, Sr. moved to the next item on the agenda.

### **OLD BUSINESS**

Ms. Johnston indicated she met with OCBA regarding a draft of Section 290.000: Subdivision, Site Condominium and Land Division Ordinance, but couldn't get plans ready in time for this meeting. They will be ready for the Public Hearing on May 25.

### **ANY OTHER BUSINESS**

Chairperson Boulding, Sr. asked if there was other business to consider. Hearing none, Chairperson Boulding, Sr. moved to Planning Commissioner Comments.

### **PLANNING COMMISSIONER COMMENTS**

The Chairperson asked if Commissioners had comments to share.

Ms. Smith noted a change that needed to be made in lot sizes in the documents for Phase 2 of the West Port Village development.

Ms. Bell provided a reminder of the May 18, 10:00 a.m. Drake Farmstead event.

Attorney Porter complimented the Commission on their handling of a difficult balancing test that was not an easy call either way.

Hearing no further comments, he asked for a motion to adjourn.

### **ADJOURNMENT**

Mr. Antosz made a motion to adjourn the meeting. Mr. Chambers supported the motion. The motion passed unanimously.

The Planning Commission meeting was adjourned at approximately 9:17 p.m.

Minutes prepared:  
May 13, 2017

Minutes approved:  
May 25, 2017