
PITTSFIELD TOWNSHIP PLANNING COMMISSION MINUTES

Members Present: Dennis Ward, Richard Plisko, Wilma Luna, Christina Lirones, Stuart Dowty.

Members Absent: Maria Constant and John Norton.

Others Present: Kenneth Cousino, Randy Heldt, Mark Young, Jay Abramson, Joe Grammatico, Andrew Gracey, Todd Pascoe, Greg Heim, Dave Hughes, Mark Pascoe, Greg Elliott, George Kachadoorian, Senior Planner Paul Montagno, and Recording Secretary Laura Ford.

1.0 Call Meeting to Order at 7:30 p.m. / Determination of a Quorum.

Chairperson Lirones called the meeting to order at 7:34 p.m. A quorum was present.

2.0 Pledge of Allegiance

Chairperson Lirones led the Pledge of Allegiance.

3.0 Approval of Agenda

Motion by Commissioner Ward, supported by Commissioner Luna, to approve the agenda, as presented.

MOTION CARRIED

4.0 Items from the Floor

None.

5.0 Special Order of Business

5.1 CSPA 96-39 / CUP 01-04 / CUP 07-07 Place with Space
[Show cause with applicant to revoke all approvals]

Chairperson Lirones stated that at the previous Planning Commission meeting there was a presentation of the actions taken so far.

Senior Planner Paul Montagno stated that the presentations by staff are completed. He said the Commission should ask the applicant what steps they have taken and have the Code Enforcement Official, Ed Swope, verify this.

Chairperson Lirones stated that at the previous meeting it was made clear the reasons the site is not in compliance and the violations of the Conditional Use Permit (CUP). She said they made it clear to the applicant that he needed to make progress. She said the Commission was looking for movement forward.

Jerry Abramson, attorney, stated that he understands the Commission is frustrated with the delay. He said they are in the process of taking action to formulate a plan to address the concerns, make the corrections, and submit a revised site plan. He said they did not complete the plan in time for this meeting. He asked that the Commission grant additional time to submit the documents and adjourn this

hearing with that stipulation. He said that tonight is an indication of the seriousness that his client has taken with this.

Chairperson Lirones stated that they held a public hearing in April (2007). She said the site was not in conformance with the approved CUP from 2001. She said the site has been out of compliance for some time and the owner has been given notices. She said the Commission tried to work with the applicant and have him submit a new CUP that provided for the changes onsite. She said they held a public hearing in April and no site plan was submitted and nothing was done.

Mr. Abramson stated that he was not previously involved although now he has some control. He said that he can now address this in a short period of time.

Chairperson Lirones asked Mr. Abramson if he was fully aware that the applicant was given various considerations. She said that a site plan was never submitted. She asked him if the applicant was now going to start complying.

Mr. Abramson stated that he understands the history. He said he has not seen every notice. He said he has spoken to the people involved this evening. He said he is aware of the previous notices. He said that tonight they are asking for additional consideration.

Commissioner Dowty asked if anything has been done in the past two weeks.

Mr. Abramson stated that they brought an engineer in.

Ken Cousino, Engineering Technologies, stated that one of the items the Commission identified was verifying the existing facilities. He said they started the field survey portion of this. He said that part of the proposal was to add more parking. He said they would come back with a complete site plan showing what they have and what they want to add.

Commissioner Dowty asked if any of the vehicles have been removed. He said there were three (3) times as many vehicles as allowed.

Mr. Cousino stated he could not speak to this.

Commissioner Dowty stated he is skeptical about how real this is. He asked what they want more time for.

Chairperson Lirones stated that the wetland issue is completely separate. She said the owner is being fined for that and there are daily additional fines if action is not taken. She said that the wetland issue is not a site plan issue. She said it cannot be dealt with through the Planning Commission.

Mr. Abramson stated that the deadline on this is the 25th.

Chairperson Lirones stated the Commission has nothing to do with the fines. She said this is a severe wetland issue.

Commissioner Dowty stated he would be more inclined to give additional time if there was some indication of good faith on the part of the applicant.

Mr. Abramson stated that his being involved at this stage is probably the best he can offer. He said that he and the engineer are trying to move this forward. He said that he asked him to address the number of recreational vehicles (RVs) on the property, move them away from the wetland, and reduce the number of vehicles onsite.

Chairperson Lirones stated she was surprised at the previous meeting when the applicant was asked how many vehicles are allowed onsite per the CUP. She added that Mr. Heldt did not know how many vehicles are allowed. She mentioned that 27 vehicles are permitted. She said Mr. Heldt never read the CUP and she asked the attorney if he has a copy.

Mr. Abramson replied no.

Chairperson Lirones stated there are 70 vehicles on the property and only 27 are permitted. She added this is a tremendous differential. She said the applicant needs to have the approved CUP in his possession. She said the applicant should make an effort to come into conformance, and if he wants to apply for a new CUP to allow for additional vehicles, the Commission needed drawings on this months ago. She said it is not just the wetland at issue.

Mr. Abramson asked if the Commission wants the applicant to reduce the number of vehicles onsite to the limited use permit prior to applying for a revised permit. He said they would like to submit the revised CUP first.

Planner Montagno stated that a revised CUP would not allow for vehicles parked in the 25-foot wetland setback. He said that regardless of the new CUP, it would not be something that would comply with the requirements. He said there is a considerable amount of space in the back that may or may not be wetland area. He said there might be room to expand the site. He said that without a site plan to review the circulation he cannot say.

Chairperson Lirones asked if a contractor's yard is being run out of the back of the site.

Planner Montagno stated there are pieces of equipment and storage onsite.

Chairperson Lirones stated that these are not a part of the old CUP.

Commissioner Ward thanked the attorney and engineer for attending this meeting. He said this shows some commitment on the part of the client. He said he would like to see the site in compliance with CUP 01-04 before a new CUP request comes in front of the Commission. He said this would show sincerity in cleaning up the site. He said he wants the applicant to come back in two (2) weeks and explain what he has done to bring the site into compliance. He said they should put a date certain of no later than the end of the year to have the site in compliance. He said that if the site is not in compliance by the end of the year he would make a motion to revoke the CUP. He said this is inexcusable. He said the applicant has mocked the Commission with his attitude. He said he is willing to give leeway because the attorney and the engineer are now coming into this. He said they need a commitment that the site will come into compliance with CUP 01-04 with a date certain by the end of the year. He said this has gone on way too far. He said if these conditions are not acceptable he would move to revoke the CUP tonight.

Chairperson Lirones stated that prior to the issuance of CUP 01-04 the applicant was storing RVs without a permit. She said they tried to work with the applicant and he submitted a CUP application. She said the Commission allowed him to have a gravel lot, which is not in conformance with their standards. She added they would not allow this again. She said it has not done the Commission any good allowing the applicant latitude. She said that previously the applicant had no CUP and it might have seemed impossible to have the people move their RVs. She added that people received a letter stating that they had to remove their RVs. She said they tried to allow the applicant to overlap the old use with the expanded use and it did not work.

Commissioner Plisko asked how long it would take to get a revised drawing back.

Mr. Cousino asked if the site plan would go through the regular review process.

Chairperson Lirones replied yes.

Commissioner Ward stated he is not asking for a new site plan. He said he is asking for conformance with the approved CUP and an action plan by November 1, 2007, detailing how they will come into compliance. He said it is important that the site comes into compliance as it should have been years ago with the approved CUP and site plan. He said that once it is in conformance they could entertain a new CUP application. He said they are asking for a lot but it is only fair to the Township. He said that by the end of the year he wants the site in compliance with CUP 01-04.

Chairperson Lirones discussed the site plan submitted in April 2007 that was not in conformance.

Planner Montagno stated that a single sheet plan was submitted that did not meet the Townships Land Development Standards.

Chairperson Lirones stated that they held the public hearing and said that the site plan was un-reviewable. She said the applicant was told to resubmit according to the standards and he did not want to spend the money on an engineer.

Commissioner Dowty supported Commissioner Ward's two-step approach. He said that this is too generous. He said that if the attorney and the engineer were not here tonight he would revoke the CUP. He said that their presence is the first step he has seen by the applicant. He said the Commission does not want to put Mr. Heldt out of business. He said that by the next meeting he would like to see more than a plan of action. He added he would like to have a report of some concrete steps that have been taken. He said that instead of words they need actions, concrete actions.

Mr. Abramson asked if the Commission would consider a compromise to the strict compliance that they want brought forward. He asked if they could reach a compromise on reducing the number of RVs to 27. He said that the applicant would experience a loss of business and would need to regenerate this business after the relocation of the RVs. He added this would burden the applicant's financial ability to do so.

Commissioner Dowty stated that this could be dealt with before it becomes an issue. He said the Commission wants to see some movement and if there are genuine problems they should bring it to the Commission's attention.

Commissioner Ward stated that if the number of RVs is an issue that is one item out of several. He said the Commission wants them to come in and tell them what they have done between now and the next meeting to bring the site into compliance with the CUP.

Commissioner Luna stated there has been plenty of time to deal with this. She said that if the applicant is worried about an income there was plenty of time to do something about it. She agreed with Commissioner Dowty about the possibility of working on something. She said she supports Commissioner Ward's suggestions 100%.

Chairperson Lirones stated the Commission offered the applicant in April the opportunity to completely continue his business if he submitted a site plan. She said the owner did not have a care in the world to try to conform. She said he told the Commission that he has been inspected and has always passed. She said he does not know the process or what the CUP permits. She said that the RVs are cramped into the spaces. She said there is a lot of work to do if they want to submit a site plan to have more RVs parked there. She said it is hard to find a site to park an RV so close to people's homes. She said that this business will probably be full again when it reopens. She said she supports Commissioner Ward's suggestion to have them bring in a plan of how they will come into conformance with CUP 01-04.

Ed Swope, Code Enforcement Officer, stated there appears to be underground construction equipment onsite. He said there is a truck outside the fence that does not belong to Mr. Heldt. He said that inside the fence there might be irrigation equipment to install irrigation systems. He said he took photographs today of the RVs parked along the wetland.

Chairperson Lirones asked that if they were running a contractor's yard out of there would it be a permitted use.

Planner Montagno stated this is not permitted. He added there is no site plan for this.

Mr. Swope discussed the area where the crushed-up asphalt was brought in.

Chairperson Lirones asked if they could dump crushed-up asphalt onsite.

Planner Montagno stated that if it is being done to construct a parking lot it needs a site plan.

Mr. Swope stated that the site never got a final inspection.

Commissioner Dowty stated there are too many issues with the fence and the number of vehicles. He asked what needs to be done to bring the fence into compliance.

Mr. Swope stated that in the original plan the fence is attached to building H. He said that on the plan building H was half of a building and the fence was attached

to that building. He said that instead (of what was proposed) the fence was constructed deeper on the lot and a full-size building H was created. He said that with the full-size building they could access storage on both sides of the building. He added that in the original site plan they could only access it from inside the fenced area. He said that if he brought the fence into compliance the people with storage on the north side of building H would not have fence protection.

Chairperson Lirones stated that in addition to the CUP violations there are also zoning violations. She asked if it is clear that those things cannot continue either.

Mr. Abramson stated this is new to him and it is clear now.

Chairperson Lirones stated the applicant should sit down with the Code Enforcement Officer and discuss these issues and create a detailed list. She said there should be more clarification on what is permitted.

Mr. Swope stated that the Michigan Department of Environmental Quality (MDEQ) said that this type of fill would not be approved, not even for a parking lot.

Chairperson Lirones stated that the fill should be removed because it could cause serious wetland issues.

Motion by Commissioner Ward, supported by Commissioner Luna, to direct the applicant to meet all conditions of the approved CUP 01-04 no later than December 31, 2007. The applicant is further directed to provide a detailed written and verbal report at the next three (3) Planning Commission meetings scheduled for November 1, 2007, November 15, 2007, and December 13, 2007. The applicant is further advised that failure to meet strict compliance with these conditions, that revocation of CUP 01-04 will be on the agenda for consideration at the January 2008 Planning Commission meeting.

Discussion:

Mr. Abramson asked if there was latitude in that if the applicant shows an attempt to comply.

Commissioner Dowty stated that he did not intend to create the impression that the Commission did not want the CUP strictly complied with. He said they are trying to communicate that if the applicant really starts doing something and he runs into a problem that the Commission will listen to him. He said the Commission has given the applicant a generous timeline.

ROLL CALL:

YES: WARD, PLISKO, LUNA, LIRONES, DOWTY
NO: NONE
ABSENT: CONSTANT, NORTON
ABSTAIN: NONE

MOTION CARRIED

6.0 Public Hearings

None.

7.0 Old Business

7.1 CSPA 07-10 Runway Plaza Lot #10 Phase II (submitted for final site plan)

Planner Montagno reviewed the report. He said the applicant is proposing a 16,730 square foot phase two building. He said this is an approved use in a Business Park (BP) district. He said the site meets the floor area, lot coverage, net lot coverage, and setback requirements. He said that 54 spaces are required and proposed. He reviewed Planner Schmult's report. He said that all the information required has been provided. He said the landscape calculations are correct. He said 17 canopy trees are required and provided. He reviewed the engineer's review. He said there are a small number of clean-up items. He said the site lighting does not meet the maximum to minimum 10:1 ratio. He mentioned that this is partially due to the existing lighting and they [the lighting consultant] recommend approval.

Chairperson Lirones asked if the exterior materials match the existing building.

Dave Hughes, Vanston O'Brien, replied yes. He said that the proposed addition would match what is currently there.

Chairperson Lirones asked if they would need the deferred parking in the future.

Mr. Hughes stated that the proposed use will not add any more employees. He said that the parking lot is currently half-full.

Chairperson Lirones stated the trees are shown on the plan but it is not their intention to plant them right now.

Mr. Hughes replied yes.

Commissioner Ward referred to a note on the plan regarding installing the phase 2 planting when the phase 2 paving is installed.

Planner Montagno stated they are concerned about the construction of the parking lot and possible damage to the trees if the trees were planted now and the lot was constructed later.

Chairperson Lirones asked if it was intended all along to plant the trees if they need to build the parking lot.

Mr. Hughes stated that the use might change. He said they would replace any dead existing trees onsite.

Motion by Commissioner Ward, supported by Commissioner Luna, to approve final site plan CSPA 07-10 Runway Plaza Lot 10 Phase II with the condition that the applicant submit four (4) sets of revised plans that address all outstanding comments in the:

- 1. Township Engineer's report dated October 12, 2007, and**
- 2. The applicant replace dead or dying trees per comment 4.07 of the site plan review report dated October 3, 2007.**

MOTION CARRIED

7.2 CSPA 07-09 Fed Ex [submitted for preliminary site plan]

Planner Montagno reviewed the report. He said this is a limited industrial (I-1) district. He said that the two (2) parcels should be combined. He said the proposed use is a material distribution center. He said the plan shows a future truck repair and wash area. He added that this use requires a CUP. He said that since this use is not proposed at this time it should be removed from future submittals. He said the plan meets bulk and setback requirements. He said a 25-foot transition strip is required along the north property line to act as a buffer to the residential development to the north. He said there is a woodland/fence row that is 200 feet wide along this property line. He said that half of this width is on the subject property. He said the existing vegetation should be a sufficient buffer in that area. He said a 15-foot masonry wall is proposed as a sound barrier along the northern side of the drive. He discussed the proposed onsite parking. He said a wetland is depicted onsite and the wetland delineation was verified by the Township wetland consultant. He said the site meets access management requirements.

Planner Montagno said that the Washtenaw County Road Commission (WCRC) has given their approval. He said the sound wall is proposed but no analysis has been provided. He said there was no consideration regarding sound from the State Street side of the site. He said there are seven (7) overhead doors that may be visible from State Road. He said that a future building expansion is being depicted on the plans. He said that no calculations are listed for the truck maintenance area. He added this should be removed. He said that typically showing the second phase gives the impression that this has been approved.

Planner Montagno reviewed Planner Schmult's report. He said that the correct building calculations and directions should be provided. He mentioned that the front of the building would have seven (7) overhead doors. He said the Township discourages overhead doors from facing public streets. He said the overhead doors on the northeast wall of the building will be screened from view by the adjacent building. He said that replacement trees would be planted along the southwest property line. He said a sidewalk is proposed along the south side of the driveway. He said that pedestrians would have to walk through the parking lot and between parking spaces. He said the sidewalk should be located on the northeast side of the parking lot. He reviewed the engineer's report. He said the water main should be 12-inches wide. He said that if they demonstrate that an 8-inch main can accommodate the fire flows than it would be allowed. He said they are not reviewing the future parking because it should not be on the site plan. He said there is not a location for the trash storage or dumpster enclosure. He said a sound study should be provided with the next submittal.

Commissioner Luna asked what a mud mat detail is.

Planner Montagno stated this has to do with the SEC permit. He said it is a stone driveway to knock mud off tires as trucks are leaving the site.

Commissioner Ward discussed sound projecting onto the State Road area. He said he is concerned about residences being impacted, not the commercial property across the street.

Planner Montagno stated they did not see the sound study. He said that this building has 365 degrees of use. He said the Commission recently granted a CUP for outdoor seating at State Street Crossing. He said that the people sitting out there could possibly hear the beeping of the trucks.

Commissioner Ward stated he did not recall vegetation behind the site. He said he is concerned with sound reflecting off the wall and coming back. He said that sound-deadening material on the wall might help. He added that the Michigan Department of Transportation (MDOT) uses it on highways. He said they should make sure that sound deadening is performed.

Chairperson Lirones stated that previously they were talking about a higher wall and different material.

Andrew Gracey, developer, stated that the sound study was something they voluntarily brought on.

Chairperson Lirones stated that the trees do not deaden sound and they should not rely on them.

Mr. Gracey stated that the trees provide some sound deadening. He added they provide three (3) to four (4) decibel reduction in noise. He said the actual height of the wall is 20 feet and it maintains 50 decibels at the neighbor's window. He said they took pre-tests from what they are hearing now and what they would be hearing after and it is the same level.

Chairperson Lirones stated that the residents hear background noise from the traffic on State Road. She said that this is different because they will hear the sound of trucks backing up.

Commissioner Ward stated that during the preliminary site plan review the Commission is nailing down the building placement. He said they should condition the preliminary site plan for sound deadening structures.

Mr. Gracey stated they would specify the materials and have different products to choose from.

Commissioner Ward stated it is the Commission's job to ensure that the residents are not inconvenienced. He said he wants to see the report and the materials.

Mr. Gracey stated he would provide this. He said they have many projects around the country that abut residential developments.

Commissioner Ward asked where the nearest one is in distance to a residential development.

Mr. Gracey stated he is not sure.

Commissioner Ward asked to see a list of this.

Commissioner Dowty stated that the intermittent beeping would be different from the sound of background traffic. He asked if they could take this question to their sound engineer and supplement their report to address this issue.

Mr. Gracey stated there are different frequencies of sound. He said they are measuring the back-up beepers and the engines.

Commissioner Dowty stated Mr. Gracey should ask their engineer if it makes a difference. He asked if there are studies regarding the different types of sounds.

Commissioner Luna asked if sound travels differently during the night as opposed to the day.

Mr. Gracey replied yes.

Chairperson Lirones stated that the trucks enter through a gate. She asked if they are proposing a ten (10) foot fence.

Mr. Gracey stated they are proposing an eight (8) foot fence.

Chairperson Lirones stated for a barbed wire fence the Township requires a ten (10) foot fence. She said the Commission does not typically allow overhead doors to be visible from the road. She discussed installing a wall in front of the building to reduce the visibility of the overhead doors. She asked if the trucks back into the facility.

Mr. Gracey stated that the doors in the front are drive-in doors. He said this would not be an issue in the front of the facility. He said the back-up beepers would be from the tractors that move around the trailers once they are parked.

Commissioner Ward stated that the home delivery vehicles have reverse warnings too and they would be circulating within the building. He added that in the summer the doors would be open.

Mr. Gracey stated only two (2) doors are left open for ventilation because of security reasons. He said the second floor is purely for architectural features; there is no second story. He said they are aware of the Township not wanting the doors to face State Road. He said they provided an extra space on the plan to install trees for screening. He said the intent is not to see that area. He mentioned glass doors and said that this would not work because there is a lot of equipment inside the building.

Commissioner Ward discussed a similar issue on Stone School Road. He said that the area is heavily bermed and there is landscaping in front of US Storage. He asked Mr. Gracey to provide a drawing of the frontage of the building from a vehicle's perspective. He said this has been provided before and the typical height was five (5) to eight (8) feet. He asked them to provide these views from State Street. He asked that it show what the area will look like when the vegetation is installed, and provide an estimate of the years of growth.

Planner Montagno stated that in the interior layout on sheet 13 the trucks appear to be facing backwards.

Mr. Gracey stated that the trucks drive forward into the building.

Chairperson Lirones stated that the site plan shows a clumped area of trees to be mitigated. She said they should propose a lot of plantings for the neighboring business. She said they want everyone's site to be as attractive as possible. She asked if there are sound issues related to the building next door.

Mr. Gracey stated that the sound study addresses the residential area. He does not think there would be a noticeable impact to the neighboring business.

Chairperson Lirones asked if there are particular times when the sound is louder or if it is constant.

Mr. Gracey stated there are peak times when it comes and goes.

Chairperson Lirones asked when the peak times are.

Mr. Gracey stated he is not sure at the moment.

Chairperson Lirones stated there should be sufficient landscaping between this business and Unimerco. She said there is a declared existing fencerow.

Mr. Gracey stated they have added landscaping since their first submittal.

Planner Montagno stated there is potential for a second phase at Unimerco. He said in this case there would be no vegetation between the two buildings.

Chairperson Lirones asked for additional landscaping in this area.

Mr. Gracey stated that they like to show the future expansion in case it does happen they would already be aware of it. He said it is important for them, moving forward on the site, to not have an issue with an expansion. He said if they cannot do an expansion this becomes an issue.

Planner Montagno stated they have not reviewed those uses because there are not calculations provided with them.

Chairperson Lirones discussed the utility line.

Mr. Gracey stated they have spoken with DTE. He said they would not "underground those lines." He asked them for a quote regarding the cost, and it was close to \$400,000.

Chairperson Lirones stated there are two (2) lines; one in the back and one on the side. She said she understood why the back line could not be relocated. She asked if the line crossing the site from north to south is being relocated.

Mr. Gracey stated they are not relocating that line. He said there is a pole that exists where the garage would be. He said the lines would stay the same, although they will be bridged with another pole.

Chairperson Lirones stated they are looking for a request from the Township for a waiver, not from DTE. She discussed the sidewalk along State Road and up to the building. She said they are asking for this to be moved so people do not walk through the parking lot.

Mr. Gracey asked if they want the sidewalk along the detention pond.

Chairperson Lirones replied yes. She said she thought this could be done without impacting approval from the Washtenaw County Drain Commissioner (WCDC). She said the look of the chain-link fence concerns her, although there would be landscaping in front of everything anyway.

Mr. Gracey stated they receive shipments from Eddie Bauer and different companies and there is millions of dollars worth of product. He said this is a necessity.

Chairperson Lirones stated she is not questioning the necessity, just the look of the fence. She asked how visible it would be and if it would cover the front of the building.

Mr. Gracey stated they typically do not do this much landscaping. He said he expects it to be pretty hidden.

Commissioner Ward asked for it to be included in the rendering.

Chairperson Lirones stated that when you drive down State Road you would see the building because of the curve. She asked for this to be shown on the renderings.

Planner Montagno discussed a dumpster location.

Mr. Gracey stated it is in the truck well area. He said they are on a tight schedule and they are looking for final approval by November 15, 2007. He said their peak time starts in September. He said if they cannot get the facility built before that peak time, "they will not go." He added they would have to come up with a plan B.

Motion by Commissioner Ward, supported by Commissioner Luna, to approve preliminary site plan CSPA 07-09 Fed Ex with the condition that the applicant address the following on the final site plan submittal or prior:

- 1. All outstanding comments in the Township Engineer's report dated October 12, 2007.**
- 2. All outstanding items in the Township Planning Consultant's report dated October 3, 2007.**
- 3. All outstanding items in the Zoning Review dated October 12, 2007.**
- 4. Remove all future items from the plan including the truck maintenance facility, the future parking area, and building expansion.**
- 5. Redesign the sidewalk to the building to be located on the east side of the parking lot, and**
- 6. Provide acoustical engineering report for review.**
- 7. Provide samples of acoustic wall materials.**

- 8. Additional landscaping and improved architectural elevations as discussed at the meeting of October 18, 2007.**
- 9. Provide drivers eye view of elevations including landscaping and fencing from the centerline of State Road.**

MOTION CARRIED

7.3 CSPA 07-01/CUP 07-01 Pittsfield Fun Center [submitted for preliminary site plan]

Planner Montagno reviewed the report. He said the site is zoned general commercial (C-2). He said they propose to demolish the existing structures and construct four (4) buildings. He said the uses include one building to be an amusement/arcade establishment. He said this use requires a CUP which was applied for, CUP 04-12. He said the Commission postponed action on the CUP until a preliminary site plan is approved. He said that because of the time lapse the Commission might want to clarify the specific uses being proposed. He said the other buildings are planned for unspecified commercial uses. He said a possible drive-through is proposed for building D. He said the drive-through requires a CUP which was applied for, CUP 07-01. He said that action was also postponed on that CUP.

Planner Montagno stated that the site meets all bulk requirements and setbacks. He said a fifteen (15) foot transition strip is required at the rear of the property. He said the transition strip is delineated on the plan. He said a 20-foot transition strip is required along the Carpenter Road frontage. He said that 250 parking spaces are provided, including seven (7) barrier-free spaces. He added that 25 deferred parking spaces are provided. He said that 275 total spaces are provided and this meets the minimum parking requirements. He said the proposed uses of the site would be reviewed and approved by staff at the time that building permits are issued to ensure the parking is adequate. He said that the four (4) parcels should be combined through the assessing office. He said that although grading is a final site plan matter, a grading plan was submitted. He said that along Carpenter Road is an existing open ditch for road drainage. He said the Commission might want to discuss closing this ditch because it would be inconsistent with the developing urban corridor to have an open ditch.

Planner Montagno reviewed Planner Schmult's report. He said that the proposed loading area for building D has been removed. He said the north/south driveway is extended to the north and south property lines for a future cross connection. He said the plan limits two (2) parking bays to employee parking. He said the public should not be attracted through the service area behind building A. He said that the parking spaces west of building D should be deleted. He said that they would not be counted as deferred parking spaces. He said that the location of these spaces would encourage vehicles entering the site to move directly to this area. He added that this would cause congestion at the Carpenter Road driveway. He said the Fire Marshal requests that the service drive be changed to a one-way drive. He said that the southeast corner of the detention basin is in the setback. He said they should add extra landscaping to that area of the detention pond with in the natural feature area.

Planner Montagno reviewed the engineering report. He stated that the open ditch should be removed and a closed storm sewer should be used along the Carpenter

Road right-of-way. He said the WCRC approved the location of the driveway in a letter dated June 21, 2007. He discussed a request for relief of relocating the overhead utility lines underground. He said that the engineering department recommends approval of the request. He said that the drive behind the buildings could be decreased to allow for more tree planting along the southern property line. He said that two (2) environmental assessments were provided. He discussed ESA1 and ESA2 and stated that the two (2) reports results were satisfactory.

Chairperson Lirones discussed the deferred parking spaces on the west side of the building. She said that those spaces should be removed.

Mark Young, Atwell-Hicks, stated this was not a problem.

Chairperson Lirones discussed the safety reasons of having one-way traffic around the building.

Planner Montagno stated that the Fire Marshal was concerned with having two-way traffic around the building.

Chairperson Lirones stated that if they reduce the width it would allow for more landscaping. She said they do not want to encourage the public to drive around the backs of the buildings.

Ghazwan Ismail, applicant, asked what the length of the reduction would be.

Planner Montagno replied 12 feet.

Mr. Ismail asked that if a semi truck drove around the building would it hit the building or the curb.

Chairperson Lirones stated that it could be designed so the turning radii is sufficient. She said that the retaining wall along the north property line would prevent the planting of trees in a landscape strip. She said the wall is proposed to avoid the removal of existing vegetation to the north, although this vegetation could be removed when the adjacent property is developed. She said that it makes sense they do not want to destroy trees on the neighboring property.

Commissioner Ward asked what the distance is from the retaining wall to the property line.

Mr. Young stated that the retaining wall is immediately south of a batch of vegetation. He said he is unsure what the vegetation is. He said the intent of the retaining wall is to support and not damage the vegetation.

Mr. Ismail stated that he does not like the wall. He said that if the neighboring property develops it would deter the transition strip. He said he does not know why the wall is needed.

Commissioner Ward stated that his engineers said it was required.

Mr. Young stated that there is a storm sewer along the north side of the parking area. He said the retaining wall keeps earth in the area to help complete that construction.

Chairperson Lirones stated that trash could collect in that area.

Planner Montagno stated there would be a drop-off on the other side of the wall and then there is the tree area on the neighboring property. He said that maintenance would be difficult and garbage from the parking lot would collect there.

Mark Pascoe, Atwell Hicks, stated they would look at this wall during the next site plan submittal.

Chairperson Lirones stated that a public hearing was held along time ago on CUP 04-02. She said there was no real objection to it. She asked if they need to clarify the uses again.

Planner Montagno stated that the Commission could clarify if the uses are the same as previously proposed.

Chairperson Lirones asked if the uses are the same.

Mr. Ismail replied yes. He said they need the CUP for the arcade because you cannot have more than four (4) video games. He said that this building cannot house more than what was previously proposed.

Chairperson Lirones asked if the zap zone building is in the back.

Mr. Ismail replied yes.

Planner Montagno stated that some of the uses were laser tag, party rooms, glow golf, and a go-kart track.

Mr. Ismail stated that they would have bumper cars but not a go-kart track.

Chairperson Lirones asked if they could submit a list of the uses. She said that at the previous meeting the Commission wanted a lot of green space around the buildings. She mentioned this has been achieved. She said that they have applied for their overhead wire hardship.

Planner Montagno stated that the Township engineer recommended approval of this.

Chairperson Lirones discussed the trees in the islands. She asked if they would be able to plant trees in the islands.

Mr. Pascoe stated they would have their landscape architect look at this.

Planner Montagno stated that the narrowing of the drive would add more area for landscaping.

Chairperson Lirones stated they would like to see more trees on the south side between this project and the neighboring property. She said that Commissioner Norton previously brought up the concern of children cutting through from the neighborhood next door. She said he suggested a fence or heavy landscaping. She said that the Commission felt that heavy landscaping would be sufficient.

The Commissioners agreed.

Mr. Pascoe stated that they are working with the neighbors and they are interested in helping to design this.

Commissioner Plisko asked if all four (4) buildings are for recreation.

Mr. Ismail stated that just the back building is for recreation and they are hoping to get other tenants in the buildings.

Chairperson Lirones asked if the enclosed culvert is a problem.

Mr. Pascoe replied no.

Chairperson Lirones asked them to provide additional information regarding the phase two environmental assessment.

Mr. Pascoe stated they would work out the details.

Motion by Commissioner Ward, supported by Commissioner Dowty, to approve preliminary site plan CSPA 07-01 Pittsfield Fun Center with the condition that the applicant address the following on the final site plan submittal:

1. All outstanding comments in the Township Engineer's report dated October 12, 2007.
2. All outstanding items in the Township Planning Consultant's report dated October 15, 2007.
3. All outstanding items in the Zoning Review dated October 12, 2007.
4. Enclose drainage ditch along Carpenter Road.
5. Investigate redesign of retaining wall along the north property line.

MOTION CARRIED

Motion by Commissioner Ward, supported by Commissioner Luna, to direct staff to draft a resolution of approval for CUP 04-12.

MOTION CARRIED

Motion by Commissioner Ward, supported by Commissioner Luna, to direct staff to draft a resolution of approval for CUP 07-01.

MOTION CARRIED

8.0 New Business

- 8.1 **RZ 96-03 Sweetwater Corporate Park**
[submitted for a major/minor change]

Planner Montagno stated that the Township received a letter from the applicant regarding the approved Planned Unit Development (PUD). He said they are requesting the addition of a new use to the list of permitted uses in the PUD district. He said the rezoning petition was originally approved as RZ 96-03. He said that on November 18, 1999, the Commission approved a minor change to permit a child care facility as a permitted use in the PUD. He said the applicant is proposing a change to the approved PUD for the addition of senior living facilities in units 2 and 4. He said this is in the State Street corridor and this area is designated as research and development (R-D) in the Comprehensive Plan. He said the permitted uses generally include those listed in the Business Park and Limited Industrial districts in the Zoning Ordinance. He said there are a number of permitted uses that are considered conditional uses in those districts. He said the Planning Commission must determine if this is a major or minor change according to Section 52.12 C and E of the Zoning Ordinance.

Commissioner Dowty asked if this PUD is for a business park (BP) or limited industrial (I-1) uses.

Planner Montagno replied both.

Commissioner Dowty asked if there is any question if residential uses are permitted.

Planner Montagno stated that residential uses are not allowed.

Commissioner Dowty asked if this is in dispute. He asked if the applicant has asserted that the current zoning allows for residential uses.

Planner Montagno replied not to his knowledge.

Greg Elliott, attorney representing the applicant, showed a model so the Commission could get a sense of the location of the facility on the property. He said the proposal is for a senior assisted living facility, although the Township Ordinance would consider it a nursing home. He said the Ordinance does not provide for it in very many districts. He said it provides for it expressly in the agricultural district and possibly the public facilities district. He said that his client does not own all of the PUD. He added that his client owns four (4) units at the north end of the site. He said the fifth unit was approved for the Gretchen's house facility. He said they are asking for a minor change. He said it is his opinion that where medical and similar uses are now a permitted use in the PUD, this is a similar use. He said a doctor's office would be permitted in this PUD. He said it [PUD] does not expressly provide for a hospital or a nursing home, which is the next step removed from a hospital. He said that the PUD does provide for other institutional uses such as trade schools, churches, and synagogues. He said that other kinds of institutional uses would be appropriate.

Mr. Elliott stated that they are not asking for a radical change. He said they are not changing the use or the character of the development. He said they had the same discussion eight (8) years ago with respect to adding the child care facility as a permitted use. He said that the Commission found this to be a minor change and this was added. He discussed Park Place for Business on Oak Valley Drive. He said this is where Arbor Hospice and Tutor Time are located, and behind it is a residential subdivision. He said this is something the Commission can approve and it should be something the Commission would like. He said there was a

discussion about a residential type of use, an independent senior living facility on the entire remaining property, back in February. He added that the Commission found this to be a major change. He said this proposal is quite a bit different and it is clearly an institutional use.

Commissioner Dowty discussed the letter he received from Mr. Elliott. He said that Mr. Elliott has an obligation as an attorney to faithfully represent the laws and not to misrepresent statutes and Ordinances. He asked Mr. Elliott if he contends that the current conditions of the PUD allow for a residence or dwellings.

Mr. Elliott stated they are not proposing a residence or dwellings. He said they are proposing an institutional use, which is a nursing home.

Commissioner Dowty asked if they are not claiming at this point that what they want to do is a place where people live.

Mr. Elliott stated that people spend their nights there. He said that this might be Commission Dowty's criteria for a residence but it is not his. He said that people spend their nights in a hospital and that is not considered a residential use.

Commissioner Dowty asked if they are now proposing a full-blown nursing home.

Mr. Elliott stated this is correct.

Commissioner Dowty stated that their letter called it something else.

Mr. Elliott stated [that the letter called it a] senior assisted living facility. He said that the Township Ordinance calls it a nursing home.

Commissioner Dowty stated that children do not dwell at childcare facilities. He asked Mr. Elliott if he agrees that there is a distinction between an institution where people are living or staying permanently and a child care center where kids come and go during the day.

Mr. Elliott stated that there are many categories of an institutional use. He said that at some of them people live there and at some of them people do not.

Commissioner Dowty stated they claim in their letter that the PUD allows for "medical...organization."

Mr. Elliott stated that he recalls this.

Commissioner Dowty stated he does not see in the Ordinance a definition of a medical organization. He asked Mr. Elliott what he meant by medical organization.

Mr. Elliott stated that a doctor's office or a clinic is clearly permitted.

Commissioner Dowty asked if a school, not a boarding school, with a clinic or a nurse would qualify as a medical organization.

Mr. Elliott stated he does not know what that use is.

Commissioner Dowty asked Mr. Elliott if he does not know about a school with a clinic.

Mr. Elliott stated he does not know what a school with a clinic is.

Commissioner Dowty stated that some schools have nurses. He asked if this is a medical organization.

Mr. Elliott replied that it is a school.

Commissioner Dowty asked if a boarding school where the people stay overnight and also have a nurse and a clinic would become a medical organization.

Mr. Elliott replied no. He said this would not be a residential use either. He said that people stay overnight and it is an institutional use.

Commissioner Dowty stated that Mr. Elliott sent a letter stating that this permitted use allowed for a medical organization. He asked Mr. Elliott to look at Section A and read it.

Mr. Elliott stated "Business, professional, executive or administrative offices such as financial institution without drive through facilities, advertising, real estate, legal, engineering, accounting, insurance corporation, medical, non-profit organization..."

Commissioner Dowty stated that it reads "medical,". He said that there is a comma there. He said that this is referring to offices.

Mr. Elliott stated that this modifies the word organization.

Chairperson Lirones stated that Mr. Elliott just said that this modifies the word "organization." She said that it is his belief that all of these items modify the word "organization."

Mr. Elliott stated that this is his argument. He said that this does not matter in the grand scheme of things because he is asking the Commission to approve this as a minor change.

Commissioner Dowty stated that he went back and looked at what Mr. Elliott referred him to and something was left out. He said that what was left out changed the meaning. He said this is not an accurate rendition of the meaning of that paragraph. He said that the paragraph is not talking about a medical organization.

Mr. Elliott asked Commissioner Dowty what he believes the word medical modifies.

Commissioner Dowty stated that this is allowing offices. He said that medical is one of the types of offices allowed. He said this is not talking about medical organizations.

Mr. Elliott said that it also states that similar uses are allowed in the PUD. He said that similar uses to a doctor's office are allowed expressly in the PUD.

Commissioner Dowty asked how this request is different from the previous request a few months ago.

Mr. Elliott stated that request was for residential uses.

Commissioner Dowty stated Mr. Elliott has verbally said something different from what was in the letter. He asked if these would be condominiums or apartments.

Mr. Elliott replied no.

Commissioner Dowty asked what kind of arrangement are they dealing with.

Mr. Elliott stated they would pay for a room like a hospital room. He said this is a for-profit company.

Joe Grammatico, property owner, stated that this is a for-profit company.

Commissioner Dowty asked if they are proposing an institution like Glacier Hills.

Mr. Elliott stated there are many uses around town that are similar to this. He said that some are more like hospitals. He said they are working with a couple different users.

Mr. Grammatico discussed Hartland House. He said that people come in there for one (1) to two (2) months. He said it is for senior citizens that need a nursing home.

Commissioner Dowty asked if they think that the language of paragraph A provides for a nursing home.

Mr. Elliott stated they could construe similar uses to include a nursing home. He said he believes this is a minor change. He said it is consistent with what the Township has done in the past in terms of the mixture of uses for a business park. He said they are not going to change the character of this business park.

Commissioner Dowty asked if two (2) is bigger than zero.

Mr. Elliott replied yes.

Commissioner Dowty asked if they have zero and then have two (2) you have increased it.

Mr. Elliott stated he did not know what he was talking about.

Commissioner Dowty stated they do not have any dwelling units that are residential uses. He said that if this were considered residential then they are asking for two [residential uses].

Mr. Elliott stated that if this is considered a residential unit it should not be approved. He said this is similar to what is located in other business parks. He said that a senior assisted living facility and a nursing home are synonymous.

Commissioner Dowty stated that the letter indicated this is for seniors in need of assisted living.

Mr. Grammatico asked if it would be better if the letter stated nursing home, period.

Commissioner Dowty replied yes. He stated that what they want to do is not clear.

Mr. Grammatico stated that the rendering was not done correctly. He said that it shows two (2) stories and they are talking about one (1) story. He said the building is not that large. He said they are talking about a nursing home. He said that a nursing home is not a medical business. He said they would like to have a nursing home, and a nursing home is needed. He said they are asking for a minor change to include a nursing home. He said they are not talking about independent or assisted living.

Chairperson Lirones stated if they are not talking about assisted living then the letter is not stating what they want.

Mr. Elliott stated they asked for senior assisted living in the letter. He said they are fine with nursing home.

Commissioner Ward stated that the letter states senior assisted living facilities and the applicant is stating [requesting] nursing home.

Chairperson Lirones stated that the letter submitted asks for senior assisted living facilities. She said that Mr. Grammatico just said that they are not asking for assisted living. She asked if they actually believe that all of these words in Item A modify the word organization.

Mr. Elliott replied yes.

Chairperson Lirones stated that he read this as “business offices, professional offices, executive offices or administrative offices.” She continued and said, “such as; financial institution without drive facilities organization, advertising organization, real estate organization, legal organization, engineering organization, accounting organization, insurance corporation organization, medical organization or non-profit organization.” She said that these words do not modify the word organization. She said that Mr. Elliott truly believes that this means medical organization. She said she disagrees with this. She said those are examples of the types of offices that would be allowed here. She said that Mr. Elliott stated that the districts that nursing homes are permitted in are only in the agricultural or public facilities districts. She asked if this is accurate.

Planner Montagno stated that he does not believe so but he did not look up nursing homes specifically because assisted living has a different designation [congregate care facility] in the Zoning Ordinance.

Chairperson Lirones asked if assisted living facilities are only allowed in those districts.

Planner Montagno stated that Carpenter Place is an R-4 high-density multiple-family residential use and it provides for assisted living.

Chairperson Lirones stated that is a residential use. She said they are considering assisted living as a residential use, although now they are talking about a nursing home. She said a residence is a place where someone lives. She said that as clerk her office would register people at places like Carpenter Place (and nursing homes) to vote. She added that in order to register to vote in a location it has to be a place where you habitually lay your head at night.

Mr. Elliott stated "what about hospice."

Chairperson Lirones stated that a hospice is not someone's home and they are not there that long. She added they could receive an absentee ballot.

Mr. Elliott stated that his father was in a nursing home for a one (1) year and he never considered it his home.

Mr. Grammatico stated that this is interpretation. He said that in business technical schools they live there for six (6) months. He asked how they could make this happen.

Chairperson Lirones stated that the applicant was aware that the Commission updated the Comprehensive Plan in September. She said they could have applied for a Comprehensive Plan update.

Mr. Grammatico stated that at that time they were not thinking of a mercy home. He said that when he started to look into them and see where they are located he thought this was an ideal location.

Chairperson Lirones stated that this is similar to Glacier Hills but the applicant does not think that Glacier Hills is a residence. She added that she has known people who have lived there for years. She said that nursing home or congregate care is not included in the list of permitted uses.

Mr. Grammatico stated that as long as it fits in here, what is the difference. He added that it is good for everybody.

Chairperson Lirones stated that the addition of the daycare was approved as a minor change. She said that she attended the meetings as an audience member and she felt that it should have been a major change. However, this was different than the current case. She said that a childcare facility is a use that is permitted as a conditional use in a business park district. She said that this proposed use is not permitted as a conditional or permitted use.

Mr. Grammatico stated that this is a PUD and there are residential uses all around it. He discussed a project he did in Scio Township. He asked why they would fight something of this quality.

Chairperson Lirones stated that they could have come in for a Comprehensive Plan amendment or applied for a major change.

Mr. Elliott stated they cannot rezone the whole PUD because they do not own all of it.

Chairperson Lirones stated they have to have permission from the other property owners.

Mr. Elliott stated they can rezone part of a PUD.

Commissioner Dowty stated he wonders why after the applicant was here before they are coming back and trying again. He said that after the first time they should have asked for a major change. He said that if they have a good project they should defend it on its merits for what it is. He said it is a major change and it changes the character and adds dwelling units. He said he would be more understanding of dealing with it if the applicant were right up front with what he wanted to do rather than bending the Ordinances. He said they should follow the procedures of a major change.

Mr. Grammatico stated that once he read this over and talked to lawyers and several people they agreed that this does not say "offices", it says "businesses." He asked if a nursing home is a medical business.

Commissioner Dowty stated he does not think he would find many courts that would say that nursing homes are not someone's residence. He said that a nursing home is a residence.

Planner Montagno stated that he looked through the Ordinance for nursing homes and congregate care facilities. He said that the first use in each of these districts, as permitted uses, is residential and these are conditional uses. He listed those districts, agricultural (AG), R-3, R-4, and said that a nursing home is singularly allowed in a public facilities district. He said that congregate facilities are not allowed.

Mr. Elliott stated that not many other residential uses are allowed in public facilities districts.

Planner Montagno stated that the public facilities district states homes for the aged and extended care facilities such as nursing homes.

Chairperson Lirones stated that they had plenty of time to come in during the Comprehensive Plan update.

Mr. Grammatico asked if the Township wanted to end up in court. He said that the Commission denying this is an insult to seniors.

Commissioner Ward stated that this discussion is deteriorating. He said that nursing homes are needed but it does not fit the way the Zoning Ordinance is written. He said the Commission has had rezoning after rezoning, and some of them are litigated and some are not. He said the Commission is constantly defending the Comprehensive Plan. He said that this does not fit in with the Comprehensive Plan. He said if the applicant had asked for a Comprehensive Plan amendment they might have given him some flexibility. He said this does not fit how the planning and zoning is outlined in the Comprehensive Plan and the PUD. He said if the applicant is threatening litigation then that it is his choice.

Mr. Grammatico stated that the Commission leaves him no other choice. He said that other Townships are willing to move a little.

Mr. Elliott asked if Park Place is designated the same way in the Comprehensive Plan as this land.

Planner Montagno stated that specific uses are allowed in it. He said it is designated as research and development.

Chairperson Lirones stated this was rezoned years ago.

Commissioner Ward stated they have given PUD's what the similar zoning category would have. He said if someone wanted to come up with a PUD at the US-23 and Michigan Avenue intersection this would be some sort of a commercial district. He said the Commission has looked at permitted uses and conditional uses and what fits into those uses. He said that clearly nursing homes are in the Ordinance as in a residential district. He said they are conditional uses in a residential district.

Mr. Elliott stated if they would have, in 1988, proposed a list of uses that included nursing homes he believes the Commission would have approved it.

Chairperson Lirones stated this list of permitted uses is almost completely taken from the business park and light industrial uses.

Mr. Grammatico asked if this could be a conditional use.

Commissioner Dowty stated that months ago they could have pursued a major change.

Mr. Grammatico stated that a major change would take two (2) years and he would be dead by then. He said if the Township wants him put money into this property they should make this a conditional use.

Commissioner Ward stated he does not agree with the two (2) year timeline on a major change. He asked them to bring back an accurate letter of their request next time.

Motion by Commissioner Dowty, supported by Commissioner Plisko, to call the question.

ROLL CALL:

YES: WARD, PLISKO, LUNA, LIRONES, DOWTY
NO: NONE
ABSENT: CONSTANT, NORTON
ABSTAIN: NONE

MOTION CARRIED

Motion by Commissioner Dowty, supported by Commissioner Luna, to determine requested change to RZ 96-03 Sweetwater Corporate Park be considered a major change.

ROLL CALL:

YES: WARD, PLISKO, LUNA, LIRONES, DOWTY

NO: NONE
ABSENT: CONSTANT, NORTON
ABSTAIN: NONE

MOTION CARRIED

9.0 Planner's Report

None.

10.0 Chairperson's Report

None.

11.0 Commissioner's Report

Commissioner Plisko asked if they could change the tree mitigation requirement that if the diameter is 12 inches or more than it is mitigated at 200% instead of 100%.

Chairperson Lirones stated that sometimes they can ask for more.

Commissioner Ward asked about Natures Garden Center. He asked if the Commission should revoke the CUP.

Planner Montagno stated that they came in to notify the Township that Saline Flowerland was doing something they were not supposed to.

Commissioner Dowty stated that Planning Director Bruce E. Fowler, himself and Mr. Swope looked at the lot that Nature's Garden Center has in Saline. He said that it is big enough and they might be able to get them to move their bulk to that site.

12.0 Approval of Prior Minutes

12.1 Minutes of October 4, 2007

Motion by Commissioner Ward, supported by Commissioner Luna, to approve the minutes, as corrected.

MOTION CARRIED

13.0 Adjournment

Motion by Commissioner Luna, supported by Commissioner Ward, to adjourn the meeting.

MOTION CARRIED

Chairperson Lirones adjourned the meeting at 11:20 p.m.

s/Wilma Luna, Secretary

November 1, 2007