



ACME TOWNSHIP PLANNING COMMISSION MEETING
Acme Township Hall
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Monday, August 16, 2004

Meeting called to Order at 7:00 p.m.

Members present: H. Smith (Chair), B. Carstens, D. Hoxsie, D. Krause, P. Salathiel, O. Sherberneau)

Members excused: M. Vermetten

Staff Present: S. Corpe, Recording Secretary
J. Christopherson, Township Counsel
Russ Clark, Planning Consultant

Smith noted that the agenda posted stated that the meeting was a continuation of a public hearing. He clarified that as discussed at the August 4 meeting, this is not a continuation of the public hearing but is rather a study session discussion.

Motion by Sherberneau, support by Hoxsie to accept the agenda as corrected. The Chair cast an unanimous ballot, there being no objection.

Motion by Hoxsie, support by Sherberneau to recess the regular Planning Commission meeting and convene a meeting as a Committee of the Whole. The Chair cast an unanimous ballot, there being no objection.

- 1. Study Session regarding Application #2004-11P by The Village at Grand Traverse for Special Use Permit approval for a Mixed Use Planned Development on 182 acres of land commonly referred to as "The Rollert Property" located on the south side of M-72, to the east of the Williamsburg Conference Center (formerly the GKC theater) and to the west of Lautner Road, currently zoned R-3, Urban Residential:** Smith asked Russ Clark, the township's consulting planner for this project, to make his presentation. His presentation for this evening focused on a discussion of the current and former applications regarding this project in relation to each other and the township's Master Plan. He noted that the proposed development plan was amended on August 4 to replace the proposed large anchor store in the southeast corner of the property with high-density (attached/multiple family) housing and smaller retail stores. It also proposed a relocation of some of the proposed mixed-use buildings. The applicant has also provided an updated table of density and land use calculations. 15% of the total development is now proposed to be in multi-family housing, an increase from 108 to 430 units. Retail space has been decreased by approximately 4%. Otherwise, most other statistics remain constant.

Mr. Clark indicated that the previous site plan meets Master Plan suggestions for the amount of open space to be included in such a development, although the calculations have not been updated for the August 4 plan. He also feels that the phasing plan needs to be revised. Mr. Clark then presented his recommendations, which are included in the copy of the slide presentation on file with the township (included and incorporated by reference.)

One of Mr. Clark's recommendations involved possible future consideration of taller building heights if some sort of purchase or transfer of development rights project is implemented (PDR/TDR). Smith stated that he invited Jim Lively, Michigan Land Use Institute (MLUI) to make a brief presentation regarding TDR. Mr. Lively provided some handouts to the commission and thanked them for the opportunity to speak this evening. He feels strongly

that many of the details that remain to be discussed, particularly TDR, should be addressed at this phase of the application process, rather than deferring this issue to site plan review.

Mr. Lively stated that his comments at previous meetings about this application being a “moving target” were not meant to be derogatory. He acknowledges that the applicants have been making plan changes requested by the township to bring the application more in line with township requirements and goals. He also believes that assurances that any developer – the applicant or another – would be able to proceed with any eventual plan approved.

Mr. Lively stated that the TDR concept means that any township landowner would be able to transfer the development rights and values they might have to another landowner. Zoning and development rights have a market-based value, and the idea is use the rights in areas where the community feels development should be concentrated and remove them from areas where the community would like the land to remain more open. The Master Plan designates these areas. The mechanism is based on a private free-market system where a willing buyer and willing seller agree on a transaction. This all ties in to the concept of “buildout neutrality.” By transferring development rights from one area to another, no new development rights are created – the amount of overall community development remains finite.

Mr. Lively stated that the plan includes regional anchor stores. Land near the proposed development site may already develop in this manner per current zoning, but the proposed site is not zoned for this use. The land approved for such use is owned by one prospective tenant of the development; Meijer, Inc. Using TDR, the zoning right for an anchor store currently existing on the Meijer property on the east side of Lautner Road would be transferred to the west side of the road. Relatively recent state legislation permits planned unit developments to use non-contiguous lands as open space and as part of an overall PUD. He recommends strongly that this be considered at the conceptual plan approval phase.

He approves the removal of the second proposed anchor store, noting that it has been replaced with multiple-family housing and some smaller but still large (85,000 sq. ft.) stores. However, he feels that single-family, grid-layout, tree-lined streets are still missing from the overall project. He lauds the mixture of housing options present, but feels the plan still includes too much asphalt. He would prefer to see the mid-sized retail space converted to additional residential space, but that the residential use only be allowed if it utilizes development rights transferred from outlying areas of the township. He does not believe the township currently has a true mechanism to slow growth in other areas of the township, which must go hand-in-hand with creation of an area that might serve to receive denser development.

Smith asked if TDR legislation has been passed; Mr. Lively stated that a bill has been in the works for some time, but that right now the concept is neither specifically authorized nor proscribed. What is in place is the ability to use PUDs to incorporate open spaces not directly contiguous to the main portion of the PUD. Smith pointed out that while we have a mixed-use development ordinance (MUD) we don't any longer have a PUD ordinance, and asked if the current state of the ordinance is sufficient. Mr. Lively believes it may be.

Smith turned next to Mr. Steve Hayward, planner representing the applicant. He read aloud a letter provided by the applicants this evening and dated August 11, which is included and incorporated by reference. He then referenced a map of the Grand Traverse Watershed and its component sub-watersheds, on which he had colored in the proposed project site. He did this in support of the assertions in the aforementioned letter that the proposed development would not be large enough to negatively impact either ecosystem. Mr. Hayward stated that they met at the site with several Planning Commissioners today. Setbacks and building sites had been

staked out to provide a better feel for how the proposed development would sit on the property.

Smith asked how much elevation change there is between the site and the M-72 roadway; Mr. Hayward estimated it at a 12' grade change to the beginning of the development area, sinking further as one moves south but rising again slightly to the far south. Smith also noted that the Commissioners visited the site independently and not in a group, and that there was no violation of the Open Meetings Act. Smith believes that because the property has some slope to it, it is important to note that this will have a positive impact on the perceived building heights. He stated that standing to the north, it became impossible to see Mr. Hayward as he walked southward into the on-site valley.

Salathiel asked Christopherson about the Town Center section of the Ordinance being invalidated, and how much discretion the Commission and Board have under the Mixed Use Development and general Special Use Permit ordinances to require that some of the requirements in that former ordinance still be met. Christopherson responded that the bulk of the application requirements and standards for consideration are found in the MUD ordinance. The applicant is correct that the detailed traffic, market and environmental studies are not strictly required at this phase of the proceedings. His memo, included and incorporated by reference, details this position more fully. Hoxsie asked if those studies can still be a condition for proceeding past conceptual plan approval. He also noted that MDOT and the Road Commission has set forth some fairly clear requirements for further information and road improvements before they can grant their portion of project approvals and permits. Christopherson noted that all applications are subject to the approval of various public agencies and cannot proceed until all of those agencies' requirements have been met. It is still permissible to specifically reference these requirements as part of any township approval.

Carstens believes that zoning ordinances exist for the express purpose of carrying out the visions set forth in the Master Plan, and that the Commission would be remiss if it did not use every bit of discretion that they have to ensure that those visions are protected. He therefore disagrees with the applicant's assertion that they are not required to provide the detailed studies at this time; they should provide anything that the Commissioners and Board believe they need in order to make a fully informed decision that supports the Master Plan to the fullest possible extent. Smith stated that the MUD ordinance sets forth specific requirements that must be met as a condition of approval. This set of conditions does not state that the requirements of the former town center ordinance can be enforced. Carstens believes that any and all tools available to the township should be employed by the township. He also believes that the MUD ordinance really was clearly intended only to be used by a particular piece of land in the township, not the subject parcel. Christopherson reminded Carstens that this issue had been addressed by the Township Board, which determined that the Planning Commission should proceed to consider the application subsequent to this particular ordinance section. The Planning Commission must therefore follow this directive.

Sherberneau asked about project phasing. Mr. Clark noted that MDOT approval is conditioned on provision of more specific information about precisely what would be developed in each phase before MDOT will permit construction. Hoxsie stated that this plays directly into his question: if the township grants conceptual approval, can further site plan approval be denied until such time as MDOT is satisfied? Christopherson states that this is indeed the case, and Mr. Hayward agreed, based on past experience, that this is indeed the case. Not only is MDOT approval required, but also DEQ, Health Department, Soil Erosion and other agencies. The township's ordinance specifically requires these approvals. He also noted that Christopherson's proposed draft of a conditional SUP begins with a statement that the township is not making any guarantee that conceptual approval implies eventual site plan

approval, regardless of any statement by any township employee, official or other party. Smith stated that until the applicants know what and who will occupy the buildings in each phase, they can't provide a valid traffic study. They would also have to provide a new study for each development phase at separate site plan approval proceedings. Mr. Ken Petterson, legal counsel for the applicants, agreed. He stated that it would be a taking and unduly onerous to require an applicant to prepare full information prior to even a conceptual approval. He acknowledged that many additional approvals will be required before site plan approval and any construction; for instance, the DEQ would have to approve a road connection to Acme Village. The applicant is asking for conceptual plan approval only.

Bob Forsman, Gourdie Fraser Associates and employed by the applicant, agreed that every change to the know use of the property will require new traffic studies for MDOT. With just the changes to date they would have had to create 22 different complete studies. He has received a strong indication from MDOT that they are looking to Acme Township to take the next step by granting conceptual approval. At site plan approval detailed traffic studies can be presented, which local MDOT officials will forward to Lansing for review. If they are not satisfied, they will not grant a permit for curb cuts on M-72 and the project will not proceed to construction. The same is true for other agencies as well. Smith quoted from the letter received in July from Rise Rasch, MDOT, setting forth a basic approval subject to provision of additional detailed information.

Hoxsie stated that he feels reluctant to approve the concept and have the applicants spend a lot of money if ultimately the project would not work out. Smith stated that it is precisely for this reason that the detailed studies are not required by the ordinance until the next approval phase in the two-step process. He also noted that there could potentially be other MUD applications. Whether they are large or small, the requirements set forth for this project will set a precedent for others to follow.

Krause stated that the procedure is well-documented by the ordinance, including the fact that the detailed studies are not required at conceptual approval but at site plan approval in the second step. If and after the concept plan is approved, the applicant has, per the ordinance, 12 months to come to site plan approval. If the applicant believes that the project is not ultimately workable, they won't spend the extensive amounts of money required to continue the process. It's their option.

Smith asked if a new phasing plan has been created. Mr. Hayward and Mr. Steve Smith, one of the applicants, stated that it has but is still in rough form. The version they have created has been developed to assist with obtaining traffic studies. Mr. Hayward stated that the plan shows five phases, but it might happen that the phasing plan will change over time based on market demand. Mr. Smith provided the map, with additional commentary. The phasing proposal is market-driven and will most likely change over time. Because of M-72 and Lautner Road, they will provide this to traffic study professionals who will provide it to MDOT, who will ultimately dictate what kind of access will be permitted.

Carstens asked Christopherson to clarify that the MUD ordinance is to be considered the valid mechanism by which to consider the application per Board action, which Christopherson did. Carstens asked if the ordinance allows the Commission discretion to impose additional requirements to make the application more congruent with the township's Master Plan; Christopherson replied that any application should be considered in relation to the Master Plan. He also stated that he resented the applicant's use of the title "Master Plan" for the conceptual plan, as he feels that a Master Plan is only the overall community plan created by the township. Smith stated he felt it was a matter of semantics; Corpe volunteered that Acme Village's overall development plan is also referred to as a master plan in the

documents in the files.

Mr. Hayward brought up another point from the applicant's letter that he previously read. He has yet to hear anyone specifically provide proof that the requirements of the ordinance have not been met. They feel that they do meet the requirements of the Master Plan, and that it is well documented that the only way to meet the requirements of the Master Plan is to meet the requirements of the attending ordinance. Carstens stated that he has not had the opportunity to read the article on this subject to which Mr. Hayward referred (by Steve Langworthy, published in *Michigan Planner*) so he does not feel compelled to respect it in any way. He referred to statements by Joel Russell, a former township planning consultant who assisted with creation of the Master Plan and former town center ordinance, as to what a true downtown consists of. He does not believe that the plan as presented does not mesh.

Krause asked what additional studies Carstens would require at this point. Carstens stated that he would require a detailed traffic study. He also stated that the Master Plan states that only a quarter of the town center should consist of non-residential uses, and that they should form a core and be surrounded by the residential uses. He does not believe that the existing plan is very different from the plan as first presented over a year ago, remaining over 50% commercial. He stated that a neighboring landowner, Todd Gokey, who is a residential developer doesn't believe many people would want to live next to a commercial development of this size. If this is true, is there any real guarantee and expectation that the residential component of the development would be created?

Mr. Petterson asked for clarification that the town center ordinance does not currently exist due to the judge's ruling in the CCAT case. He does not believe that Carstens will ever vote to approve this project, as he is a member of CCAT. He realizes that Carstens does not appreciate the project personally. The applicants consented to this evening's study session as an opportunity for the Commission to ask questions and for the applicants to answer them. Procedurally, they would like to stick to the question and answer format and leave alone the questions of personal preference in an effort to move the process forward. Carstens stated that he has been a member of CCAT for over 3 years, having joined them out of appreciation for their environmentally conscious viewpoints.

Mr. Hayward asked Mr. Carstens to provide a specific reference to the statement in the Master Plan stating that larger non-residential uses should be 25% of the development or less. Mr. Carstens read from page 2 of the Town Center Report portion of the Master Plan. Mr. Hayward stated that he has addressed this particular statement in a previous document and justified the applicant's position that less than 25% of the development is devoted to large-scale uses. Carstens asked if this is true when you incorporate the amounts of parking that go along with the large-scale use areas; the applicants asserted that including parking only 21% of the overall 182-acre site is devoted to large-scale uses. Smith stated that the Master Plan is a guideline, but that the Ordinance is the set of rules to be followed.

Krause stated that he is unhappy with the layout of the residential areas to the west of the proposed main entrance boulevard, as he feels that they are too suburban in nature. He would wish that a New Urbanist planning practitioner could rework this area in a grid pattern. He believes this would have an added benefit of compressing the used land area further and permitting a larger buffer from environmentally-sensitive areas. Smith noted that the plan before the Commission is conceptual in nature and the precise layout of this area could change. Mr. Steve Smith stated that they would consent to such a reworking being a condition of conditional approval. Mr. Hayward added that it hasn't been reworked to date because of expense.

Salathiel expressed concern because after the first conceptual approval, the applicant stated that they felt they had a right to develop the site exactly as depicted on the site plan. Now they are saying that they would be willing to make changes, but would this statement change again if conceptual approval is granted? Mr. Steve Smith stated again that they consent to having reconfiguration of the residential area a specific requirement of site plan approval. Salathiel stated that the site plan approval will be “a nightmare.” Mr. Petterson expressed the opinion that actually things will become somewhat easier, as the Commission would be working with more tangibles and specifics. Mr. Steve Smith also stated that there will most likely be site plan approvals on a building by building basis, not just a phase basis.

Mr. Steve Smith asked the Commissioners who made site visits if they were comfortable with the layout after they walked the staked-out property. He noted that areas within the proposed lifestyle center that were to be small pass-through areas have been enlarged to be areas with trees and walkways that are more truly public spaces. Mr. Hayward stated that a lot of the reasoning behind the curvilinear rather than gridwork road system involves working with the existing grades on the side without leveling everything. Salathiel asked the applicants to clarify again that they will be willing to make changes to the proposed site plan if required by the Commission; Mr. Hayward said this would be the case if the applicant agreed to the changes. Salathiel asked what would happen if they didn't agree; Mr. Hayward said they would negotiate.

Mr. Steve Smith stated that over 42% of the overall land area is currently proposed for residential use. Mr. Hayward stated that this should be proof that the applicants won't just develop the commercial parts of the site and then walk away – this would be a lot of land to walk away from. Mr. Hayward believes that people will want to live within walking distance of restaurants, the dinner theater on the old theater site, and other amenities. Mr. Steve Smith asserted that a variety of residential developers have expressed extreme interest in developing the residential areas of the project; viewing them as being highly desirable properties.

Krause asked about the store sizes for the mid-sized stores in the southeast portion of the property. Mr. Steve Smith stated that one of the stores would be 25,000 sq. ft. Krause asked if a potential tenant has been signed; Mr. Steve Smith stated that his has not occurred. In fact, they had someone interested in the anchor store that would have been in this area that they have had to forgo. Krause is also concerned about setback areas from M-72 and Lautner Roads. He cited the M-72 Corridor Ordinance that is coming up for public hearing shortly and the standards it sets forth. He also hopes that buffer landscaping will be installed in the first phase; Mr. Steve Smith agreed, stating that he believes this will make the site more attractive to other businesses in terms of overall ambiance.

Salathiel is still concerned with the proposed phasing as depicted on the new plan provided this evening. The applicants clarified that there are five color-differentiated development phases; the number (ranging up to 31) refer to traffic study segments. Salathiel also noted a letter from Mark Hullman received during this process stating that he feels that the road connector to Acme Village should be required in the phase 1. Mr. Hullman is an attorney for the Johnson Family Limited Partnership, owners of Acme Village. Mr. Steve Smith asked if the Johnsons would be willing to help share in the costs. Smith feels that any condition should be that easements to Acme Village and the other surrounding parcels be created, but that actual road creation should not be the requirement. It should be left that the roads would be developed as mutually-agreed between the neighbors as being useful at future points in time. Mr. Hayward noted that any road connection to Acme Village would cross the widest wetlands area on the property. DEQ approval will be the key factor in how, when and if the road is created. It is likely that this road would have to be a county road, as opposed to the internal private roads, since the theory seems to be that it would be some sort of bypass for

the M-72/US 31 intersection. Salathiel just wanted to be on record as acknowledging the letter received from Mr. Hullman, an attorney. Mr. Steve Smith stated that they have always been and are now willing to provide easements for road connections to adjoining properties. They would like some sort of cooperative funding to be pursued, and there has been some discussion of using potential DDA funding to assist with the costs. He also stated that the requirements for fewer anchor stores and increased buffer areas, when taken altogether, are becoming onerous. Salathiel stated that she would like to continue discussion regarding anchor uses. Mr. Steve Smith asked if he has done as requested by reducing the number of anchor stores to one; Salathiel agreed that he had.

Mr. Mike Kinstle represents Meijer, Inc., and has worked with the township on an application made 5 years ago for development on their own property on the east side of Lautner Road. He stated that over the years he has heard the township state that they would love to have the future store be part of a town center, and they are now very excited about moving to the west to be part of the proposed project. Salathiel asked if they would be willing to entertain a method of protecting the Meijer property from development as an additional big box store; Mr. Kinstle stated that Meijer would be very interested in further discussion with the township about options for the property. Mr. Petterson stated that the MUD ordinance would allow them to develop more than one anchor store, but they have voluntarily reduced the number to one. He isn't saying that the number should be decreased. The one anchor store happens to be the one that could have been across the street. He does not believe that the applicant can be made contingent upon the actions of an entirely separate property owner. Maybe Meijer should develop on their property and allow the applicant to seek an additional anchor store inhabitant. It would not be fair to make their applicant contingent upon what happens on a separate property.

Salathiel noted that the property is zoned purely for residential use. She doesn't believe the township is required to approve any anchor stores at all; a statement with which Christopherson concurred. She believes that if one is to be entertained, other measures to control additional growth should be taken. Christopherson stated that he has been asked by the township to begin working on a TDR ordinance. However, such an ordinance is not currently in place. Mr. Petterson does not believe that they can be held to the standards of an ordinance that does not currently exist. Mr. Lively said that the Commission is charged with the creative and effective use of land, and that now is the time to work with all parties to protect the Meijer parcel from development. Mr. Hayward stated that the Master Plan actually addressed this concept, in a discussion of using more restrictive zoning and/or downzoning to control growth, or to use other tools. The Master Plan also stated that the ordinance should be amended to accomplish the Town Center Report goals; and the township adopted a Town Center Ordinance. It stated that additional commercial zoning should only be created in furtherance of creation of a traditional town center (Carstens stressed the last three words.) It also discusses limiting dense growth to areas served by the sewer system and creation of a private road ordinance. Mr. Hayward noted that the township has yet to fulfill all of these goals. The applicants have made application under existing rules, and it would be unreasonable to try to change the rules in the middle of the application.

Smith stated that he believes it is also important to recognize that future ordinances will not apply to any project created pursuant to this application. A TDR ordinance sounds like a fine idea, but how can we require this applicant to use it if it doesn't exist?

Sherberneau asked Mr. Kinstle to reconfirm that Meijer is willing to work with the township regarding future plans for their property, which he did. Sherberneau asked Salathiel what else she might wish. She stated that the newer residential area proposed for the southeast corner of the property is good. But, she asked if there is a way to leave some space to be used for

transferred development rights should a program be implemented. Could the space left by removal of the second anchor store be left completely vacant until a TDR program is in place? The potential for additional height doesn't seem to be sufficient. Smith pointed out that even if a program is implemented, there still has to be a willing buyer and a willing seller. Mr. Petterson stated that if people in the township really wanted to concentrate development in one area, the Commission would still be considering mixed-use building heights taller than 35', using less horizontal space and more vertical space to transfer as much density as possible into one small area.

Carstens asked to address fairness to the citizens of Acme Township. Bruce Aikens proposed an essentially commercial development on this property, and after resounding disapproval from the public, he abandoned his plans. He feels that the current proposal is not in keeping with the spirit of the Master Plan, and that the public continues to speak out against the plan. Are they being heard yet? When he was first asked to be a Commissioner, it was something he had never considered before. He is an avid birder and conservationist who firmly supports the statements in the Master Plan, and that the wishes of the people must be respected. He believes that the Commission should undertake additional requirements to approve a development that is not a regional shopping center and contrary to the values of the township populace. He still believes that the detailed studies need to be performed at this phase and not site plan stage, and stated that Mr. Joel Russell stated himself that site plan approval would be too late because the applicant would already have invested too much money. He feels the applicant keeps coming back with a lifestyle center time after time, and he still doesn't see the town center described in the Master Plan. He sees some elements of a downtown, and a lot of "spin" and believes that the applicant should conform to the Master Plan.

Krause believes that the township should follow the law, which is the Ordinance, which says that the detailed studies should be required at site plan approval. Carstens hears Christopherson saying that the township can require those things at this phase. Christopherson stated that the township doesn't have to require them now, but could if it is uncertain that requirements have been met without them. It is entirely discretionary. Carstens stated that a project of this magnitude will have far-reaching impacts that should be understood sooner rather than later. Salathiel stated that she has worked with the Master Plan since inception eight years ago. She feels that the applicants have included tremendous amounts of green space within the development as requested by the Commission. Mr. Hayward mentioned that landscaping techniques can be used in those areas to make them very pleasant. Salathiel stated that Mr. Aikens proposed a main street, but wouldn't do it without two anchor stores. She is concerned about what might happen to the land, and still feels that there is some more work that can be done on the southeastern corner of the property. She still fears that the applicants would insist that if approved in this configuration on the conceptual plan, it can be built without further amendment.

Carstens and Smith debated the usefulness of future discussion regarding town centers, Carstens maintaining that he is discussing the concept in relation to the Master Plan and Smith stating that the town center ordinance doesn't exist and can't be recreated while the court ruling regarding the old one is being appealed. Krause and Sherberneau felt that Carstens statements regarding upholding the Master Plan have been covered thoroughly. Carstens cited what he learned in Citizen Planner classes stating that the Master Plan is important. Mr. Steve Smith listed the things that have been requested of the applicants that have been done, but now everyone is saying this isn't what they really wanted after all.

Mr. Petterson stated that he is asking the Commission to assist his clients by providing specific input for the applicants to address and accept or reject. Carstens stated that a letter was provided this evening from Erick Takayama stating that there are developers who would

be willing to provide “well-integrated” New Urbanist designs for the property for the Commission to examine. He is not comfortable with a lifestyle center, which he does not feel fits the mold of a town center. Mr. Petterson said that the applicant will not be bringing in a new planner. He is willing to accept the idea that Carstens simply doesn’t like the project but can’t do much to address a point of view. He needs to hear concrete requests in order to provide a concrete answer. Mr. Jim Goss, also one of the applicants, stated that they have agreed to utilize planners and further discussion in order to make the residential areas more New Urbanist in design.

Hoxsie feels that time has been both well-stated and wasted this evening. He appreciated the bullet point list Mr. Clark provided listing suggestions for issues to be covered this evening, and asked that it be put back up on the screen.

- Environmental Report: He believes that Ball Environmental raised some good questions that need to be answered. Smith stated that they were answered by Voice, and Salathiel asked what the Commission should do when faced with two opposing reports. Mr. Petterson stated that the Ball assessment was not paid for or sought by the township but by CCAT, possibly in an attempt to delay the process. Many of the statements in that report were “debunked” by the report that was commissioned by the township. Are there issues that were not addressed by the Voice report that were listed in the Ball report that still need to be addressed?
- Traffic data: Hoxsie understands after this evening some of the reasons why deferring a traffic study until site plan review make sense.
- Setbacks & buffers:
- Phasing: the phasing material was presented this evening and he needs time to think it over.
- Wetlands verification
- Parking ratios: he has no problem with these
- Off-site linkages:
- Stormwater control: Hoxsie believes the applicants have an opportunity to really create a special stormwater management system that would go above and beyond the Drain Commission requirements and could become a model for others. Mr. Hayward stated that the applicant’s narrative commits to using “industry best management practices” regarding stormwater control, which is the County’s new standard. Mr. Forsman stated that his firm engineers such systems, and they often bring in industry leaders to review their plans and implement state-of-the art systems. He stated that Mr. John Nelson, the Baykeeper, has been very impressed with the systems Gourdie Fraser has come up with for Kohl’s and Lowe’s in Garfield Township. His firm must stay up-to-date to survive and succeed, and are sensitive to the township’s issues. They will spend “hours upon hours” to engineer a solution that will protect Acme Creek. Hoxsie noted that Carstens and Sherberneau have been assisting with creek monitoring, so we have a set of baseline data. It should be a goal of this development to make the after-development data match the before-development data. Smith stated that he has spoken with John Nelson about Kohl’s. If you look at that store and its parking lot, your first thought might be that there would be a lot of runoff into Kid’s Creek or holding ponds that would pollute the creek and raise its temperature. However, the system that was engineered directs water into underground tubes and not into holdings ponds or the creek, and does a masterful job. Salathiel noted that during the previous Meijer application there was discussion about ongoing monitoring of the quality of the water that would leave the site, and asked if this would be done in this case as well. Carstens asked Mr. Forsman if the County Ordinance currently requires the type of system installed at Kohl’s; Mr. Forsman stated that it does not. Chris DeGood, also with Gourdie Fraser, stated that “best management practices” are required. These may change as each phase of a development occurs. Carstens asked if drainage systems would have to be redesigned as new buildings are added; Mr. DeGood

stated that it would seem a better use of funds to install a good system to begin with. Carstens asked how it would be possible to design a system at the outset that will be best for the development at buildout if you don't know what will be needed at buildout. Mr. DeGood stated that it is possible to anticipate future needs, or to add new and additional systems to previously-installed systems. Every time an addition to impervious surface is proposed, new Drain Commission approval will be required. Carstens stated again his concern that perhaps the Drain Ordinance only requires a "good" system but not the "best" system; Mr. DeGood stated again that the ordinance does call for "best management practices" to be used, which involves ongoing discussion with the County.

Salathiel asked if the multi-story buildings are proposed to be two stories; Mr. Hayward stated that they would go with a two-story design wherever practicable. All of the multi-use (blue) buildings would be two stories, and if they could find someone willing to construct two stories in the yellow buildings they would, as they favor compact design and efficient use of land if possible. Mr. Steve Smith believes that the lifestyle center buildings on the north side of the main street are the most likely to be marketable as dual story, and they will certainly entertain any other market-driven requests to make the other buildings multi-storied as well. He would even go to three stories if he can find someone willing to do so.

Salathiel noted that the applicants have stated that a market study has been prepared, but has not been presented. Sherberneau noted that it is not required that it be presented at this phase. Mr. Hayward stated that he has heard members of the local real estate community say that "they can hardly wait to get hold the information the applicants have paid for" for other uses. There are other areas zoned for shopping center use to the east along M-72. If the information is given to the township it becomes public record information that Realtors could try to use to market other properties in the region.

Salathiel asked how much of the site is currently proposed to be in impervious surface. Mr. Hayward stated that the calculations for the previous versions of the plans were for about 53% impervious surface, but that the calculations haven't been redone. He and Mr. Steve Smith both indicated that with increased setback buffer areas on three sides of the property and more residential space, the amount of impervious surface has surely been reduced. Mr. Hayward also stated that the ordinance does not specify a maximum amount of impervious surface for a MUD.

Salathiel feels that so much progress has been made, and that with a few more concessions it could be much better. Mr. Hayward asked her to be more specific about her concerns; she stated that she would like the mid-size retail space shown in the southeast corner of the property instead of the second anchor store and its parking removed as well. She doesn't feel comfortable saying yes to even one anchor store without the market studies proving that they are necessary to the economic viability of the project. Mr. Petterson said that the amount of commercial space in the project absolutely can't be reduced any further, and Mr. Steve Smith stated that the bankers are barely willing to finance the project in its current configuration. Salathiel began to say that perhaps because much of the information is new again this evening, additional time for review would be good, but could not complete the statement due to a large, general groan rising from the audience. Mr. Steve Smith reiterated comments regarding requirements from his banker and the results of the feasibility study, saying that the amount of retail shown is the minimum amount necessary. Hoxsie asked if the hotel counts as an anchor use; the applicants replied that the bankers are not looking at it as sufficient in our seasonal community. Mr. Hayward stated that as developers, the applicant doesn't like anchor uses. Smaller tenants can sell goods for higher prices in smaller lots, so landlords make more money. Bankers look at numbers of trips and synergies between uses. He offered to provide the banker's phone number to the Commission so that they could verify his statements.

Carstens stated that he supports Salathiel's suggestion that more time for deliberation is needed in order to proceed with due diligence. He believes that the traffic, environmental and market studies are absolutely necessary to these deliberations at this stage. Salathiel stated that she understands the applicant's arguments supporting a delay in providing the market study until site plan review, but would still like to see the other reports now. Carstens still feels he needs as much information as he can obtain as soon as possible, and still feels he heard the statement in his Citizen Planner class loud and clear regarding the importance of upholding the Master Plan.

Smith stated that the request before the Commission this evening is for a recommendation regarding a conceptual site plan application. If the applicants have met the requirements in the Ordinance for this phase of the MUD application process, he believes they should receive a favorable recommendation. If there are items that are required at a future phase, they should be received at that future phase, and the Board must be trusted to act responsibly in the future.

Krause asked if anyone has been keeping a list of the suggestions for conditions made this evening. Salathiel asked if any sort of consideration has been given to a study of the impacts of the proposed development on Bunker Hill Road. Mr. Forsman stated that he heard at the Board meeting last week that Wilcox has been hired by MDOT to study the US 31/M-72 intersection. Also, had traffic studies been performed and forwarded to MDOT, with each change at each study session they would have to have been redone and reassessed. There are already regional studies in process regarding the traffic issues that already exist in Acme Township that have no possible source in this proposed future project. MDOT reviewed a Meijer study five years ago when they applied to build a store, so if Meijer is the first phase of the development, MDOT already has a leg up on the needed information and can require the needed updates for the current situation.

Ms. Rachelle Babcock asked if she could give the Commission information from the minutes of the May 24 Commission meeting that she deemed "very important." As she brought them up, she stated to Smith that they were statements made by Mr. Hayward at that meeting. Smith took a moment to read the information given to him. He stated that the underlined portions stated that traffic and market studies would be provided by the applicant prior to public hearing. Mr. Petterson expressed irritation that the work session had been interrupted for this, noting that there has been considerable discussion on this topic already. Mr. Steve Smith stated that Mr. Hayward had been informed by him that this information would not be released (the market study) as it was proprietary information. Mr. Hayward stated that he had mis-spoke, and apologized. Mr. Hayward and Mr. Steve Smith both stated that they had thought they would be able to provide adequate traffic study information, but when it was presented MDOT said that it was not sufficient. Ms. Rasch detailed what would be necessary, and the applicants said it would not be possible at this time. Mr. Steve Smith said that the information had been volunteered in advance of its required time as an attempt to be helpful, and he resents being "placed on the cross" for statements made in this spirit when others who tell lies are upheld.

Carstens stated that he knows and respects Dr. Chris Grobbel and his firm, Ball Environmental, but that he doesn't know Voice and can't evaluate their statements. Mr. DeGood asked if Carstens was slandering the reputation of a professional firm. Mr. Steve Smith asked who at the township had authorized their hire; Christopherson hired them at the direction of township officials. He obtained their name and the name of another firm from Gourdie Fraser, and their work was limited according to the fee. Mr. Steve Smith asked if Ball Environmental had been hired by the township before; Carstens replied that they had

been to review several projects. Smith asked if Carstens means to slight Voice's professional standards; Carstens stated that firms have been hired to review the Hartman-Hammond bridge project and provided flawed reports. Anyone, even Ball Environmental, could provide a flawed report. Mr. Forsman pointed out that regardless of any environmental report, the project would still be subject to DEQ and Drain Commission approvals that might or might not be obtained. Carstens asked Mr. Forsman if he feels that Dr. Grobbel's evaluation is not appropriate; Mr. Forsman stated that he would have a hard time saying either report is 100% accurate, but the final protection lies with state and local agencies with significant competence.

Salathiel asked how water would be supplied to the project. Mr. Steve Smith stated that the applicants have been fully informed that the township can't provide water, and that they will have to provide it on their own. They are still working on this.

Motion by Hoxsie, support by Sherberneau to adjourn the Committee of the Whole and reconvene the regular Commission meeting. Motion carried by a vote of five in favor (Hoxsie, Krause, Salathiel, Smith, Sherberneau) and one opposed (Carstens.)

Motion by Krause, support by Sherberneau to extend the length of the meeting to 10:30. The Chair cast an unanimous ballot, there being no objection.

Motion by Krause, support by Sherberneau to recommend approval of #2004-11P based on conditions discussed as recorded in the minutes and recommendations made by Russ Clark.

Corpe skimmed the minutes for the suggested conditions this evening above and beyond those proposed by Russ Clark, achieving consensus that they had all been mentioned. Salathiel stated that she would still like to see what options exist for tying in requirements regarding future use of the Meijer parcel; Sherberneau stated that he does not feel we can impose requirements relative to land not part of the application or under the applicant's control. Salathiel asked Christopherson if he believes that all of the requirements for conditional site plan approval per Section 8.22 have been met; he replied that this question can only be answered by the Commission itself and not by him as the township attorney.

Carstens believes that there should be additional conditions regarding impervious surface coverage of the site. The site is at about 52% proposed impervious surface. The town center ordinance had a maximum threshold but the MUD ordinance does not. The Master Plan says that the entire impervious surface in the sub-watershed should be no more than 20%, with their project it would be less than 1%. Carstens believes that because the Commission has flexibility in its oversight role that it must fulfill, additional requirements should be considered. Sherberneau stated that he heard the engineers say that after engineered, they won't be allowed to have a significant impact on Acme Township; Mr. Forsman agreed that the state and County will ensure this. Hoxsie would not expect there to be no impact, but he is comfortable that through the township's water quality monitoring system we have a baseline by which to assess any future impacts should they be detected. He also has confidence in the agencies charged with oversight regarding these issues.

Motion carried by a vote of four in favor (Sherberneau, Hoxsie, Smith, Krause) and two opposed (Salathiel, Carstens).

2. New Business:

3. Old Business:

4. Public Comment:

A lady in the audience stated that there will be a meeting on Wednesday, August 18 at 9:30 a.m. at the Road Commission offices regarding proposed roadwork on Bunker Hill Road.

Mark Stenke, Bunker Hill Road, recalled the impact of the Resort on the township. He recalls the damage to roads that was never quite repaired and the living with dump trucks. This area is full of sand and clay. An underground drainfield won't drain in clay. To say that this is only 1.1% of the watershed doesn't recognize the impact of water running off roofs after a heavy rain. Over the entire watershed it may be a minimal impact, but in one area near the creek there will be an immediate and significant impact. Smith referred to the statements Mr. Forsman made regarding the systems at Kohl's that don't impact Kid's Creek. Mr. Stenke asked if there is clay in that area; Mr. Forsman and Mr. DeGood replies that there is and that the applicants will not be permitted to build anything unless requirements are satisfied. Meijer on the other side of town is busy; this one will become so as well.

5. Any other business that may come before the Commission:

Meeting adjourned at 10:20 p.m.