



**ACME TOWNSHIP PLANNING COMMISSION MEETING
ACME TOWNSHIP HALL
6042 Acme Road, Williamsburg MI 49690
7:00 p.m. Monday, December 13, 2004**

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

Members present: O. Sherberneau (Chair), B. Carstens, C. David, R. Hardin, D. Krause, D. Morgan, J. Pulcifer, E. Takayama, M. Vermetten

Members excused: None

Staff present: S. Corpe, Recording Secretary
C. Bzdok, Interim Township Counsel

1. Consent Calendar

Motion by Vermetten, support by Takayama to approve the Consent Calendar as amended to remove approval of the November 29 meeting minutes for further discussion, including:

Receive and File:

- a) Draft minutes of December 7, 2004 Board of Trustees meeting (Attachment A included and incorporated by reference)
- b) 12/07/2004 *Record Eagle* article "Appeals Court closes door on Torch Lake Rentals" (Attachment B included and incorporated by reference)
- c) 12/07/2004 *Record Eagle* article "Elmwood project gets another look"(Attachment C included and incorporated by reference)

Action:

- d) Approve minutes of November 29, 2004 meeting (Attachment D included and incorporated by reference)
- e) Review and approve agenda, inquiry as to conflicts of interest: approved with no conflicts of interest noted.

Motion carried unanimously.

2. Public Hearings:

- a) **Public Hearing regarding Application #2004-14P by Kenneth L. & Janet C. Engle for development of a Winery and Bed & Breakfast operation on property located at 8114 Saylor Road and currently zoned A- 1, Agricultural (Continued from the 9/27/04, 10/25/04 and 11/29/04 meetings – Attachment E included and incorporated by reference):**

Motion by Vermetten, support by Carstens to continue the public hearing regarding Application #2004-14P to the January 31, 2004 meeting. The Chair cast an unanimous ballot, there being no objection.

- b) **Public Hearing regarding Application #2004-17P by Creekside Village, LLC for Site Plan Approval for development of 33 single family site condominium units on property located on Mt. Hope Road in the Acme Village Mixed Use Development (Continued from the 10/25/04 and 11/29/04 meetings - Attachment F included and incorporated by reference):** Chris DeGood, Gourdie Fraser Associates was present on behalf of the applicant. He gave a brief overview of the 33 single-family detached condominium project. Rather than seeking full Site Plan/SUP approval at this time, the applicant is seeking Site Plan Approval only. Once the applicant knows whether or not

the basic layout of the project is acceptable to the township, he will feel comfortable proceeding with the detailed engineering and condominium document creation. He views the second SUP approval process as being a “formality” only.

Sherberneau asked about the status of water for fire protection. Mr. DeGood stated that he has been in contact with Metro Fire and are looking at three basic options for meeting their requirements.

Krause expressed concern about the landscaping and architectural plans not being presented as part of this public hearing process. Mr. DeGood stated that he views these items as not being of concern until an additional Special Use Permit application is presented. He noted that on the first page of the site plan documents, there is detailed architectural control information provided. Corpe cited her comment regarding the proposed landscaping and architectural requirements on pages 6 and 7 of her report. She has struggled with the nature of the application, which is unusual in not seeking complete approval and feels at the current time the Commission is properly only considering whether or not the layout concept is appropriate. Corpe does not view the continuation of the process as a mere formality. Vermetten and Carstens concurred.

Mr. DeGood did not feel it would be appropriate to ask for full architectural elevations at this time, as each potential homeowner will desire a custom treatment. Krause does not feel it should be difficult to provide a concept elevation. He has taken a look at some of the other projects completed in other parts of town by the same developer, Brent Walton, and was not impressed. Therefore, he feels more complete discussion about what might occur in Acme is warranted. Mr. DeGood stated that he would be willing to provide a sample elevation for a subsequent SUP process.

Takayama agreed with Krause. He noted that the proposed development would have an architectural control committee, but is concerned that the applicant seems to be seeking a fairly complete approval without knowing what the project will look like. He feels that it would be too open-ended to grant an approval under the circumstances. Mr. DeGood asked for a citation of the requirement; Corpe cited Section 8.22.6(1). Mr. DeGood expressed concern over a level of review being imposed that is not in place generally within the township.

Krause felt it would be more helpful if the entire approval process could be combined into one public hearing process. Mr. DeGood objected, feeling that it is unfair to ask his client to commit to the costs of detailed engineering if the layout and number of units might be subject to later concerns. Krause noted that no significant concerns about the project were expressed at the preliminary hearing. Vermetten noted that site condominium development has become more common than traditional subdivision, and that the term “condominium” denotes a methodology rather than a building style. He has made a site visit and finds nothing objectionable about the project. Vermetten sees the application as being one geared towards conceptual approval only. Then, the applicant would come back with the details for another approval process. Otherwise, the Commission clearly does not have a sufficient comfort level to proceed with meaningful discussion.

Corpe indicated that it was her understanding through conversations with Mr. DeGood that the applicant was only seeking conceptual approval at this time, and would come back for a full SUP approval hearing process. Her report was only intended to address concept approval, and she did not intend to give a favorable recommendation for anything further at this time. Mr. DeGood stated that he does not believe that the ordinance allows for this type of two-part process. Corpe agreed that she didn’t find it customary either, but that Mr. DeGood had specifically asked to separate the two parts of

the process rather than seek full approval in one process.

Mr. Brent Walton, the applicant, is a long-term resident and developer. He created the Creekside Development on South Airport Road and is currently developing Copper Ridge which promises to be a successful development. He is one of four partners, and they see negative press about Acme every day. Mr. Walton is involved in Wolverine Heights, and wants to do more projects in Acme, but his partners are not convinced. He feels Acme needs growth and expansion, and that this would be a good project. Mr. Walton does not want to spend a significant sum of money without an assurance that they can eventually build a project. He can't tell if Acme wants anything to be built here or not. Vermetten responded that nobody on the Commission has stated that they don't like the project or don't want growth. The message seems to be that the project is welcome. Several individuals visited the Creekside project in the course of reviewing the application. So, it seems that the issues of not wanting the project or growth can be dismissed. Corpe has indicated, and he feels that he could give conceptual approval to the plan. It would then be the applicant's responsibility to complete the application so that the Commission can make a final recommendation to the Board.

Mr. DeGood expressed frustration with the process, thinking he was pursuing a single step process. He stated that Corpe's report proposed a favorable recommendation to the Board. Corpe noted that she recommended approval of the site plan only, and not a full development approval. She expressed frustration because she urged the applicant to pursue a traditional single-step process, but was specifically told that they wanted to seek conceptual approval first. She didn't understand why the applicant would want to employ a two-phase approach. Bob Forsman, Gourdie Fraser, stated that developers are not willing to pursue a single process in Acme right now because there is a lack of faith that the money will be well-spent and result in a workable plan.

Morgan asked if dark sky protection principles would be observed as part of the project. Mr. DeGood stated that no street lighting is proposed; the lighting would be of an exterior decorative nature only, of the type found in any typical housing development.

Takayama asked about concerns from the residents of Apple Valley Road regarding preservation of two significant maple trees. On the plans it appears the trees are within a retention basin. Mr. DeGood stated that the configuration of the retention basins might need to be adjusted, with sufficient volumes for water detention maintained according to Drain Commission standards.

David is concerned about conceptual plan approval leading to an all-too familiar situation where the township is told it will be shown the details later but the township's discretion to review and request further information is challenged and limited. He also asked about proposed road widths within the development. Mr. DeGood indicated that the new roads will be private and constructed to County private road development standards; the Road Commission will assume no responsibility for them. David also asked if Metro Fire requirements regarding the road have been met; Mr. DeGood pointed out the hammerhead turning area at the end of one of the roads.

Public Hearing opened at 7:50 p.m.

Chuck Walter, 6584 Bates Road, feels that the proposed project is an excellent one proposed by an excellent builder

Ralph Yates, Glastonberry Court echoed Mr. Walter's sentiments.

Pat Salathiel, Five Mile Road, echoed Morgan's comments regarding seeking dark-sky

compatible lighting fixtures that are down-directed and side-shielded. Mr. Walton stated that this is the way he builds his developments.

Mr. Bzdok stated that he has not reviewed the situation in any detail. His understanding is that a permit is being sought pursuant to the Acme Village MUD permit. This permit states that certain standards must be met when a phase of the development is proposed. The permit refers to sections in the ordinance that discuss the nature of conceptual plan approval pursuant to Section 8.22.5. If approval is given pursuant to Section 8.22.6, it is his opinion that this would provide the applicant the right to a Land Use Permit. Therefore, he believes that a motion to approve a concept should be specifically made pursuant to the provisions of Section 8.22.5 and not Section 8.22.6. He hears the applicant saying that current approval subject to Article 8B is not being sought, as condominium document required under that section have not yet been created.

Public Hearing closed at 7:55 p.m.

Vermetten, after reading Corpe's well-articulated report, felt that the matter before it was for concept approval only.

Motion by Vermetten, support by Krause to recommend approval in concept of Application #2004-17P to the Board of Trustees pursuant to Section 8.22.5 of the Zoning Ordinance.

Morgan asked if stipulations could be added to the motion regarding specific details of the project. Carstens felt that this would be important as well. The balance of the commission felt that all of the details would be pursued in an additional SUP process pursuant to Section 8.22.6 and Article 8B. Bzdok noted that some of the details that might be discussed pertain to those sections and not Section 8.22.5.

Motion amended by Vermetten, support by Krause to add a condition that a landscape plan be provided in accordance with the ordinance. Amended motion carried by unanimous roll call vote.

3. Preliminary Hearings:

- a) **Preliminary Hearing regarding Application #2004-19P, The Village at Grand Traverse, LLC for Development Phase I Special Use Permit/Site Plan Review for a 182-acre property located at the southwest corner of M-72 East and Lautner Road approved for Mixed Use Development pursuant to Conceptual SUP #2004-11P. Phase I development is requested to include installation of perimeter landscaping, internal main road corridors and construction of a Meijer, Inc. Store (Attachment G included and incorporated by reference):** Timothy Stoepker, counsel for The Village at Grand Traverse, LLC and Meijer, Inc. stated that Scott Nowakowski would begin the presentation on behalf of Meijer, Inc. Mr. Nowakowski stated that Meijer purchased the 63 acres on the southeast corner of Lautner Road and M-72 East in 1990 after the previous owner had obtained rezoning to a commercial designation through referendum in 1988. Subsequently, Meijer representatives had conversations with previous representatives of township government and from Concerned Citizens for Acme Township (CCAT) wherein it was urged to consider locating a future store on the "Rollert" property on the southwest corner of the same intersection. Up until they were approached by representatives of The Village, they didn't feel it was a feasible idea, but The Village has convinced them. Mr. Nowakowski stated that location of a Meijer store could increase local tax base by about \$15 million and provide an annual payroll of \$6 – 7 million.

Mr. Nowakowski promised The Village that it would build the finest Meijer store anywhere in their development. Meijer has hired a New York architect who has previously created the Kodak and Cirque de Soleil Theaters and Comerica Park. Mr.

Nowakowski provided some pictureboards depicting how the store might look as one enters the site. He noted a brick kneewall with aluminum fencing on top surrounding the Garden Center area. The Garden Center itself would be composed of brick and stucco with a slated blue aluminum roof containing translucent panels. A pharmacy drive-up area would be located on the front façade adjacent to the Garden Center. The façade would continue in two-color brick, and the cornice would be a contrasting neutral color and shaped to break up both the horizontal and vertical planes of the building. Entryways into the main part of the store would be tall, repeating the blue roofing and containing glass that would let natural light into the store. The elements mentioned would be repeated in six sections and are intended to be “human” and “inviting.”

The next pictureboard displayed some views of the interior of the store. Mr. Nowakowski cited Meijer’s commitment to purchase large quantities of Michigan-grown and locally-grown produce and locally produced wines. New displays and flooring concepts are being used to delineate spaces within the store, and overall shelf heights are being lowered. Meijer, Inc. views this as a “flagship” store, and they want to build it in Acme.

Mr. Stoepker introduced Brad Kaye, Gourdie Fraser Associates to speak to zoning ordinance-related issues, and stated that the applicant is seeking to have a public hearing set for the January 31, 2005 Planning Commission meeting. He stated that this is the most comprehensive application ever prepared by Gourdie Fraser for a project within Acme. They have provided a response to the planning consultant’s report provided by Russ Clark before he resigned from the project. Mr. Kaye’s comments were accompanied by a PowerPoint presentation.

Mr. Kaye stated that the Meijer, Inc. store is the heart of the Phase I plan, covering 22 acres, and that the bulky notebooks provided encompass what they believe to be all of the materials required by the zoning ordinance. A grading plan for the site was displayed, and it was asserted that it complies with the general grading plan provided during Conceptual SUP review. Water and sewer line placement were displayed, indicating that utility infrastructure would be installed around the perimeter of the site and along the main roads within the site at this time. Three stormwater detention basins were added next, and then proposed landscaping along the internal corridor roads. Mr. Kaye stated that the applicant seeks to not install the site perimeter landscaping at this time, due to concerns that it would have to be disturbed during other phases of project development.

A slide was presented showing traffic and parking cross-sections on the proposed main internal project roadways. The corridor along Lautner Road in front of the proposed Meijer store would be landscaped as part of Phase I, and Mr. Kaye asserted that landscaping standards internally in the parking lot have been met or exceeded by the proposed plan. Parking has been provided as required by the Conceptual SUP for the project. Mr. Kaye stated that the proposed landscaping is more than Meijer, Inc. normally provides. Building elevations for all four sides were also displayed. Installation of M-72 Corridor landscaping buffers along the entire frontage was required as part of Phase I and was displayed on the next slide.

Mr. Kaye recognized that Russ Clark provided a review letter dated November 9; the applicant provided a letter in response to that review. Mr. DeGood handed out an additional packet dated December 13 outlining the applicant’s status relative to state and county approval agencies. Mr. Kaye reiterated the belief that this is the most complete application packet presented and that it comprehensively addresses ordinance requirements and standards, and asked that a public hearing regarding the matter be scheduled.

Mr. Stoepker referred to the December 7 Gourdie Fraser letter responding to Mr. Clark’s

review, stating that all of the questions raised were addressed by proposed changes and in an affirmative manner. Mr. Stoepker stated that he believes the Commission has significant review authority and asked that this discretion and authority be exercised by the scheduling of a public hearing. He said that the Commission may have been advised that “its hands are tied,” and stated that he does not believe this is the case. He asserted again that all information required by Section 8.22.6 of the Ordinance is present, and cited several examples: He read Section 3.0 of the Conceptual SUP aloud. He turned to pages 9-10 of the same document, referring to the sections addressing phasing of the overall development plan, density and land use mix, and area, setbacks, building heights and other regulations. Mr. Stoepker asserted that the Conceptual SUP has its grounding in the consideration and recommendation already given to the project by the Commission. He pointed out recommendations regarding minimal parking ratios and potential height variances designed to reduce overall impervious surfaces. Mr. Stoepker continued through the list of detailed facets of the project discussed under each numbered paragraph of the Conceptual SUP. He read again from Section 5.9, Site Plan review, stressing the list of information that will be required for site plan approval and noting that some of the language appears to be drawn verbatim from the ordinance. Section 5.10 seeks to limit the size of the Meijer store. Mr. Stoepker mentioned that the township Master Plan and past general township discussion has indicated that having Meijer locate on the west side of Lautner Road would be viewed as beneficial to the community, and it seems that this goal can now be realized.

Mr. Stoepker touched on Section 5.12 regarding environmental issues and stressing a requirement to use Best Management Practices (BMPs) and to have an updated wetlands delineation prepared and approved by MDEQ. He noted that each site plan approval phase will require the same documentation to be repeated. Approval of architectural design and lighting fixtures by the township is required. Mr. Stoepker noted that Meijer has presented the architectural plan for its store this evening. Market, economic and traffic impact studies are required at each phase, along with input from the County Road Commission and MDOT. Mr. Stoepker asserts that this is evidence that there has been no attempt to bypass the township’s review prerogatives during site plan reviews.

Mr. Stoepker finally drew attention to Section 13.0 stating that both applicant and township will deal with each other in good faith. He stated that the applicant has provided the most thorough packet ever provided and has provided up-to-the minute status reports regarding local agency reviews. Any additional information required can be supplied. Mr. Stoepker expressed hopes that each Commission will become well and fully informed and find that the project ultimately merits an approval recommendation.

David asked if the materials to presented at Public Hearing will meet all of the requirements Mr. Stoepker just outlined. He specifically asked about receiving materials indicating how the proposed development is in keeping with the Master Plan. Mr. Stoepker indicated willingness to highlight these aspects, and stressed again Meijer’s willingness to move west across Lautner and become the anchor for a downtown area rather than pulling traffic and business away from a downtown.

Morgan asked how many parking spaces are proposed for the Meijer store. Mr. Kaye responded that the number in Phase I is around 1,100. The normal ratio would be 10 spaces per 1,000 sq. ft.; the provided ratio is 6 per 1,000 sq. ft. Krause noted that the approved ratio was 5 per 1,000; Mr. Kaye responded that on-street parking on the major interior roads is also proposed to be developed at this time that is not directly related to the Meijer store.

Takayama asked for an MDOT traffic impact assessment. Mr. Stoepker responded that the traffic study has been presented to MDOT and a response was expected in mid-

December. MDOT stated today that the response is not yet complete; the applicants are hoping that it will be ready in early January. The applicant will follow up with MDOT to see how they can be of assistance in answering any remaining questions. Takayama then asked how the Commission can perform a thorough review of the application without this information. Mr. Stoepker stated that all they are seeking is that a public hearing be set; Takayama doesn't feel that this would be appropriate without ~~in~~complete information. Mr. Stoepker feels that by setting a public hearing MDOT will perceive a "date in the sand" by which they must respond.

Takayama also expressed surprise that most of the open space proposed for the project now seems to be taken up by retention basins. He questions how well this fits with the vision and intent of the Master Plan for inclusion of open space within a development of this nature. Mr. DeGood referred to a drawing of the approved concept plan and pointed out one retention basin that was shown on the concept plan, one which is replacing some space originally proposed for buildings and another that would replace some previously-proposed parking. Takayama still perceives that open space is being lost to water retention areas.

Pulcifer asked how large the retention basins are proposed to be; Mr. DeGood responded that per County Drain Commission standards they would hold 25-year storms (about 3.5" of rain.) He referred the Commission to the BMP information provided that discusses not only water storage but release rates into Acme Creek, where he states water ultimately flows anyway. The goal is to retain water from up to a 25-year storm level of rainfall – the common local standard – for slow release into the environment. Carstens expressed the opinion that the Ordinance gave the Commission the power through the MUD ordinance to impose stricter standards, but that this discretion may have been forfeited by the earlier group of commissioners. He cited an environmental assessment performed by Ball Environmental at CCAT's request, and data indicating that there is a clay strata underground that poses a concern and ultimately limits the amount of construction that would be appropriate in the area. Someone subsequently hired Voice Environmental to address and refute some of Ball Environmental's claims. Carstens stated that an area deemed better for snow storage seems to be proposed by the plan for the Meijer store. He feels that the previous Commission recommended that environmental concerns could be deferred to the site plan review phase but he is concerned about whether or not this is occurring appropriately. Mr. DeGood stated that stormwater management responsibility is the purview of the Drain Commission. The Conceptual SUP does not include a requirement for a higher standard, and he asserted that Carstens should have proposed a higher standard. Carstens stated that he tried and was cut off; Vermetten insisted that this was not the case, and tried to redirect conversation to whether or not a public hearing should be set for Phase I site plan review. Many of the parameters for the discussion are already set, and the request before the Commission is about a Meijer store and interior roadways. Vermetten does not intend to disrespect the Ball Environmental report, but Carstens is addressing portions of the overall site not currently under consideration. Vermetten also noted that Carstens was part of the "previous Commission" and did strongly voice his opinions.

Morgan stated that she has not completed a thorough review of the grading plan, and asked if Meijer will sit higher than the proposed retention basins and if water from that portion of the site will flow towards them. Mr. Kaye stated that the proposed Meijer is on a higher portion of the site and water will flow towards the southwest. Information related to this is included in the materials and would be ripe for discussion at the public hearing when it occurs.

Carstens referred to the memo prepared by Bzdok for the Commission packets. The memo outlines three possible alternatives for how to proceed, and Carstens would like to

consider those alternatives. Bzdok offered to provide a summary; Krause and Vermetten felt that everyone on the Commission should have read it and a verbal summary should not be required. Carstens felt it would be beneficial for the public; Sherberneau noted that this is not a public hearing.

Bzdok stated that the project has generated a wide diversity of opinion about its merits. Bzdok's question is: what are the boundaries within which the Commission is exercising its authority? He noted that how Phase I is handled will set a procedural precedent for how all subsequent phases are handled. Several different versions of the rules for the situation have been expressed. The current question is whether a public hearing date will be set. Would such a hearing be held according to the rules in the Ordinance or the SUP? Bzdok maintains that the two sets of rules are different for the reasons outlined in his report. If the Commission is not comfortable proceeding either way, the matter can be tabled. Krause asked when Judge Power would be able to hear the matter; Bzdok responded that Judge Rodgers (Judge Power recused himself, citing a relationship with the Township Supervisor) would likely decide the lawsuit in general this spring, but might decide the question of whether a delay in considering the application in general is appropriate much sooner.

Mr. Stoepker expressed amazement that Bzdok would produce a 30 page memo about an SUP containing "23 pages of text." He again gave a summary of the framework for the process as set forth in the Conceptual SUP, and cited the expertise of Russ Clark as the Planner who represented the township and Gourdie Fraser as being familiar with the township's requirements. Mr. Stoepker insisted that Bzdok's memo misquoted the SUP and the requirements of the law, which he stated has been clear to everyone but township counsel. Mr. Stoepker characterized it as "obstruction" from someone who is "wearing two hats." Bzdok responded that a lot of information must be submitted pursuant to the Conceptual SUP. The question is what to do with the information. He maintains that the Ordinance says one thing, and the SUP says another and that he has documented this interpretation of the situation well. Sherberneau feels that the application covers all of the requirements whichever the answer might be.

David feels that the application materials refer to certain circumstances and requests as being permitted by the Conceptual SUP. He feels that the statements were made in the spirit that the applicant is providing them as a courtesy, but does not believe that there is actually any room for discussion and interpretation about them. Bzdok maintains that the SUP only allows the township to deny a request brought pursuant to it if a particular piece of information is not provided, and not if the information indicates an unsatisfactory situation.

Takayama tends to respect input from attorneys. He attended all of the meetings regarding the Conceptual SUP. He perceives that the current situation is partly the result of the Township Board not following the recommendations of previous township counsel, resulting in his dismay. Takayama supports creation of a good development, but if conditions are placed on an approval and taken away prior to the time when they can be used, he is concerned. He feels that this is what happened, and that the Board eliminated the recommendations made by the Commission.

Mr. Stoepker characterized the idea that all the applicant has to do is submit data to be approved as ridiculous. He noted that a 12-page response to Russ Clark's report was provided. Would the applicant have done so if it could have said "We provided all the application; you must approve us?" He believes that the MUD process as configured in the Ordinance is intended to create a cohesive process throughout the various attendant site plan review phases. Mr. Stoepker stated that there are things in the SUP to which the applicant agreed that exceed the minimum requirements of the Ordinance. Why would

the applicant be so eager to receive a response from MDOT if the response didn't matter? He stated that the applicant is not seeking a "rubber stamp" but is acting in and expects to be treated with good faith.

Ken Petterson, also counsel for the applicant, noted that CCAT filed a second lawsuit using an attorney other than Bzdok. The fact that the lawsuit is pending does not mean that the Commission can't consider the Site Plan application. Most people on the Commission probably already have a basic position for or against the project, and those positions are unlikely to change. Mr. Petterson asserts that whether or not each Commissioner likes or dislikes the project, the Commission must consider whether or not the application meets the requirements of the Ordinance and SUP until and unless a judge rules the SUP invalid. The applicant is asking that a public hearing be set so that all of the details of the project can be discussed. Between now and then additional information will become available from various reviewing agencies and each Commissioner can thoroughly review the application materials. There is no reason to cease making progress.

Takayama stated that he has fully reviewed all materials provided to date and is ready to proceed in whichever direction the Commission chooses. The application is brought pursuant to an SUP that is the subject of a lawsuit, so he feels it important to hear from township counsel regarding the potential ramifications of each option. He has reviewed Bzdok's report, and he sees option 3 (tabling the application) as having the fewest financially damaging implications for the township. Mr. Petterson disagreed, noting that an inappropriate delay could cost the developer large sums of dollars. Takayama responded that the developer would also spend large sums to proceed; Mr. Peterson responded that the latter is a reasonable risk for a developer to take.

Krause believes there is no reason not to schedule a public hearing, seeing ~~is~~ **it** as the Commission's duty if all the requirements are met and as causing no liability.

Motion by Vermetten, support by Krause to set a public hearing regarding Application #2004-19P at the January 31, 2005 meeting.

Carstens asked Bzdok to clarify possible risks to the township. Bzdok responded by asking if the Commission will decide how to proceed with reviewing each phase of the project. When and how will this be done? Carstens asked whether the application would be judged according to the Conceptual SUP or the Ordinance? He asked if the SUP provided in the packets ~~is~~ **is** the one passed by the Board; it is, but it differs from the one recommended by the Planning Commission according to Bzdok.

Motion failed by a vote of 4 in favor (Hardin, Sherberneau, Vermetten, Krause) and 5 opposed (David, Takayama, Morgan, Pulcipher, Carstens).

Motion by Carstens, support by Takayama to table Application #2004-19P until the Circuit Court decides the validity of the Conceptual SUP and its validity within the process.

Mr. Stoepker supposed that if Bzdok had felt this would have been an appropriate action, he would have filed a motion requesting a stay from the Court. Mr. Stoepker characterized Bzdok as asking the township to "do his dirty work for him" in a situation where Bzdok has a conflict of interest. He sees the situation as one in which a certain faction is trying to exhaust the applicant and Meijer, Inc. to make them terminate their application after asking Meijer to move west across Lautner Road as they are volunteering to do. The planner, Russ Clark, who was working on the project, was fired, so the Commission can't seek his input.

Krause feels that there are people on the Commission who don't want the project or Meijer. Carstens disagreed, and a brief debate occurred before Sherberneau gavelled for order. Krause feels that those in opposition are not taking a long view. CCAT originally sought to have Meijer relocate to the west side of Lautner Road to protect Acme Creek. He was at a meeting in a private home where he asked CCAT members where they would rather see a Meijer store, and those individuals told him they would want to see it on The Village at Grand Traverse property. Some have supposed that the township could acquire the property Meijer owns on the east side of the road for needed improved public parkland. Further, aggravating the developer will cause it to sell the land to someone who will seek to rezone it and turn the entire area into a strip mall. He feels that some people need to take a more realistic view of the situation.

Morgan thanked Krause for his comments. She stated she shops at Meijer and does not oppose them.

Carstens also shops at Meijer, although in the middle of the night to avoid traffic. He does not oppose Meijer on the west side of Lautner, but he does opposed a development that seems to him to be a shopping center rather than a town center.

Motion carried by a vote of 5 in favor (David, Takayama, Morgan, Pulcifer, Carstens) and 4 opposed (Sherberneau, Vermetten, Krause, Hardin)

Mr. Kaye asked what would be the procedure if the court does not rule the SUP invalid. Bzdok offered the opinion that at the meeting subsequent to such action, the Commission could set a public hearing regarding the application.

A brief recess was called from 9:40 to 9:50 p.m.

- b) **Preliminary Hearing regarding Application #2004-20P by Scott Norris/Olde World Custom Homes on behalf of Dr. Charles Lang for Special Use Permit/Site Plan Approval to construct a new Chiropractic Doctor's office on 3.03 acres of land located within the Acme Village Mixed Use Development immediately to the east of the Holiday Inn Express** (Attachment H included and incorporated by reference): Mr. Scott Norris, owner of Olde World Custom Homes provided an overview of the project. His client is considering the purchase of some property from the Johnson Family Limited Partnership to relocate a chiropractic office. The overview mirrored the information in the letter that accompanied the application. Mr. Norris noted that a letter was provided on the meeting tables addressing a re-delineation of the wetlands on the property. The last delineation occurred in 1996. Mr. Norris stated that the two delineations match, and that Pete Bruski from the Soil Erosion permit has told him he is confident in issuing soil erosion permits at this time without further confirmation from the DEQ. He said that total impervious lot coverage on the site net of road right-of-way is 19%. The building will be 23.5' tall above grade. All runoff from impervious surfaces will be directed to the retention basin on the north side of the property through grading. A well would be sunk to provide water service to the site. Mr. Norris stated that all vegetation of significant size is within the wetlands area and will remain undisturbed. The business is proposed to be open from 8 a.m. to 6 p.m., so any evening lighting requirements would be security-related. There will be some wall-mounted lighting. Mr. Norris asserted that each light will meet the township's zero-cutoff shielding requirements. Sherberneau asked if the parking lot lights would be lit all night; Mr. Norris expects this would be the case. There will be deed restrictions on the property; a copy will be provided for the township's files.

The exterior finish will use asphalt shingles, cedar siding or the concrete type that resembles cedar, with stonework elements.

Motion by Carstens, support by Takayama extend the meeting up to 10:45 p.m. The Chair cast an unanimous ballot, there being no objection.

David asked for more explanation about a statement Mr. Norris made about not being able to provide a sidewalk across the full width of the property. Mr. Norris pointed to a finger of wetlands area that extends to the road-right of way. Since there is a 25' setback requirement from wetlands areas, extending a sidewalk to/through this area would be problematical. David asked for a brief discussion of the township's sidewalk requirements; Corpe summarized that sidewalks are required when new construction occurs on properties fronting on US 31 and M-72, subject to certain conditions. The original 1992 SUP for the Acme Village MUD also requires provision of non-motorized pathways within the development. Some creativity may be necessary regarding this site.

Sherberneau recently attended a meeting regarding dark sky-conducive lighting. One thing he learned is that sometimes some low-level interior lighting at night can be more helpful for security purposes than parking lot lights all night. Timers can also be employed to turn the lights off late at night. Mr. Norris will talk to Dr. Lang about these suggestions. Carstens asked if there are recommendations regarding pole heights and dark sky protection. Salathiel responded that pole heights seem to be less of a concern than the type of lighting fixture used.

Takayama suggested that sidewalks could be curved to direct people out to the road and around the wetlands area to protect both the wetlands and the people. Vermetten favors this sort of creative approach. Corpe noted that agency approval letters will be required.

Motion by Krause, support by Takayama to set a public hearing regarding Application #2004-20P at the January 31, 2005 meeting. The Chair cast an unanimous ballot, there being no objection.

- c) **Preliminary Hearing regarding proposed Zoning Ordinance Amendment #130, proposed changes to Section 8.27, Wineries** (Attachment I included and incorporated by reference): Corpe provided a brief overview of the reason behind the proposed ordinance amendment (a request by Ken Engle to separate the allowable space for a B&B operation from that for special events.) Additional changes have been proposed that are highlighted in the proposed revised text.

David asked about the proposal that fencing and vegetation might be required along winery parcel boundaries, with the cost to be shared by the property owners sharing a common lot line. Pulcifer has concerns from several points of view based on his experience in the agricultural community. On one hand, farmers welcome the existence of alternative uses for their property; on the other hand, uses such as B&Bs and wineries to change the character of the agricultural region. Hardin noted that people stay at a B&B for a few nights at a time; generally for a quiet weekend. It attracts the type of people seeking a quiet experience, rather than people who would tend to stay for a week at a hotel with a pool. The winery is an added attraction. Pulcifer indicated that the B&B is less of a concern than the special events, which can lead to disruptive noise late at night.

David asked how many rooms might be in a B&B; Mr. Engle mentioned that the maximum permitted number of rooms per site is 10, and there is a minimum required size per room. He noted that the current discussion centers around the ordinance in general and not any particular application. He appreciated the statement that people looking for a relatively quiet experience would be attracted to a B&B.

Mr. Engle noted that Jim Christopherson, former township counsel, offered the opinion that that his proposed B&B couldn't be included in his proposed winery development due

to one sentence in the last paragraph of the Winery Ordinance. There is at least one other B&B in the township. If they wanted to add a winery, the way the ordinance is written right now they might be required to build a huge wine production facility to ensure that the pre-existing B&B is a certain percentage of the production facility size. Hardin asked how the ordinance was originally composed; Engle responded that they are an amalgamation of provisions in the Peninsula Township and Bingham Township winery ordinances. Those areas have quite a few wineries; there are none on the east side of town so far. Often, the first time a new ordinance is used, it uncovers unintended consequences of how it was drafted.

Mr. Engle also noted that one portion of the ordinance dealing with ways to earn extra square footage for special events was extensively revised. The formulae that were originally in the ordinance are proposed to be capped by a maximum amount of “bonus” special event space that can be earned to ensure that winery developments don’t grow out of control. He also noted a provision requiring that if special events on a winery parcel generate nuisance complaints, the property may become subjected to additional special hearings.

Motion by Vermetten, support by Takayama to schedule Proposed Zoning Amendment #130 for a public hearing on January 31, 2004. The Chair cast an unanimous ballot, there being no objection.

4. New Business:

5. Old Business:

- a) **Consider approval of the minutes of the November 29, 2004 meeting:** David noted a required change on page 3, last paragraph, third line up the word “public” should be changed to “preliminary.”

Motion by David, support by Vermetten to approve the minutes of the November 29, 2004 meeting as amended. The Chair cast an unanimous ballot, there being no objection.

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

Sherberneau brought up the possibility of limiting the number of applications to be discussed at each meeting in 2005. As with this evening, many applications make for a long meeting. Supervisor Kurtz has also indicated that there are budgetary concerns that would make having only one meeting per month advisable. Vermetten asked what would happen if seven people submit an application on one day and only four are permitted to have a hearing in any particular month – could there be a claim of lack of due process? Bzdok is not concerned with this (each application can be time and date stamped) as with the possibility that a backlog could build up. Pulcifer and Vermetten expressed a desire to serve the public and felt that restricting the number of applications would be contrary to this tenet. Hardin suggested that special meetings ought to be employed for significant matters such as The Village at Grand Traverse, LLC. application which could take up a whole meeting itself. Carstens recalls that when he worked, he became too tired to think clearly when meetings ran particularly late. Being tired or wanting to leave can force poor decision-making. Hardin noted that it’s hard for him to change gears to smaller matters after discussion larger matters.

Meeting adjourned at 10:45 p.m.