

MACOMB TOWNSHIP PLANNING COMMISSION  
MEETING MINUTES AND PUBLIC HEARING  
TUESDAY, MAY 17, 2016  
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LOCATION: MACOMB TOWNSHIP MEETING CHAMBERS  
54111 BROUGHTON ROAD  
MACOMB, MI 48042

PRESENT: CHARLES OLIVER, CHAIRMAN  
JASPER SCIUTO, VICE CHAIRMAN  
JULIANA PLASTIRAS, SECRETARY  
MICHAEL P. HARDY, MEMBER  
NUNZIO PROVENZANO, MEMBER  
AARON TUCKFIELD, MEMBER  
ROGER KRZEMINSKI, MEMBER

ABSENT: None

ALSO PRESENT: Clark Andrews, Township Attorney  
Patrick Meagher, Planning Consultant  
*(Additional attendance on file at the Clerk's Office)*

Chairman OLIVER called the meeting to order at 7:00 p.m. and the Pledge of Allegiance was recited.

**ROLL CALL**

1. Secretary PLASTIRAS called the roll and the entire Commission was present.

**APPROVAL OF THE AGENDA**

2. The agenda was reviewed and there were no additions, corrections or deletions.

**MOTION by SCIUTO seconded by PROVENZANO to approve the agenda as presented.**

**MOTION carried.**

**APPROVAL OF THE PREVIOUS MEETING MINUTES**

3. The minutes of the previous meeting held on May 3, 2016 were reviewed and any additions, corrections or deletions were discussed and made.

**MOTION by PROVENZANO seconded by HARDY to approve the minutes of the meeting of May 3, 2016 with the change from Thomas Esordi to Larry Scott as**

**noted by Vice Chairman Sciuto and Attorney Clark Andrews stated there were a couple minor type-os.**

**MOTION carried.**

## **PUBLIC HEARING**

### **AGENDA ITEMS:**

4. **Site Plan; Macomb Industrial Park-Unit 12;** Located on the west side of Industrial Drive and approximately 300 feet south of Leone Drive; Section 18; Iacon Builders, Petitioner; Permanent Parcel 08-18-326-012.

Patrick S. Meagher (Planning Consultant) stated the applicants were proposing an industrial building on the site, which is consistent with the Zoning Ordinances and they do meet all the zoning requirements. Mr. Meagher and the Department Heads were recommending approval subject to a prepared Shared Access Agreement being presented.

Robert Walz (Representative for Icon Building – 51435 Industrial Drive) was in attendance to answer any questions.

Secretary Plastiras inquired as to the status of the Shared Access Agreement. Mr. Meagher informed the Commission that the Access Agreements are usually taken care of during engineering so they can be formalized in terms of their description and location. He also asked that the Commission put it subject to receiving the Shared Access Agreement so that it is automatic condition going into engineering, and it would probably be required anyway. Mr. Meagher stated the owner of this building is also the same owner of the building to the south. He then stated that could change so we would want it to be an Irrevocable Shared Access Agreement.

Member Tuckfield asked Mr. Meagher, how that zoning district treats cars that are not functioning on the property. Mr. Meagher replied with that is something that has to be handled through ordinance enforcement and at least a week ago there were a whole lot of cars in the back of the southern building . We can let the applicant address that however, that is something that Code Enforcement has to address. Member Tuckfield then questioned the representative to see if the petitioner recognizes that the cars shouldn't be there. Mr. Walz stated they shouldn't be there and would be remove with in thirty (30) days from today.

Chairman Oliver inquired as to what was on the site. Member Tuckfield replied there was a significant quantity of car bodies on the vacant lot, and also mentioned that he had taken pictures and there is between ten (10) to twenty (20) cars they aren't rusted it appears to have some kind of primer paint and are the bodies only. Mr.

Walz stated they were prototypes for the painting operation developed by the tenant. Chairman Oliver stated he thought thirty (30) days was too long, and would like to see them gone. Chairman Oliver then questioned if they are in violation of the ordinance now. Mr. Meagher stated they were in violation and as they are going through engineering, Code Enforcement has already been notified and was sure they would be getting a notice of Violation and if they aren't removed they will get a ticket.

**MOTION by SCIUTO seconded by PLASTIRAS to grant site plan approval for Macomb Industrial Park-Unit 12; Located on the west side of Industrial Drive and approximately 300 feet south of Leone Drive; Section 18; Iacon Builders, Petitioner. Permanent Parcel 08-18-326-012; pursuant to the Planning Consultant recommendations and contingent upon the Shared Access Agreement being accepted by the Township and the car removal within thirty (30) days.**

**MOTION carried.**

5. **Revised Site Plan; Aberdeen at The Hartford;** Located on the southeast corner of 24 Mile Road and Card Road; Section 14; MJC Hartford Village, LLC, Petitioner; Permanent Parcel 08-14-100-011 and 08-14-100-012.

Patrick S. Meagher (Planning Consultant) stated a portion of the Hartford used to be owned by the Lombardo Companies and was sold off to MJC Hartford Village and they are going to use their own twelve (12) unit model as a development spec rather than Lombardo's twelve (12) unit model. Mr. Meagher stated they will look slightly different and would roughly be the same size structure. Mr. Meagher mentioned the units would be as much quality as the previous if not better and they are reducing the amount of units on the site by six (6). Mr. Meagher then stated they had no objections to the approval.

Shmaik Tripathi (Engineer for the project – MJC Hartford Village – Developer) reiterated what Mr. Meagher stated with regards to the same size of the buildings, that there would be six (6) less units; that they would be condominiums and he would answer their questions.

Secretary Plastiras stated she had a question for the Planner - Mr. Meagher had referred to the correspondence dated April 19, 2016, with regards to the three (3) comments as noted by Mr. Meagher and asked if they had been resolved. Mr. Meagher stated they have been resolved. Secretary Plastiras stated there was a concern from the Planning Department about the storm structure and the drainage swales within the building footprint and inquired as to what is going on with that issue. It was noted in the April 5<sup>th</sup> letter and she stated the Building Department deferred to the Planning and Engineering Department on any comments or concerns. Secretary Plastiras read the April 5 letter the portion on page one (1) of

the letter that talks about the enclosed storm sewer system and that it might need to be modified due to the proposed site layout changes and that Building #22 may need to be reconfigured as necessary during engineering. Mr. Meagher stated what Jim VanTiflin(Township Engineer) tries to give the applicant's a heads-up on things their design may cause issues with during engineering, and that during engineering they may have to modify the storm design for that particular area. Mr. Meagher stated what Jim was really giving the applicant an alert that during the engineering process that's one of the things they will have to address. Secretary Plastiras questioned if this was a concern for the Commission to approve the site plan where there's a concern for the drainage. Mr. Meagher stated no, and what Jim will do when he puts a review for Planning, whenever there is a concern that will affect the site plan he will put a bullet point next to it and those are the only ones he thinks need to be addressed before site plan approval.

Deanna Wohlfeil (52503 Stafford Drive) inquired about the drainage and if it goes over on to lot 16 of Elan Estate., Mr. Tripathi inform her that there was no drainage back there. Ms. Wohlfeil stated she knows they changed the layout so there is only a six (6) unit building next door to lot #16 and the concrete is still on the other side of the lot will that be used for additional parking. Mr. Tripathi stated the concrete would not be used for parking and would be removed so that it doesn't look like an abandon parking lot and was not counted as a part of the overall parking. Ms. Wohlfeil asked if there would be additional landscaping plans to break up the condominiums from the subdivision. Mr. Tripathi stated the original landscape plan is still in place and was not modified; he then mentioned the landscape was sufficient.

**MOTION by TUCKFIELD seconded by SCIUTO to approve the Revised Site Plan; Aberdeen at The Hartford; Located on the southeast corner of 24 Mile Road and Card Road; Section 14; MJC Hartford Village, LLC, Petitioner; Permanent Parcel 08-14-100-011 and 08-14-100-012; based on the Planning Commissions reviews, the recommendations by the Planning Consultant and the comments from the Site Engineer heard tonight.**

**MOTION carried.**

6. **Revised Site Plan; Comerica Bank Branch #256;** Located on the north side of Hall Road, east of Hayes Road; Section 31; Niagara Murano Architecture, Petitioner; Permanent Parcel 08-31-300-024.

Patrick Meagher (Planning Consultant) inform the Commission this would be Comerica Bank Branch #256, and the applicant's had worked with the Planning Department to do some circulation improvements to the parking lot that would be beneficial for both the Fire Department and the patrons of the bank and for the center as a whole. Mr. Meagher stated the applicant is doing a remodel and small expansion to the bank itself to modernize the look and bring it a little more in tune

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with their overall corporate model and have worked close to come up with a design that works both for them and what their trying to do and get us to a closer point then where we before they started to getting proper circulation on the site. Mr. Meagher stated the he was recommending approval as are the other departments.

Lenard Murz (Representative for Comerica Bank - 5809 River Road, East China, MI) was in attendance to answer questions.

Vice Chairman Sciuto asked Mr. Meagher if the redesign of the bank would have an effect on the parking. Mr. Meagher stated it did actually affect the parking, and they also redesigned the parking lot. Mr. Meagher mentioned he was able to work with them to push the access to the parking a little further north which they think provides a safer condition for both the bank and the patrons of the gas station. Vice Chairman Sciuto questioned the petitioner on the joint Access Agreement and whether they would still have access to the parking lot behind them, the Gardner White and the big shopping center behind. Mr. Murz stated that's correct. Vice Chairman Sciuto asked the petitioner if the drive-thru and the traffic flow around the bank would stay the same. Mr. Murz replies, yes.

Chairman Oliver asked Mr. Meagher if the biggest adjustment was the traffic flow. Mr. Meagher responded stating he though for the applicant it would be the addition and the modernization of the building. With regards to the Township issues, safety, the circulation and the redesign of the parking is beneficial to the Township. Mr. Murz stated there were some difficulties at that location, primarily with the drive-thru area and entering the drive-thru area it was very narrowed and had a center aisle check off point and created challenges for the customers and they are correcting that and changing the appearance of the structure. Mr. Murz mentioned they feel it will be an overall improvement to the M-59 corridor.

Member Tuckfield stated he did not review this item the way he typically would do, and did not realize it was on the agenda until this evening and would like to abstain from voting on this item. Member Tuckfield stated there were two (2) packages and there was a change added and he did not open the second package and only read it off the first package, so he did not realize until this evening that is was on the agenda. Chairman Oliver asked all Commission Member if they had received enough information to make a vote and then stated he would make note that Mr. Tuckfield would be abstaining from the vote due to paper work conditions. Member Tuckfield stated for the record that it would be at his end and is not on the Planning Commissions end or the Planning Department end and he stated he was sure that the second package was back at home that he did not opened. Mr. Meagher apologized stating he handed it to Mr. Tuckfield and should have explained to him that it was a separate package. Mr. Meagher then stated this item had been held up for quite a while and he was trying to accommodate getting the applicants on the agenda and unfortunately they delivered them too late.

**MOTION by SCIUTO seconded by PLASTRIAS to grant approval of the Revised Site Plan; Comerica Bank Branch #256; Located on the north side of Hall Road, east of Hayes Road; Section 31; Niagara Murano Architecture, Petitioner; Permanent Parcel 08-31-300-024; pursuant to the Planning Consultants recommendations.**

**Chairman Oliver stated motion passes with one abstention.**

**MOTION carried.**

**7. Text Amendment to Section 10.0354; Center Air Condition Units and Similar Exterior Appliances. (Discussion Only)**

Patrick Meagher (Planning Consultant) mentioned about two (2) years ago in October of 2013, it was entertained the modification to the Zoning Ordinance to require that central air conditioning units and appliances, typically would be generating noise wouldn't be located on the side of a home so it wouldn't become a nuisance for the neighbors, but rather for themselves. At the time, there were a couple of complaints from residents filed at the Township Building Department. Mr. Meagher stated one particular man was interested in seeing this happen because he was furious with his neighbor who had a generator, a pool filter and an air conditioner all sitting next to his window which made the situation uncomfortable. He looked into modifying the ordinance and provisions were put in so that the Township Building Official could make determinations that there were simply hardships or practical difficulties with placing it at the location. Mr. Meagher stated a Pool Installer is actually requesting us to consider changing the ordinance. Mr. Meagher thought before they did anything with the language, he would bring it for discussion purposes first and then a public hearing could be set and then we can formalize the language. Mr. Meagher was hoping the pool Installer would have been present to share the major concern he has with it and how he would rectify the issue so you the Commission could hear it. Mr. Meagher stated he had talked to the Installer and the Installer had stated it was a hindrance to his clients. Mr. Meagher informed the Commission that the Installer had filed an application and had paid a fee for the amendment to have the Commission consider the Text Amendment but he didn't write what he wanted the text to say. Mr. Meagher stated he doesn't mind assisting in putting the text together but would like it to make sure it represents what he wants. Mr. Meagher asked the Commission if they had any input on the amendment that they would like him to address he would certainly review it. Mr. Meagher stated the next thing he would like to have happen would be to have him at the next meeting so that he could present his concerns to the Commission, and how he would like to see the Commission address the issue.

Chairman Oliver inquired as to whether the ordinance now as it stands you can put nothing along the side of a house as far as an air conditioner, generator and so forth,

Mr. Meagher stated they can be put in the side yard as long as they meet the seven and a half (7 1/2) foot side yard setback. Chairman Oliver stated for the most part everything is put in the back. Mr. Meagher stated it's kind of a mix, a lot of them were put on the side traditionally and was dependent upon the easiest and cheapest way based on the location of the furnace or the breaker box.

Vice Chairman Sciuto stated he found it difficult to make an exception with the setback requirements when we had residents here, one a year ago and he made a very good point, he had a pool filter an air conditioner and how it was very annoying to him as a resident. Vice Chairman Sciuto proceeded to say if we allow this he thought they should go to the Zoning Board of Appeals to get their approval that way. He then stated we have to think of our residents and his opinion is if it doesn't meet the ordinance they need to apply to the Zoning Board of Appeals and get approval for them. Mr. Meagher stated that was a good point, the Zoning Board of Appeals may say if where going to approve this then we want screening put up to muffle the noise and there are reasonable ways it could be handled as well. Vice Chairman Sciuto stated he's not against it as long as it goes through the proper channels and procedures that we need to go through. Vice Chairman Sciuto then stated to just give them cart blanc to do it, is not right.

Chairman Olive mentioned that it appears that subdivisions are putting covenants in place so there is no above ground pools allowed only in ground pools so where are they typically putting the filters. Mr. Meagher stated a lot of people are putting it in the back of their homes and in some cases they have a chimney you'll see the air conditioner on one side and the filter on the other side of the chimney. Mr. Meagher then mentioned he thinks a lot of the concern is that the filter and air conditioners are next to their deck and when they have people over and with the air conditioner and filter running it's too much noise and the other point if their generating the noise why should the neighbor be inconvenienced, rather than their inconvenience and we have to look at both side of the arguments. Chairman Oliver stated those were some of his concerns. Mr. Meagher mentioned that maybe they could find a happy medium at some point working with the Building Department that would require some kind of insulated cabinet that will muffle the sound to a certain level.

Member Tuckfield had a couple comments and stated he is a contractor and has installed air conditioners often and there are municipalities that do go the Zoning Board of Appeals route. Member Tuckfield stated he has had problems himself and to him it is inefficient when you have a three thousand dollar air conditioner that has go on the side of the house because there is no other place to put it and you have to pay to go in front of the Zoning Board of Appeals. Member Tuckfield stated he personally likes the idea that the Building Official can make this determination and has the ability too, and thinks it should stay with him. Member Tuckfield mentioned the Zoning Board of Appeals has a pretty narrow ability to approve them and he can't think of to many request for a pool filet to be put on the side of a house where we could find a practical difficulty, and in most cases it's because the pool or the deck is too big. Member Tuckfield stated he may look at it as a Zoning Board

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member saying this makes sense but there is no practical difficulty and you could grant it but you would have to make up a practical difficulty to do it. Member Tuckfield stated he personally would rather it stayed with the Building Official and if we go into the side yard setbacks with one of these and the setbacks are seven and a half feet, a lot of the gas fired appliances by manufacture recommendations require three feet away from a wall so if we require them to stay within the setbacks and the appliance is any size then we are allowing a variance at a location that will need a second variance to be able to allow it and we don't want to push people into installing something not to manufactures recommendations. Member Tuckfield stated it was a valid concern and the two comments he would support would be to stay with the Building Official and keep in mind the installation requirements for the gas fired appliances.

Member Krzeminski had a follow up comment stating it would have to be on a case by case basis on how that house looks and where it is located. You could put a whole house generator if it's next to a garage, in the front of the house if there is nothing on the side of the house, it isn't going to affect anyone. Member Krzeminski feels it should be left to the Building Official. Member Krzeminski also spoke regarding the side yard for an air conditioner it would be the same thing if there is nothing on that side and it's all brick it can be there because it won't hurt anybody, but it should be up to the Building Official.

Clark Andrews (Township Attorney) stated he had two (2) comments. Mr. Andrews stated the way the amendment is currently written the Building Official is supposed to take in the account the practical difficulty in making that determination and if we revisit this we should think of what kind of criteria we may want to consider and the other is what if somebody doesn't like the determination of the Building Official and they think it's arbitrary or whatever it might be worth considering putting in a provision that determination by the Building Official could be review as an administrative appeal to the Zoning Board of Appeals so that you have some built in due process.

Chairman Oliver asked typically would the Building Official or the inspector make the call. Mr. Meagher stated the Building Official had been making those calls. Chairman Oliver stated as it stands in the Township Ordinance, the Building Official does have the authority on a case by case basis. Mr. Meagher stated, yes and as Mr. Andrews stated if they disagreed like Mr. Sciuto said at that point, we would say you have to go to the Zoning Board of Appeals. Mr. Meagher was in agreement with Mr. Andrews stating the Township should have a few standards in there that dictate what types of things to be looked at and in what instances, and try to leave a little bit of leeway because some of these things you can't plan for. Chairman Oliver mentioned that everybody was in agreement that they may need to adjust the ordinance.

Secretary Plastiras stated she would like to hear from the individual who raised this at the next meeting. Mr. Meagher mentioned he would call him and let him know that the Commission was anticipating him to talk to the commission tonight. Member

Provenzano inquired whether this individual gave anything specific Mr. Meagher stated only what was in their packets. Member Provenzano asked Mr. Meagher if during his talks with this individual did the individual say anything other than it was an inconvenience or a hardship to his clients. Mr. Meagher said he didn't think it was a good rule and it makes things difficult for his clients

Vice Chairman Sciuto agreed with Member Krzeminski that it should be a case by case basis the Commission can work with that, but you can't give them cart blanc. Vice Chairman Sciuto stated you have to be a good neighbor and the neighbor should have the final say and before the contractor puts it there they should get an ok from the neighbor next to them. Vice Chairman Sciuto mentioned there has to be some way that we can work this and be fair, and not just to the guy who says it's an inconvenience to my client. We have to work on a case by case basis, and there has to be a reason for going there other than it's an annoyance to their client.

Chairman Oliver stated that by adjusting the ordinance that the Township has, helping people and protecting ourselves is a great idea. Mr. Meagher mentioned he would work on what was talked about tonight and would contact the applicant as well. Maybe the applicant will have some points we can include in the criteria for the Building Officials discretion. Mr. Meagher then requested a motion to postpone discussion to the following meeting.

**MOTION by KRZEMINSKI seconded by TUCKFIELD to postpone discussion of the Text Amendment to Section 10.0354; Center Air Condition Units and Similar Exterior Appliances the following meeting; The meeting of June 7, 2016.**

**MOTION carried.**

(Open for Public Comments)

**None.**

#### **PLANNING CONSULTANTS COMMENTS**

**None.**

#### **PLANNING COMMISSION COMMENTS**

Members Hardy and Provenzano informed the Commission Members that they would not be present at the meeting of June 7, 2016.

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Vice Chairman Sciuto thanked Clerk Koehs for his many years of serving the Township. Vice Chairman Sciuto then mentioned that Clerk Koehs served our Country and was a two time Purple Hearts winner. He served our County as an Police Officer and then stated Clerk Koehs served us very wel. Vice Chairman Scuito wanted to thank him publicly and wished him well.

Member Tuckfield seconded the comments made by Vice Chairman Sciuto and also wanted to address some comments that were made that touched Mr. Meagher a little bit. Member Tuckfield stated they was some indication in the papers over the last few days that he may have some inordinate control or sway on the Township but he found Mr. Meagher to be nothing but professional and to work with him within the role he thinks Mr. Meagher should as an employer and consultant of the Township. He just wanted to say that he supports his job and job performance over the years and is also very impressed with Mr. Meagher's abilities and professionalism. Mr. Meagher thanked Member Tuckfield.

Chairman Oliver stated he felt the same and has never been influenced by the Planner. We get the data and if we have any questions we ask them. Chairman Oliver then stated with all the calls to Mr. Meagher and there have been many, he has never once told me I need you to vote like this or you have to do it like this. Chairman Oliver then mentioned the information is always presented to him and that he is one of seven that makes a decision on it and to him this is the government we want in this community. Mr. Meagher stated he was glad that Chairman Oliver said that and proceeded to say it's important and it gives a bad impression to the community and that the Commission does their homework. Mr. Meagher then stated he appreciates it and it would make him feel uncomfortable if the Commission feels he is making their decisions. Mr. Meagher then thanked the Commission.

**ADJOURNMENT**

**MOTION by Tuckfield seconded by KRZEMINSKI to adjourn the Planning Commission meeting at 7:50 p.m.**

**MOTION carried.**

Respectfully submitted,

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Charles Oliver, Chairman

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Juliana Plastiras  
Planning Commission Secretary