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**Charter Township of Kalamazoo
Minutes of a Planning Commission Meeting
Held on May 2, 2019**

8 A regular meeting of the Kalamazoo Charter Township Planning Commission was conducted on
9 May 2, 2019, commencing at 7:00 p.m., at the Township Hall.

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Present were:

15 William Chapman
16 Jeremy Hathcock
17 Fred Nagler, Chairman
18 Denise Hartsough
19 Henry Dingemans

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Absent was:

24 Jim Cripps
25 Tonnie Hitt

26 Also present were Township Zoning Administrator Patrick Hudson, Township Attorney Seth
27 Koches, and approximately 31 additional interested persons.

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Call to Order

34 The Chairman called the meeting to order at 7:00 p.m.

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Roll Call and Recognition of Visitors

41 The Chairman welcomed those in attendance and noted that all Commissioners, except Cripps
42 and Hitt, were present.

43 Upon motion of Hathcock, supported by Chapman, and unanimous vote, the Commissioners
44 excused Cripps and Hitt from the meeting.

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Approval of Meeting Minutes for April 4, 2019

51 The first item on the agenda was approval of the April 4, 2019 regular Planning Commission
52 meeting minutes. Copies of the April 4, 2019 meeting minutes were provided to the
53 Commissioners in their agenda packets. Hartsough and Nagler recommended several revisions
54 to the proposed minutes.

55 Upon motion of Chapman, supported by Hartsough, and unanimous vote, the minutes of the
56 April 4, 2019 regular Planning Commission meeting were approved as revised. Attorney Koches
57 made the revisions to the minutes. Dingemans signed the minutes and provided the same to
58 Hudson for transmission to the Township staff.

1 **Approval of the Agenda for the May 2, 2019 Meeting**

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3 The Commissioners received the proposed agenda in their packets.

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5 Upon motion of Dingemans, supported by Hartsough, and unanimous vote, the agenda was
6 approved as presented.

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8 **Scheduled Reviews**

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10 None.

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12 **Public Hearings**

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14 **3315 Ravine Road – Special Use – Automobile Filling Station**

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16 The first item on the agenda was a public hearing on the request of DDH, Inc. for a special
17 exception use to add an automobile filling (gas) station to the retail business (convenience
18 store) that already exists at 3315 Ravine Road (Parcel No. 06-07-280-023) within the Township.
19 The property is located in the C-1 Local Commercial District Zoning Classification. The standards
20 for consideration of the special use by the Township Planning Commission are set forth in
21 Section 8.02.E of the Township Zoning Ordinance. The property is currently occupied by a retail
22 market, which will remain. The property was rezoned in 2018 in compliance with the Master
23 Plan and in recognition of the existing use.

24

25 Nagler opened the public hearing. Hudson prepared a staff report for the Commission, which
26 was contained in the Commissioners’ agenda packet. Section 17.01 of the Zoning Ordinance
27 regulates the Local Commercial District Zoning Classification. Section 17.02.A lists the permitted
28 uses within the C-1 District and Section 17.02.B.9 lists an automobile filling station as a special
29 exception use within the C-1 District, subject to Section 8.02.E (Site Development Standards
30 Applicable to Specific Uses - automobile filling station). Hudson discussed the schedule of
31 regulations contained in Section 25.02 of the Zoning Ordinance. He stated the minimum lot
32 area is 10,980 square feet, the minimum lot width is 70 feet and the maximum height is 30 feet
33 (two stories). Hudson said the building’s front setback requirement is 25 feet, the side setback
34 is 25 feet for each side, and the rear setback is 25 feet. The maximum lot coverage is 60%.
35 Hudson’s report indicated that Section 8.02.E Automobile Filling Stations requires a minimum
36 lot area of 21,780 square feet (1/2 acre), a minimum lot width of 200 feet, and a minimum
37 setback requirement of 40 feet from residential use or zoning districts on all sides. The pump
38 island’s setback requirement is 30 feet from the right-of-way and 50 feet from a residential use
39 or zoning district. Hudson said the canopy setback is 20 feet from the right-of-way and 40 feet
40 from any residential use or zoning district; and the drive spacing requirement is one per 75 feet
41 of frontage and 25 feet from residential uses or zoning districts. Driveways shall not create a
42 safety hazard or nuisance. Gas pump parking shall not encroach on landscaping, sidewalks or lot
43 lines, and no outdoor storage is permitted. Hudson said the fueling areas must be paved with
44 concrete.

1 Hudson said the proposal is to add a canopy with gas pumps in the current gas station area on
2 the west side of the property. The proposed underground storage tanks will be located
3 between the canopy and the existing retail building. The property to the west is zoned I-2
4 General Industrial, but is occupied by a manufacturing office/warehouse. Hudson said that the
5 property further to the west, with a 66' wide extension along the south side of the subject
6 property is occupied by a landscape supply company and is also zoned I-2. Across this drive the
7 property is zoned R-2 Single and Two-Family Residential and is occupied by a residence. The
8 property across Ravine Road to the north is zoned I-1 and is occupied by an automobile filling
9 station/car wash/convenience store. The property to the east across Nichols Road is currently
10 vacant and is in the process of being redeveloped for an I-2 industrial use. Hudson said that the
11 property located "kitty-corner" across the intersection to the northwest is zoned C-1 and is
12 occupied by a house and a storage business.

13
14 James Jilek addressed the Commission on behalf of DHH, Inc. (applicant). Jilek said he assisted
15 the applicant with obtaining a liquor license a year ago for liquor/beer take out. Jilek said the
16 applicant proposes to add a gas station, which will improve the condition of the property. Jilek
17 said the plan is to repave the property. A petition signed by approximately 178 people who
18 support the applicant's request to add a gas station on the subject property was submitted to
19 the Township. Jilek stated that adding the gas station will increase tax revenue for the
20 Township, and he asked the Planning Commission to approve the request as presented, so the
21 applicant may begin construction. Chapman asked if the existing building on the property was
22 ADA compliant; the applicant's architect said yes.

23
24 Nagler opened the public comment portion of the public hearing and invited any interested
25 parties in support of the applicant to submit their public comment. Mike Nower said he lives in
26 the Westwood neighborhood, and he discussed the convenient location of Tali's Market. Nower
27 said any traffic issues would balance out and he supported the applicant's request. Dan Bowden
28 said it would be great to have a gas station at Tali's Market. Bowden discussed the quick service
29 and convenience a gas station would provide. Delphis Stokes said he always frequented Tali's
30 Market and wants the property to be beautified. Stokes said that he supported the applicant's
31 request and it would help to have open market competition. Thomas Jones said he lives in the
32 Westwood neighborhood and visited Tali's Market many times; he wants the property to be
33 beautified and supported the applicant's request. Richard Bowden said he supported the
34 applicant's request and discussed the convenience of the location.

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36 Hearing no additional comments in support of the applicant's request, Nagler invited any
37 interested parties opposed to the applicant's request for an automobile filling station special
38 use to submit their public comment to the Commission. James Spurr said he is the attorney
39 who represents Benipal Gas and Food Market, which is located across the street from Tali's
40 Market. Spurr said he is in favor of competition, but indicated that there is no guarantee that
41 prices will be reduced if the applicant's request is approved; the public should not assume an
42 economic benefit will occur. Spurr discussed the applicant's beautification plans and noted that
43 the applicant's plans only depict plans to construct a canopy and fuel pumps, the plans do not
44 include improvements to the existing building. Spurr noted that the applicant's plans propose

1 repaving of only a portion of the property. Spurr said the subject property has needed to be
2 refurbished for the past 13 years, but it has never happened, and the special use requirements
3 do not provide any standard to compel the applicant to beautify the property. Spurr said adding
4 a gas station onto the subject property only provides a small convenience, because a gas station
5 is located across the street. Spurr discussed the public health, safety and general welfare
6 standard of the special use standard and said that nothing in the applicant's plans addresses a
7 fuel spill, leak or clean-up of the same. Spurr discussed the 20' easement as a pinch point for
8 vehicles turning off Nichols Road and into Tali's Market; the subject property has no turnaround
9 for vehicles and he photographed a Budweiser truck back out of Tali's Market and onto Nichols
10 Road. Spurr discussed traffic concerns regarding the applicant's plans for a proposed gas
11 station. Spurr said the checkout counter inside Tali's Market is located at the northeast corner
12 and is out of view from the gas pumps. He discussed various safety issues related to the gas
13 pumps located out of sight from the cashier clerk. Spurr discussed various hazards related to
14 the Kal-Haven trail users. Spurr obtained a petition with approximately 100 signatures from
15 people who oppose the applicant's request for a gas filling station and submitted the same to
16 the Commission for review.

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18 Ron Huster said he reviewed the applicant's plans and he is in favor of commercial growth.
19 Huster said the placement of the building is reversed and he discussed safety issues related to
20 not being able to monitor the gas pumps from inside the building. Huster said the applicant
21 provided no plans to address a fuel leak or spill; he has no issue with adding another gas
22 station, but he noted that the applicant's plan is not a good plan because it presents many
23 safety concerns. Huster said the applicant does not plan on improving the existing building.
24 Charles Rothrock discussed issues with water retention and protection against fuel spills/leaks.
25 Rothrock also discussed concerns he had regarding the traffic access, and bike and pedestrian
26 safety on the Kal-Haven trail. Rothrock discussed potential added traffic flow at certain times
27 and asked whether a turning lane concept was considered; he doesn't believe the subject
28 property could accommodate a gas station. Bill Stillman expressed his concerns regarding
29 safety. Nagler and Stillman discussed the applicant's site plan. Angie Ponzini expressed safety
30 concerns with Kalamazoo Central High School and school buses; she asked if traffic lights will be
31 installed. Steve Richmond expressed concern with safety and asked who owns the drive located
32 behind Tali's Market. Richmond asked if Mulder's Landscape Supplies (Mulder's) had an
33 opinion. Nagler said the easement behind Tali's Market is deeded to the subject property.
34 Richmond asked why it took the addition of a gas station to finally beautify the property.

35
36 Manjinder Benipal said he owns the gas station located across the street from Tali's Market.
37 Benipal expressed concerns with safety and noted that several automobile accidents have
38 occurred at the intersection; he discussed the access point to the subject property and noted
39 that it creates a dangerous traffic pattern. Benipal discussed safety issues presented in regards
40 to the Kal-Haven trail and said that a lot of children use the trail. Benipal said he is not
41 concerned with competition, his concerns are regarding safety. Benipal said the applicant will
42 not be able to monitor the fuel pumps and he discussed a fire he had to extinguish at his gas
43 station. Cindy Little owns two buildings located near Tali's Market. She expressed concern

1 regarding the applicant's plans because the same has no track record of beautifying the
2 property.

3 Ron Dhaliwal asked if he could respond to some of the issues raised by the people who spoke in
4 opposition to the applicant's request. Dhaliwal said his father owns a stake in Tali's Market, and
5 approximately \$80,000 was spent on improvements inside the store, such as a walk-in beer
6 cave, as well as a new furnace and A/C unit. Dhaliwal said the plan is to move the windows and
7 doors to the other side of the building so the fuel pumps can be monitored; landscaping will
8 also be addressed. Dhaliwal said that sales have been decreasing and improvements will be
9 done to improve the property.

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11 Hearing no additional public comment, Nagler closed the public comment portion of the public
12 hearing and the Commission entered into deliberations. The Commission was provided a
13 proposed Finding of Fact (Attached as Exhibit "A") regarding this request. Nagler asked
14 Attorney Koches to review the proposed Finding of Fact with the Commission. Attorney Koches
15 said he would read each proposed Finding of Fact to the Commission for consideration.
16 Attorney Koches said the Commission could decide whether to accept, reject, or revise each
17 proposed Finding of Fact. Attorney Koches indicated that after the Finding of Fact was
18 completed, the Commission may decide to deny, approve, or approve with conditions, the
19 applicant's request for special land use approval. Attorney Koches said the decision of a special
20 land use shall be incorporated in a statement of findings and conclusions relative to the special
21 land use, which specifies the basis for the decision and any conditions imposed.

22

23 Attorney Koches said Part I of the Finding of Fact was titled "General Findings." Attorney Koches
24 read through each finding. The Commission discussed whether to limit the hours of operation
25 of the applicant's proposed gas station. The Commission decided not to place limitations on the
26 filling station and accepted all Findings in Part I, as indicated on the attached Finding of Fact.

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28 Attorney Koches said Part II of the Finding of Fact was titled "Compatibility with Surrounding
29 Land Uses." Attorney Koches read through each finding. The Commission discussed each
30 proposed finding separately and struck the following findings:

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- 32 · Oncoming traffic in the driveway will/will not be seen from the new automobile filling
33 station;
- 34 · Members expressed concern as to the sustainability of the convenience store; and
- 35 · The curb cut off Nichols on the adjoining Mulder's Landscaping property provides
36 driveway access to Mulder's and is enhanced with a retaining wall which does not allow
37 the driver in the driveway to see oncoming traffic.

38 The Commission accepted the remaining findings in Part II as indicated in the attached Finding
39 of Fact.

1 Attorney Koches said Part III of the Finding of Fact was titled "Traffic." Attorney Koches read
2 through each finding. Nagler expressed concern regarding the applicant's traffic study. The
3 Commission discussed each proposed finding and struck the following:

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- 5 · The estimated increase in traffic is ____ per day/hour.

6 The Commission adopted the remaining findings in Part III as indicated in the attached Finding
7 of Fact.

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9 Attorney Koches said Part IV of the Finding of Fact was titled "Safety and Detrimental Effects."
10 Attorney Koches read through each finding. Hathcock was in favor of economic development.
11 Hathcock and Dingemans discussed the differences between special uses and permitted uses
12 within a zoning district. Hartsough said the narrow passage way on the subject property is
13 concerning. The Commission discussed whether the location of the proposed screening was
14 adequate. The Commission determined that the applicant's revised plans satisfy the
15 requirements of the ordinance. Hudson said the Commission found that the 220' of frontage on
16 the Kal-Haven trail is considered frontage on Ravine Road. The Commission discussed and
17 determined that the applicant provided sufficient screening to adjoining land uses, which are
18 business uses and the Kal-Haven trail. The Commission discussed any detrimental impact the
19 applicant's request for an automobile filling station may have on surrounding land use. The
20 Commission concluded there is concern regarding spill retention, the impact on Kal-Haven trail
21 users, the impact on pedestrians on Nichols Road, and the impact on vehicular circulation in
22 relation to the access points on Nichols and Ravine Road. These conclusions are memorialized
23 in writing within Part IV of the attached Finding of Fact.

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25 The Commission discussed each finding and did not adopt the following finding within Part IV:

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- 27 · The special land use is/is not hazardous to adjacent properties.

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29 The Commission accepted the remaining findings in Part IV as indicated on the Finding of Fact.

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31 Attorney Koches said Part V of the Finding of Fact was titled "Compliance with the Master
32 Plan." Attorney Koches read through each finding. The Commission discussed each finding and
33 adopted all proposed findings within Part V, as indicated on the attached Finding of Fact.

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35 Attorney Koches said Part VI of the Finding of Fact was titled "Public Services." Attorney Koches
36 read through each finding. The Commission discussed each finding adopted all the proposed
37 findings within Part VI as indicated in the attached Finding of Fact.

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39 Attorney Koches said Part VII of the Finding of Fact was titled "Economic Well Being of the
40 Community." Attorney Koches read through each finding. The Commission discussed each
41 finding and adopted all findings within Part VII as indicated in the attached Finding of Fact.

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1 The Commission completed the review and discussion of the proposed Findings of Fact. Upon
2 motion by Dingemans, supported Hathcock, and unanimous vote, the Commission adopted the
3 Findings of Fact. The Commission entered into deliberations.

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5 Hathcock said the Commission should not decide winners and losers in the market; the request
6 should be approved if it meets all the ordinance requirements. Nagler said there are a lot of
7 unknowns and felt that there was not enough information regarding internal traffic circulation
8 and noted there wasn't a completed traffic study. Nagler said that traffic may increase on
9 Nichols Road and Ravine Road. Nagler said that in principal, he has no objection to adding a gas
10 station; however, the drive off Nichols Road is a concern. Chapman discussed sidewalks and
11 noted that approving the applicant's request may interfere with plans to install sidewalks on
12 the west side of the Nichols Road. Dingemans said he drives past the subject property every day
13 and noted that the appearance of Tali's Market is a concern. Dingemans said the Township Fire
14 Marshal also expressed concern with the proximity to the Kal-Haven trail. Dingemans expressed
15 concern regarding internal traffic circulation and felt that the standards for a special land use
16 permit were not satisfied. Nagler said the Commission may place a condition on the approval
17 that requires the applicant to bring the existing building up to date with current standards and
18 codes. Hartsough expressed doubt in approving the request. Hathcock said he wasn't sure why
19 a sidewalk couldn't be installed along Nichols Road. Hathcock recommended tabling the
20 request until the applicant provides more information.

21
22 Upon motion by Hathcock, supported by Chapman, and a roll call vote of 3-2, the request of
23 DDH, Inc. for a special exception use to add an automobile filling (gas) station to the retail
24 business (convenience store) that is already existing at 3315 Ravine Road (Parcel No. 06-07-280-
25 023) within the Township was tabled. Hartsough and Dingemans voted "nay."

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27 **New Business**

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29 None.

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31 **Old Business**

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33 None.

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35 **Open Discussion – Member of the Audience**

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37 Ron Huster said he has attended many Planning Commission meetings. Huster said the
38 applicant must demonstrate that their plan will work if there are concerns from the public.
39 Huster commended the Commission for tabling the request because there were too many
40 concerns with the plan at this point to approve. James Spurr said the Commission did their job,
41 and that the applicant will come back with additional information, which he requested be made
42 available to the public. Al Jones discussed traffic concerns and the impact on the Kal-Haven
43 trail. Ron Dhaliwal said Tali's Market is losing approximately \$30,000 per month in sales and
44 discussed a significant financial commitment necessary to improve the business. Manjinder

1 Benipal discussed safety issues with traffic patterns and that competition may lead to increased
2 prices.

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4 **Report of the Township Board Representative**

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6 Hathcock thanked the Planning Commission for its hard work.

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9 **Report of the Township ZBA Representative**

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11 None.

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13 **Comments from Planning Commission Members**

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15 Nagler thanked the Commission for working through the special use request.

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17 **Report of the Planner/Zoning Administrator**

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19 **Zoning Ordinance Issues**

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21 Discussion regarding Zoning Ordinance issues was tabled.

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23 **Master Plan – 5 Year update is mandatory**

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25 Discussion regarding updating the master plan was tabled.

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27 **Cooper Township Notice of Intent to Amend Master Plan**

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29 Hudson noted that the Township received Cooper Township's notice of a proposed amendment
30 to its master plan.

31

32 **Federal Aviation Administration- Expansion of the Kalamazoo/Battle Creek Airport runway**

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34 Hudson said he received correspondence regarding the expansion of the Kalamazoo/Battle
35 Creek airport and will make the information available to any interested Commissioner.

36

37 **Report of the Township Attorney**

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39 None.

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41 **Adjournment**

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43 There being no further business to come before the Planning Commission, the meeting was
44 adjourned at 10:07 p.m.

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Henry Dingemans, Secretary

SYNOPSIS OF ACTIONS

The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the May 2, 2019 meeting:

1. Tabled the request of DDH, Inc. for a special exception use to add an automobile filling (gas) station to the retail business (convenience store) that already exists at 3315 Ravine Road (Parcel No. 06-07-280-023) within the Township.