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**Charter Township of Kalamazoo
Minutes of a Planning Commission Meeting
Held on August 2, 2018**

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A regular meeting of the Kalamazoo Charter Township Planning Commission was conducted on August 2, 2018 commencing at 7:00 p.m. at the Township Hall.

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Present were:

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William Chapman
Jeremy Hathcock
Fred Nagler, Chairman
Tonnie Hitt
Henry Dingemans

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Absent were:

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Denise Hartsough
Jim Cripps

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Also present were Township Zoning Administrator Patrick Hudson, Township Manager Dexter Mitchell, Township Attorney Seth Koches and approximately twelve additional interested persons.

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Call to Order

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

Roll Call and Recognition of Visitors

The Chairman called the roll, noting that Denise Hartsough and Jim Cripps informed him that they would not be present at tonight's meeting. Upon motion of Dingemans, supported by Chapman and unanimous vote, Hartsough and Cripps were excused from the meeting.

Approval of Meeting Minutes

The first item on the agenda was approval of the July 5, 2018 regular Planning Commission meeting minutes. Copies of the July 5, 2018 meeting minutes were provided to the Commissioners in their packets. The Planning Commission reviewed the minutes and Nagler recommended several revisions.

Upon motion of Hathcock, supported by Dingemans and unanimous vote, the minutes of the July 5, 2018 regular Planning Commission meeting were approved with revisions. Attorney Koches made the revisions and Dingemans signed the same. The minutes were provided to Hudson for transmission to the Township staff.

Approval of the Agenda for the August 2, 2018 Meeting

The Commissioners received the agenda in their packets.

1 Upon a motion by Chapman, supported by Hitt, and unanimous vote, the agenda was approved as
2 presented.

3
4 **Scheduled Reviews**

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6 **4274 Ravine – Aggregate Resources – Gravel Mine**

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8 The first scheduled review was of the Aggregate Resources gravel mine. Hudson said the site is well
9 maintained and the applicant is reclaiming the property. Hudson said he is waiting to obtain
10 confirmation that the bond was extended. Hudson said liability insurance was renewed and the soil
11 erosion permit is valid until 2020. Hudson said the concrete crushing activities are in a good location on
12 the property. Hudson noted that the inspection fee was paid and there have been no complaints
13 regarding the property. Hudson said dust control is active.

14
15 Dingemans asked if the bond was based on the number of acres. The applicant said yes and noted that
16 the subject property is 25 acres. The Commission had no other questions for the applicant.

17
18 **3800 Ravine – Stoneco Gravel Mine**

19
20 The second scheduled review was of the Stoneco gravel mine. Hudson said the site is well maintained
21 and the bond was given an indefinite term. Hudson said the liability insurance was extended until 2019.
22 Hudson said the soil erosion permit was also extended to 2019. Hudson noted that the inspection fee
23 was paid and there have been no complaints regarding the property. Hudson said dust control is active.
24 The Commission had no questions for the applicant.

25
26 Upon a motion by Dingemans, supported by Hitt, and unanimous vote, the Commission approved the
27 renewal of the special use permits for Aggregate Resources gravel mine and Stoneco Gravel for one
28 year.

29
30 **Public Hearings**

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32 **3315 Ravine – DHH Inc. – Re-Zoning Application from I-2 to C-1**

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34 The first item set for public hearing was the request of DHH, Inc. to re-zone property addressed as 3315
35 Ravine Road (Parcel No. 06-07-280-023) from the existing I-2 Industrial District Zoning Classification to
36 the C-1 Commercial District Zoning Classification, so as to allow its use for permitted and special land
37 uses listed in the C-1 District. The subject property is approximately 0.87 acres in size. The application
38 indicates that the subject property is platted and a liquor convenience store is located thereon. The
39 applicant indicates that the intended use is for an automobile filling station.

40
41 Hudson reviewed his report with the Commission. Hudson's said that the property is currently used as a
42 convenience store. The adjacent properties to the west include a landscaping firm and a mix of
43 industrial, office and retail businesses. The properties across Ravine Road to the north are zoned C-1 and
44 include an automobile filling station/carwash on the corner of Nichols Road. There is a service type
45 business to the west. Hudson said the property across Nichols to the east is zoned I-2 and is occupied by
46 a former salvage yard that is no longer active.

1 Hudson said the Township's 2008 Master Plan for this area around the Nichols Road and Ravine Road
2 intersection is planned for commercial-type uses. Hudson noted that Article 20, I-2 General Industrial
3 District does not list automobile filling stations or convenience stores as a permitted use, nor as a special
4 exception use. Hudson said automobile filling stations are allowed as a special use in I-1, but retail
5 businesses are not.

6
7 James Jilek, the applicant, addressed the Commission. The applicant said the reason for the proposed
8 re-zoning request is so he can apply for a special use permit for a filling station to be added to the
9 convenience store. The Commission had no additional questions for the applicant.

10
11 Chairman Nagler opened a public hearing and invited public comment comments regarding the
12 applicant's re-zoning request.

13
14 Attorney James Spurr addressed the Commission on behalf of his client, the owners of the Phillips 66 gas
15 station located across the street from the applicant's convenience store. Spurr said his client heavily
16 invested in its property and in reliance on the zoning district. Spurr provided the Commission with three
17 pictures for review. Spurr said that the driveway to the applicant's property abuts the Kal-Haven trail
18 and noted the possible safety risks to trail users. Spurr said there are safety risks presented by allowing a
19 high-density use next to the Kal-Haven trail. Spurr expressed concern regarding pedestrian safety. Spurr
20 said that there is a stop sign close to a hill located to the north on Nichols Road. Spurr said this stop sign
21 creates a dangerous traffic pattern. Spurr said Section 17.01 – Statement of Purpose in the C-1 District
22 Zoning Classification provides that the C-1 Local Business District is intended to accommodate the
23 convenience shopping needs of persons residing in adjacent residential areas. Spurr said his client's
24 property is located on its own island and the applicant's property will offer the same use right across the
25 street. Spurr said there is already a filling station and convenience store in that location and another one
26 shouldn't be located directly across the street. Spurr read through some of the uses in the C-1 District
27 and said another filling station isn't appropriate. Spurr said the Township's Master Plan indicates that
28 the property should be converted to a Commercial District Zoning Classification. Spurr asked the
29 Commission to be sympathetic to his client.

30
31 Nagler asked if anyone else would like to speak in support or against the applicant's re-zoning request.

32
33 Ron Huster said he is a resident of the Westwood neighborhood. Huster said that he wasn't aware the
34 application was for a gas station. Huster expressed concerns regarding traffic if another gas station was
35 constructed and noted that it might be a mistake.

36
37 Tom Little said he is a business owner located next to the applicant's property. Little said that the
38 Kalamazoo Public School District will be building its bus distribution and parking lot near that location.

39
40 The applicant asked the Commission if he may respond to the public comments. The applicant said that
41 the application is not to put a filling station on the subject property. The application said that if the re-
42 zoning request is approved, he will need to ask the Commission to put in that type of use.

43
44 Being that there was no additional public comment, Nagler closed the public hearing.

45
46 Dingemans said that the application is for a re-zoning request, not a gas station. Hitt said the re-zoning
47 request makes sense. Nagler said the Commission is only considering the re-zoning request, not how

1 feasible it is to add a gas filling station on the subject property. Dingemans said he would like to see a
2 bakery or restaurants be added in that location.

3
4 **Finding of Fact**

5
6 Attorney Koches directed the Commission to paragraph C of Section 26.06 of the Township Zoning
7 Ordinance, which lists the review procedures for amendments to the Zoning Ordinance. Koches asked
8 the Commission to review subparagraph 4, Review Conditions and read the same to the Commission as
9 follows:

- 10
11 a. Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning
12 Ordinance?
13
14 b. Will the proposed amendment further the comprehensive planning goals of the Township as
15 reflected in the Master Plan?
16
17 c. Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the
18 Zoning Ordinance that justifies the amendment?
19
20 d. Will the amendment correct an inequitable situation created by the Zoning Ordinance, rather
21 than merely grant special privileges?
22
23 e. Will the amendment result in unlawful exclusionary zoning?
24
25 f. Will the amendment set an inappropriate precedent, resulting in the need to correct future
26 planning mistakes?
27
28 g. If a re-zoning is requested, is the proposed zoning consistent with the zoning classification of
29 surrounding land?
30
31 h. If a re-zoning is requested, could all requirements in the proposed zoning classification be
32 complied with on the subject parcel?
33
34 i. If a re-zoning is requested, is the proposed zoning consistent with the trends in land
35 development in the general vicinity of the property in question?
36
37 j. Will the proposed amendment be consistent with the purposes of this Ordinance, and in
38 particular, will the proposed amendment promote the public health, safety and welfare?
39

40 Koches said all of the standards should be reviewed and noted that standards “g” through “i” were
41 specific to re-zoning applications. Koches said that the Commission shall make a written finding of fact,
42 which will be transmitted to the Township Board together with the comments made at the public
43 hearing and its recommendations.

44
45 Chapman asked if the re-zoning request was consistent with the Master Plan. Nagler said yes. Hitt,
46 Hathcock and Dingemans agreed. Nagler reviewed the Standards of Review contained in Section 26.06
47 and said that the only possible answer that might be “no” may be item “j”. Hathcock said that re-zoning
48 doesn’t change much. Nagler further reviewed the Standards of Review and said that every standard is

1 met. Hitt agreed. The Commission agreed that re-zoning the subject property from I-2 to C-1 is in
2 accordance with the basic intent and purposes of the Zoning Ordinance and is consistent with the
3 comprehensive planning goals of the Township as reflected in the Master Plan. The Commission
4 determined that inappropriate precedent will not be set and recommending approval of the re-zoning
5 request does not result in unlawful exclusionary zoning. The Commission reasoned that the proposed re-
6 zoning request is consistent with the surrounding land zoning district classifications and is consistent
7 with the trends in land development in the general vicinity of the subject property. The Commission
8 concluded that all the requirements in the proposed re-zoning district classification (C-1) could be
9 complied with on the subject property.

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13 Upon a motion of Hathcock, supported by Dingemans and unanimous vote, the Commission
14 recommended approval of the applicant's re-zoning request from I-2 to C-1 to the Township Board.

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17 **New Business**

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19 **2018-2024 Capital Improvement Program**

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21 The first item under New Business was the review of the 2018-2024 Capital Improvement Program (CIP).
22 The 2018-2024 Capital Improvement Program was provided to the Commissioners in their packets.
23 Hudson noted some additions and revisions to various parts of the plan. Hudson directed the
24 Commissioners to page one of the plan and said that the Consolidated Garbage Services Contract, the
25 Cable Television Services Franchise and the amendment to the County Brownfield Authority were
26 stricken from the plan. Hudson directed the Commission to page 4 of the plan and discussed road
27 projects. The plan recommended a \$140,000 contribution by the Township each year for the next
28 several years into the CIP. Mitchell said that each year the Township may contribute funds for road
29 improvement projects and the State will match funds. Mitchell wasn't certain if \$140,000 was an
30 accurate figure because the amount fluctuates. Township Supervisor Don Martin said PAR funds come
31 from the State and Township funds are matched. Martin said that if the Township contributed \$140,000,
32 those funds would be matched for a total of \$280,000 for road improvement projects. Martin said next
33 year's numbers are not known and the amount to contribute or match may be more or less than
34 \$140,000. Martin said the Road Commission splits funding with all municipalities. Hudson asked if it
35 made sense to leave the contribution amount at \$140,000. Martin said, yes, noting that it could
36 fluctuate. Nagler said this contribution sets the Township up for success. Nagler asked if anyone knew
37 the history of past trends regarding the amount of money set aside for road improvement projects.
38 Mitchell said that he would look into it. Hudson recommended changing the \$140,000 contribution
39 amount. Mitchell agreed and asked the Commission to consider adding an additional \$30,000 so the
40 Township could maintain the roads in good condition. Hitt agreed. Nagler said it is important to do
41 preventative maintenance on the roads.

42
43 Hudson directed the Commission to page 5 of the plan and discussed the Expanded Utility Systems.
44 Hudson said the highlighted provision in the plan is carryover language from 2015 and he was not sure if
45 that project was completed. Nagler said the plan does not need to state specifics, just a purpose.
46 Hudson recommended striking the highlighted sentence. Nagler said the first sentence is sufficient.
47 Hudson directed the Commission to page 6 of the plan and discussed improvements to the Township
48 Hall. Mitchell said improvements are planned for the Fall, 2018, noting that the Township Hall's roof was

1 redone and the doors are now ADA compliant. Mitchell said the parking lot was repaved. Mitchell
2 discussed an upgrade to the Township Hall’s HVAC system, which was installed during the 1970s.
3 Mitchell said the price for this upgrade is between \$350,000 - \$400,000. Mitchell said the Township will
4 save money with this upgrade rather than having to pay for constant repairs during the summer and
5 winter months to the existing HVAC system. Hitt agreed, noting that it is wise to fix the Township Hall’s
6 HVAC system.

7
8 Nagler discussed line 72, noting a \$40,000 to repair tennis courts at Scheid Park. Nagler said that there
9 are no tennis courts at Scheid Park. Mitchell said that item may refer to a park across from Indian Prairie
10 Schools. Mitchell said repairs to the park should be less than \$40,000. Hathcock said repairs to a
11 different tennis court cost about \$1,700. Hudson recommended striking line 72. Mitchell said he prefers
12 to confirm that line item 72 referred to the park across from Indian Prairie Schools and confirm the
13 issues were fixed before striking it.

14
15 Upon a motion of Hathcock, supported by Hitt and unanimous vote, the Commission recommended
16 approval of the 2018-2024 Capital Improvement Program as amended to the Township Board.

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18 **Old Business**

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20 **Zoning Ordinance Text Amendments**

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22 The first item under Old Business was continued discussion regarding proposed text amendment to the
23 Zoning Ordinance. The suggested amendment is to define “retail” and “package liquor sales” in the
24 RM-2 District Zoning Classification. The suggested amendment is a request of Steve Leuty. Hudson
25 drafted proposed text amendments which were provided to the Commissioners in their packets. Hudson
26 directed the Commission to Section 14.02 A. Principal Permitted Uses and Structures, subparagraph 21
27 and noted the amendment by adding the following language: “{except Package Liquor}” to the
28 Ordinance. Hudson directed the Commission to Section 14.02 B Special Land Uses, and noted the
29 addition of subparagraph 16, which was added to the Ordinance and reads as follows: “Retail sales of
30 Package liquor, subsection to Section 8.02(WW).” Hudson directed the Commission to the proposed
31 addition of subsection “WW” contained in Article 8.00 Site Development Standards, Section 8.02 Scope
32 Requirements. Hudson read the proposed subsection WW to the Commission. Hathcock said the
33 proposed amendments seem reasonable. Nagler pointed out that WW will prohibit stores from selling
34 packaged liquor at retail stores between the hours of 9:00 p.m. and 8:00 a.m. and asked whether the
35 Commission felt that 9:00 p.m. was too restrictive. Dingemans noted that the Ordinance references
36 properties located in a Residential District Zoning Classification. Hudson noted that the RM-2 District
37 Zoning Classification is a mixed use district. Nagler said the retail sale of liquor is restricted but not the
38 store itself. Dingemans said he does not want a liquor store next to a house. Hathcock said liquor stores
39 next to residential homes in mixed use districts are not uncommon. Hathcock gave an example of
40 certain neighborhoods in larger cities that embrace having residential housing, retail and commercial
41 uses located next to each other. Hathcock recommended striking Standard 5 in the proposed WW text
42 amendment. Chapman said he has issues with a liquor store located next to a residential home. Nagler
43 discussed the shutdown times for the sale of liquor. Nagler said that medical marijuana facilities close
44 their operations at 10:00 p.m. Mitchell asked if 9:00 p.m. is an early time to close. Hitt said that 9:00
45 p.m. seems to be a little early. Nagler asked the Commission to consider the impact on a family who
46 lives near the liquor store. Hathcock said that 9:00 p.m. is a fair time to restrict the sale of liquor in the
47 RM-2 District Zoning Classification; the Commission agreed. Nagler recommended keeping Standard 2 as

1 presented, and striking Standard 5. Nagler recommended changing the word “close” in Standard 2 to
2 “not sell liquor.” The Commission agreed.

3
4 Upon a motion of Hitt, supported by Dingemans and unanimous vote, the Commission set the proposed
5 text amendments, as revised, to Section 14.02 and Article 8, Section 8.02 for public hearing.

6
7 The second proposed text amendment was to define the meaning of Home Occupation/Home Business
8 within Section 2.08 of the Zoning Ordinance. A copy of Section 2.08 Home Occupations and Home-Based
9 Business Ordinance was provided to the Commissioners in their packets. Mitchell asked the Commission
10 to discuss what someone can and cannot have as a home based business. Mitchell pointed out
11 contradictions within the Ordinance. The Commission decided it needed more time to review this
12 Ordinance before taking further action.

13
14 Upon a motion of Hathcock, supported by Dingemans and unanimous vote, the Commission tabled the
15 proposed text amendments to Section 2.08 Home Occupations and Home-Based Business.

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17
18 The third proposed text amendment was to Article 2, Section 2.03 of the Zoning Ordinance. The
19 proposed text amendment adds Section 2.03 C. a. and b. Section 2.03. This proposed amendment came
20 at the request of a citizen who owns a 10-acre parcel, but is limited to building a 768 square foot
21 accessory building on his property by the Zoning Ordinance. Hudson provided the Commission with
22 proposed language for Section 2.03 in their packets. Hudson reviewed proposed Section 2.03 “a” and
23 “b” with the Commission. Hudson said the Zoning Ordinance limits the size of an accessory building to
24 only 768 square feet and discussed the impact of proposed subsection “a.” Hudson said the proposed
25 addition of subparagraph 3.b provides exceptions for large parcels. Hudson discussed proposed total
26 accessory building floor area requirements for all accessory buildings, maximum accessory building
27 heights and site and rear yard setback requirements for larger parcels. The proposed text amendment
28 includes a table depicting maximum building height, total floor area requirements and setback
29 requirements for an accessory based on the size of the parcel.

30
31 Hathcock said that it doesn’t make sense to limit Accessory Buildings to 768 square feet on a 10-acre
32 parcel. Dingemans asked if the larger accessory buildings will be a permitted use or a special exception
33 use. Hudson said an accessory building for a home-based business will be a special exception use. Hitt
34 asked why it is limited to only home-based businesses. Nagler recommended making accessory buildings
35 on larger parcels a special exception use. Hudson struck out the words “for a home based business” in
36 proposed text amendment 3.b. Nagler said he approved the proposed amendment as revised. The
37 Commission discussed the front and side yard setback requirements. It was agreed to revise the setback
38 requirements to be the same as the maximum allowable building height of the accessory building. The
39 amendment was made to the table prepared by Hudson.

40
41 Upon a motion of Dingemans, supported by Hathcock and unanimous vote, the Commission set the
42 proposed text amendments to Article 2, Section 2.03, as revised, for public hearing.

43
44 **Master Plan Review**

45
46 Hudson provided the 2014 Master Plan maps to Commission members. Hudson said that he will
47 continue working on this agenda item and update the Commission accordingly. The Planning
48 Commission had no further discussion on this agenda item.

1 **Open Discussion**

2

3 **Members of the Audience**

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5 None.

6 **Communication Received**

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8 None.

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10 **Report of the Township Board Representative**

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12 Hathcock thanked the Commission members for their hard work generally and regarding the proposed
13 text amendments that are set for public hearing.

14

15 **Report of the Township ZBA Representative**

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17 None.

18

19 **Comments from the Planning Commission Members**

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21 Chapman said he received several noise complaints from neighbors on the week of the July 4, 2018
22 holiday. Chapman said several neighbors referred to that holiday week as a “nightmare” because
23 fireworks were constantly fired off late at night.

24

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

26

27 Hudson said he got the salvage yard inspections completed, but noted that he will need to complete
28 additional follow up.

29

30 **Report of the Township Attorney**

31

32 None.

33

34 **Adjournment**

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36 Being there was no further business to come before the Planning Commission, upon a motion of
37 Hathcock, supported by Dingemans and unanimous vote, the meeting was adjourned at 8:35 p.m.

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Henry Dingemans, Secretary

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SYNOPSIS OF ACTIONS

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45 The Kalamazoo Township Zoning Board of Appeals undertook the following actions at the
46 August 2, 2018 meeting:

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- 1 1. Approved the special use permits for one year for Stoneco and Aggregate Resources;
- 2 2. Recommended approval of the re-zoning request of the subject property, addressed as 3315
- 3 Ravine Road, from I-2 to C-1 to the Township Board;
- 4 3. Recommended approval of the 2018-2024 Capital Improvement Program, as amended, to the
- 5 Township Board;
- 6 4. Set proposed text amendments to define the meaning of “retail” and “package liquor sales” of
- 7 Section 14.02, as revised, for public hearing; and,
- 8 5. Set proposed text amendments to Article 8, Section 8.02 for public hearing.
- 9 6. Set proposed text amendments to detached accessory buildings Article 2, Section 2.03, as
- 10 revised, for public hearing.
- 11