

**Highland Township Planning Commission
Record of the 1411th Meeting
Highland Township Auditorium
April 4, 2024**

Roll Call:

Grant Charlick, Chairman
Kevin Curtis
Chris Heyn
Mike O’Leary
Roscoe Smith
Scott Temple
Russ Tierney (absent)
Guy York

Elizabeth J. Corwin, Planning Director

Visitors: 94

Chairman Grant Charlick called the meeting to order at 7:30 p.m. He explained that the agenda included two requests for land uses requiring special approval and noted that the Planning Commission was a recommending body, and that the requests would be presented to the Board of Trustees for a final decision. He explained that due to the apparent interest in Agenda Item #2 as evidenced by the amount of correspondence and size of the audience, the public hearing would be reopened.

Roll Call:

Agenda Item #1: Call to the Public: Opportunity for anyone to bring forward issues of interest or concern for Planning Commission consideration. Each participant limited to 3 minutes.

Tanya Emerson, 1939 Scenic Drive, Milford voiced her objection to the proposal for a kennel at Honeywell Lake Road. She reported that the site was noisy today. She reported that she had spoken to Deputy Klocha at Oakland County Animal Control about her concerns for the welfare of the animals and learned that 17 citations had been issued for unlicensed dogs. She was concerned for the safety of her son, should one of the dogs get loose in the neighborhood.

Work Session:

Agenda Item #2:

Parcel #	11-15-326-017
Zoning:	C1-Local Commercial
Address:	Vacant N. Milford Rd
File#:	URSA 24-01
Request:	Use Requiring Special Approval for Gas Station
Applicant:	Sarmed Raouf
Owner:	Rima Properties, LLC

Mr. Charlick reintroduced the request for special approval for a gas station for the vacant parcel at the northeast corner of North Milford Road and East Wardlow Road. He opened the floor to comment from the public at 7:37 p.m.

Sam Impastato, owner of the commercial strip center at 1830 through 1870 North Milford spoke of his concerns about the impacts of this development on the safety of his drinking water well and implications for his future costs. He noted that his property was developed in 1976, and that he bought the property in 1986. In that time, he has replaced his well three times, most recently five years ago. He has spoken to the Oakland County Health Division staff and learned that since he has a Type II well, anyone within 800 feet of the gas station would be required to drill any wells to higher specifications, including a greater depth, steel casing and cement grout. He would be required to have a copper service lead from the wellhead to the building, which is currently a distance of 250 feet. The cost of his well was \$40,000 five years ago, which would probably be tripled today. A safe supply of drinking water is essential to his tenants, which include a dentist and food services.

Donna Hubbard, 1556 Pruitt is a board member on the Harvey Lake Estates homeowners association. She noted that her subdivision is one half mile east of the proposed gas station. The concerns of the homeowners include the following: a) questions if studies regarding the traffic impacts and other negatives impacts on the neighbors such as lighting, noise and emissions have been submitted or will be required. b) concerns about potential leakage and containment c) proximity to school and questions about whether liquor will be sold d) implications if there were a railroad accident and e) questions about whether the Township has a plan for response in the event of a major spill.

Dennis Wilson, 1520 Pruitt is also a board member. He asked if the Planning Commission was aware that the subdivision is already concerned about major contamination resulting from Numatics operations and wonders if the gas station could exacerbate the issue. He also seconded Ms. Hubbard's concerns about a train derailment at Wardlow Road.

Joe Robert, 1351 Kingsway asked if a Phase I baseline environmental assessment had been completed and whether a Phase II study would be required. He asked if the public would have access to such studies.

Beverly Ridling, representing Countryside Condominiums noted that her membership was concerned about increased traffic, whether this would be a 24 hour per day operation, proximity of the school to the gas station, impact of lights and noises, and the potential for accidents.

Chris Conklin, 1743 Pruitt noted that he has experience with the State of Michigan inspecting underground gas tanks, and currently works for Corrigan Oil. He noted that this is a virgin site, which would not require the submittal of baseline environmental assessments. He explained the state of Michigan isolation requirements for public drinking water wells. He noted that Mr. Impastato would not bear responsibility for replacing his well should contamination be discovered, but that he is correct in stating that the isolation distance to a gas station is 800 feet. He noted that the isolation distance for a Type I or IIa well, such as the Highland Greens well is 2000 feet. He noted that there is a process for applying for a variance to drill to develop a site within the required isolation distance, and that the specifications for a new well would be more protective and costly.

He added that the State of Michigan adopted standards of the US Environmental Protection Agency (USEPA) in 2016, and that the new standards required secondary containment and leak detection that would automatically disable operations so that no more gas could be pumped. He also added that the rules allow a school to be sited within 30 feet of a gas station.

His experience has shown that traffic on the surrounding roadways is not increased from a gas station, which tend to be stops in a longer trip rather than new trips. He also noted that impacts from lighting can be controlled.

He added that gas stations are one of the most highly regulated land uses, and that contamination is more likely to come from land use such as dry cleaners, lumber yards, automobile repair and body shops. He referred to the former Marathon gas station at Milford Road and M-59. He was involved as an inspector on that leaking underground storage tank. Those tanks were only single wall tanks. Modern installations are double walled, even on the tanker trucks.

Eric Dernay, 825 E Wardlow Road was concerned about traffic and the railroad. He noted public safety concerns since there were no sidewalks in the area. He suggested that there is no business case for a new gas station since there are six existing gas stations in Highland Township. He also noted wildlife concerns and referred to deer/vehicle crashes in the last few years.

Kelly Vella, 1564 Heritage Way asked why a gas station would be needed there, and not on the vacant corner of M-59 and Milford Road.

Mr. Charlick closed the public comment as 7:56 pm. He asked the applicant if they would like to add any information or respond to anything he heard.

Mr. Raouf explained that he had not received feedback from the Road Commission as they preferred he obtain his use approval before discussing the site. He addressed various concerns of the audience, noting that his site plan is conceptual, and that he can address noise and light with design elements. He noted that the technology involved in a modern gas station nearly eliminates potential for serious contamination. He also believed that the traffic will slow down with a gas station at the corner. He also noted that he is not ready to deal with the Health Division yet; but will address their requirements in site plan review. He also noted that the area includes other industrial users like collision shops and factories, and that this site should be environmentally safe in comparison.

He explained to the audience that the request is for special approval of a land use. There is a conceptual plan to help the Planning Commission consider the site broadly, but it does not include all the details that will be looked at before site plan approval. The task of the Planning Commission is to set aside emotion and look at the standards of approval for the use.

First, Mr. Charlick noted that the zoning is correct for the proposed use. C-1 zoning allows for a variety of retail uses, including such uses as dry cleaners, restaurants, funeral homes and pool halls that would not require a public hearing. This agenda item is dealing only with the use as a gas station. Special approval is also necessary for the drive-thru window, but that information was lacking from the original application and therefore proper public notice was not undertaken. The drive-thru window would be taken up at a future meeting.

Mr. Charlick noted that some of the concerns raised this evening included potential impacts that would apply evenly to other uses permitted by right, such as site lighting and are part of the applicant's right to develop the site. Those considerations can wait for the detailed site plan. He noted further that regardless of any decision made tonight, there would be many agencies involved and safeguards in place should the applicant be allowed to proceed to develop a gas station.

Mr. Temple thought it was worth noting that the zoning was put in place by the Board of Trustees, despite the Planning Commission's recommendation of denial of the request for C-2, General Commercial Zoning.

Ms. Corwin explained that this property is currently zoned C-1, Local Commercial. The parcel had been zoned OS, Office Service, until the applicant requested rezoning to C-2, General Commercial. The Board did allow the C-1, Local Commercial zoning, since this district is mapped with OS zoned parcels in the same Master Land Use Category. The reason why some uses require Special Approval is that not every parcel in the C-1 Zoning District might be appropriate for this use, or might only be appropriate for the use if some conditions are imposed.

Mr. Temple noted that the Planning Commission is required to review only specific standards to determine if the use is acceptable, even though the details of the site development are still unknown. He noted he shares some of the concerns of the audience. The standard he is most concerned with is whether the site meets the character of the surrounding area. Other standards of approval will be addressed through the work of other agency, such as the Michigan Department of Energy, Great Lakes and Environment.

Ms. Corwin explained that the Marathon gas station in question was developed in 1963 with then current standards and a single wall gas tank. There was a release of product detected in 1993, as Mr. Conklin had described, and there was considerable investigation including soil and water sample tests. There was never any detection of the volatile compounds detected in adjacent drinking water wells, but in an abundance of caution, Marathon entered into a voluntary bottled water agreement with neighbors while the testing was underway. Ultimately, Marathon paid the Township to extend watermain to the nearby neighbors, the tanks were removed along with contaminated soil and the building razed. The site is essentially remediated, although testing continues. The Township understands that the property was sold and the new owner is contemplating a redevelopment plan for the site.

Mr. Temple also asked about contamination from Numatics..

Ms. Corwin explained also the Numatics remediation project. Through their operations, there was a release of solvents to the shallow groundwater. That pollution plume migrated offsite. In Michigan, there is a “polluters pay” policy, and Numatics has been liable for significant costs and effort to clean up the contamination. Ms. Corwin noted that active remediation and monitoring will continue for years. As new techniques are identified, there will likely be stepped up efforts.

Mr. Temple noted that advancing technology has helped mitigate his concerns through prevention and better response. He noted that he frequents a gas station on Hickory Ridge Road in Rose Township, which is even farther removed from highways and surrounded by a more residential character, and that it seems to work to serve its neighborhood.

Mr. Smith noted that the Zoning Ordinance has very specific rules about what may be considered in decisions about land use, especially special approval. Sometimes, the Planning Commission must decide against a project that individual members might personally welcome; or recommend approval of a project that members are not personally in favor of. The Planning Commissioners take an oath to uphold the Zoning Ordinance.

Mr. Smith discussed the history of the North Milford Road corridor as regards to zoning. Through review of aerial photographs, it becomes clear that this has been the industrial/commercial corridor for sixty years or more. In the 1974 photographs, Advance Concrete is seen. In 1963, Marathon Gas and Harvey Lake Estates. Numatics is developed before 1963 as well. The railroad stood always as the demarcation from commercial/industrial activity and residential development.

Mr. York remarked that this is not the first, nor the last time this site will be discussed. There are many hoops ahead for the applicant to go through. There will be reviews by the County Road Commission and Health Division, the Michigan Department of Energy, Great Lakes and Environment and licensing. The

applicant will have to invest serious time and money into pursuing all the necessary approvals, and the other agencies must see the land use approval first, before they dig into the details.

Mr. York read the intent statement of the C-1, Local Commercial District. He emphasized that the applicant is developing this site to serve his neighbors. He will create a safe and attractive site to earn their business. No one will drive from Waterford to do business with a gas station in Highland Township, just because the applicant is a swell guy. Mr. Raouf wants to build the gas station to serve this community. It is the Planning Commission's responsibility and opportunity to place well considered constraints on the proposal so that the resultant project is one that the neighborhood can be proud of and be confident in its safety.

Mr. York went on to say that we can negotiate the hours of operation and there are standards for such things as signage and lighting. The goal is to build something everyone can be proud of.

Mr. Raouf thanked Mr. York for his comments and noted that he got the idea to build a gas station from his regular customers at 7-11.

Mr. Charlick asked if Mr. Raouf would be willing to accept limitations on the hours of operation. Mr. Raouf said his preference would be 5 am to 12 midnight. Those hours serve the early commuting traffic. He said 7-11 requires 24 hour operations in their agreement, but they have looked the other way for small site like his because of the difficulty in staffing.

Mr. Charlick also noted that he does not believe traffic is an issue that is any different for a gas station than the other acceptable uses for the site. Some C-1 based businesses may draw more traffic from outside areas than a gas station would.

Mr. Charlick also noted that although there is always a chance that there could be contamination from the gas station, this is a highly regulated industry, whereas other industrial users are less regulated. There is constant oversight and reporting for gas stations. The Township trusts the State to do the work to protect the community.

Mr. Charlick asked Mr. Raouf if he was familiar with the State of Michigan requirements to carry pollution liability insurance. Mr. Raouf answered that he has discussed it with advisors. Insurance premium rates are decreasing over time because the experience of the industry is that sites remain clean. Mr. Charlick asked if he would be open to providing additional insurance above the State requirements. In other words, would he be willing to go the extra mile? Mr. Raouf was open to exploring that possibility with the Board of Trustees when he has had time to research it.

Mr. Temple restated his concern that the intensity of commercial activity should be limited to south of Wardlow Road. He reiterated that it was the Board that allowed the commercial zoning, and that a gas station would not have been allowed in Office Service zoning. His greatest concern remains with whether the use is compatible with the character of the area or extends the commercial/industrial character north of where it should be contained. He acknowledged that the area includes a wide variety of uses though; and noted that there was once a meat packing business nestled in the residential properties. He believed the neighbors would be likely to patronize this business.

Mr. O'Leary supports the project. His hope is that fresh development will bring the challenge to neighboring commercial properties to renew their facades and sites as well to foster economic competition. He believes the development is good for the community.

Mr. Heyn noted that he thought of this area as having an industrial character. The primary areas of commercial activity in the Township are at Duck Lake Road or South Milford Road.

Mr. Charlick moved to recommend special approval of the proposed land use for a gas station for parcel 11-15-326-017 at the north east corner of North Milford and East Wardlow subject to limiting the hours of operation from 5:00 am to 12:00 midnight and further recommends that the Board of Trustees review the adequacy of the pollution liability insurance and steer the applicant to add more if deemed insufficient. Mr. York supported the motion.

Mr. Temple proposed an amendment to the motion to add the requirement of a traffic study. Mr. Charlick thought a better amendment would be to acknowledge the requirements of the approvals of outside agencies prior to final site plan approval. Mr. York also thought it important to clarify that multiple layers of review would be needed as agency approvals are obtained. Mr. Charlick accepted the amendments and Mr. York affirmed his support of the motion as corrected.

Ms. Corwin read the motion: to recommend approval of the Use Requiring Special Approval for a gas station for the subject parcel at the northeast corner of North Milford and East Wardlow, subject to the following conditions: hours of operation limited to 5:00 am to 12:00 midnight, that the Board of Trustees explore the adequacy of the pollution liability coverage required by the State of Michigan and negotiate a greater amount if deemed appropriate; and that a multiple step site plan process would be followed including a preliminary site plan with tentative approvals from all approving agencies prior to final site plan approval. Mr. York supported the motion.

Vote: O'Leary-yes; York-yes; Temple-no; Heyn-no; Curtis-yes; Charlick-yes; Smith-yes. Motion carried (5 yes votes, 2 no votes).

The audience was advised that the application will be presented to the Board of Trustees at their next meeting, which is May 6 at 6:30 p.m. The location will be published with their agenda.

Agenda Item #3:

Parcel # 11-32-300-012
Zoning: ARR. Agriculture and Rural Residential
Address: 2700 Honeywell Lake Rd
File#: URSA24-02
Request: Use Requiring Special Approval for kennel
Applicant: Elizabeth Earl Harding
Owner: Elizabeth Earl Harding

Mr. Charlick reintroduced the request for special approval of a kennel on a ten-acre parcel on Honeywell Lake Road. He explained that the public hearing had been closed at the previous meeting and that this time was for the Planning Commission members to discuss the proposal.

Elizabeth Harding noted that she realized that she had groomed dogs for people who had spoken against her proposal at the previous meeting. They did not seem to understand that the proposal was to continue to house dogs as she has in the past, and not expand and begin a big commercial business. She explained that although she had been cited for seventeen unlicensed dogs, she had since complied in as much as possible, by licensing her personal dogs. She did receive a fine for one dog that was unlicensed.

Mr. Charlick remarked that the application had nothing for them to react to as to the adequacy of the proposal. He did not believe that the Planning Commission could grant approval based on what was presented. Mr. Temple agreed that he really has no concept of what this kennel proposal entailed, other

than Ms. Harding has a lot of dogs living in her house. Mr. Charlick thought without the clear input on what the County will require, he cannot make a decision about whether this is an acceptable use.

Mr. York noted that Ms. Harding has clearly been operating outside of the ordinance for years without complaint from the neighbors. He suggested that the Planning Commission could grant a conditional approval based on her commitment to meeting county standards, assuming that they require only what she can afford to do and that she can maintain.

Ms. Harding objected to the characterization of her operating outside of the ordinances. She insisted that she had asked the Township in 1994 for the requirements and was told nothing was required.

Mr. Curtis said his concerns centered on the number of animals being cared for, and the behavior of the foster animals, which could be unpredictable.

Ms. Corwin noted that the Township could act as an intermediary with Animal Control and the applicant and facilitate a meeting to determine an appropriate solution.

Mr. York felt the applicant was entitled to pursue an acceptable plan to continue her rescue operations. He agreed with the concerns noted by the neighbors, such as dogs getting loose, how potentially dangerous dogs are managed, about fencing and noise. The Planning Commission must see the details of how Ms. Harding will mitigate the concerns and how the kennel licensing program addresses them. It is possible that the Township could require more than is required than the County would. He would like to see the property owner enjoy a kennel on her property, and for the neighbors to feel safe and confident their concerns were addressed.

Mr. Heyn pointed out that this property is an agriculturally zoned property, and that the property owner would be entitled to keep livestock. He agreed more details are needed to understand how this use fits in the area.

Mr. Charlick moved to table the request for 90 days so that the applicant can develop a conceptual plan to meet licensing requirements. Mr. Heyn supported the motion. Vote: Heyn-yes; O'Leary-yes; York-yes; Curtis-yes; Charlick-yes; Smith-yes; Temple-yes. Motion carried (7 yes votes, 0 no votes).

Members of the audience expressed dissatisfaction with allowing the operations to continue for ninety days and noted that they continue to lodge complaints with Animal Control. They asked if there would be another chance for public comment on the new plan. Ms. Corwin noted that if the plan is significantly changed from the initial proposal, staff would repeat the required public notice.

Agenda Item #4:

Parcel # 11-30-200-017
Zoning: C2, General Commercial
Address: 3365 W Highland
File#: SPR 24-03
Request: Site Plan Review for accessory structure
Applicant: MJ Whelan Construction
Owner: MJ Whelan Construction

Ms. Corwin noted that in light of the considerable public interest expressed in advance of the meeting for Agenda Item #2, she had reached out to Matt Whelan and they agreed that his request would not be brought to the table this evening.

Mr. Charlick thought before the Planning Commission did consider the proposal again, they should do some groundwork on policy decisions regarding storage containers as accessory structure. He saw basically three issues. First, if the storage containers are to be allowed as structures, which districts are appropriate. Second, should the required setbacks be different for storage containers than other structures. He noted that at least in an approved industrial storage yard, such containers could be parked in required side and rear yards. This may or not be appropriate in all zoning districts. Finally, are there aesthetic standards to be considered? Currently, the only district with any aesthetic controls is the Highland Station Business District.

Mr. York asked if this question should be tasked to our Planning Consultant. Ms. Corwin noted that she had begun reaching out to her peers in neighboring communities to determine if anyone has policies or ordinances that might inform the discussions here.

Ms. Corwin noted that the April 18 Planning Commission meeting was a joint meeting with the Highland Downtown Development Authority to discuss the Highland Station Zoning Ordinance, Master Plan and Design Guidelines. She would do additional research on the storage container and prepare some recommendations on the containers for a meeting.

Agenda Item #5:

Committee Updates

- Zoning Board of Appeals:
- Township Board:
- Highland Downtown Development Authority:
- Planning Director's Update

Committee reports were discussed.

Agenda Item #6: Minutes: March 7, 2024 and March 21, 2024.

Mr. York moved to approve the minutes of March 7, 2024 and March 21, 2024 as presented. Mr. Temple supported the motion, which was unanimously approved by voice vote.

Mr. Charlick moved to adjourn the meeting at 9:50 p.m. Mr. Heyn supported the motion, which was unanimously approved by voice vote.

Adjournment:

Respectfully submitted,

A. Roscoe Smith, Secretary
ARS/ejc