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**PITTSFIELD TOWNSHIP PLANNING COMMISSION MINUTES**

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**Members Present:** Stanley Young, Mike Petraszko, Deborah Williams, Matthew Payne, Ann Harris, Roland Kibler, George Ralph

**Members Absent:** None.

**Others Present:** Christina Lirones, Jim Fontiachono, Ravi Nigam, Aysha Kasham, Pansy Mizell, Benjamin Carlisle, Township Planning Consultant, Allan Hare, UMS Consultant, and Zoe Crowley, Recording Clerk.

**1.0 Call Meeting to Order at 6:30 p.m. / Determination of a Quorum**

Chairperson Payne called the meeting to order at 6:30 p.m. A quorum was present.

**2.0 Pledge of Allegiance**

Chairperson Payne led the Pledge of Allegiance.

**3.0 Approval of Agenda**

**Motion by Commissioner Williams, supported by Commissioner Harris, to approve the agenda as recommended.**

**MOTION CARRIED**

**4.0 Approval of Prior Minutes**

**4.1 Regular Meeting Minutes of October 3, 2019**

**Motion by Commissioner Williams, supported by Commissioner Ralph, to approve the Regular Meeting Minutes of October 3, 2019.**

**MOTION CARRIED**

**5.0 Public Comment I**

Christina Lirones, 151 Textile Road, expressed her concerns regarding the State Street Crossing Lots 4-5-6. She passed around her camera, showing the Commissioners photographs of the trees currently on the property. She does not want the trees, which are in a Conservation Easement, to be destroyed.

## **6.0 Public Hearings**

### **6.1 CUP 18-04 Superior Lawn Care** Submitted for Conditional Use Permit 4197 Carpenter Road, Section 13

Mr. Carlisle, Planning Consultant, addressed CUP 18-04 Superior Lawn Care. He noted the Township has been consistently monitoring the applicant, and Superior Lawn Care has been in constant violation of its original 2014 Conditional Use Permit. He introduced Code Enforcement Officer, Belinda Kingsley, stating if anyone has questions, she will answer them. He referenced the lengthy list, provided by Ms. Kingsley, which outlined the applicant's numerous violations (See Attachment 1). He added the company has frequently gone to court with the Township. He stated that the judicial process remedy was for the applicant to return to the Planning Commission and amend the original permit. The amendment to the permit would essentially grant the applicant permission for what the applicant has already done to the property. This includes:

- Additional parking areas for employee trucks
- Installation of a 34 by 35-foot canopy structure along the northern property line
- Increased millings on the gravel stem
- Wood pergola for plants
- Additional concrete pads for storage of equipment and materials
- 7-foot by 7-foot plastic shed
- Brick pavers
- Gazebos

He reiterated that the applicant is seeking approval, after already implementing the above changes. Mr. Carlisle stated that due to increased operations, Carlisle Wortman does not find that Superior Lawn Care meets the Conditional Use Standards. He recommended that the Planning Commission direct staff to draft the necessary Resolution of Denial. If the motion is approved, it would require the applicant to come into compliance with their current Conditional Use Permit, issued in 2014. If the applicant continues to be in violation of their CUP, further enforcement action will be taken.

Chairperson Payne opened the Public Hearing.

Ravi Nigam, Superior Lawn Care attorney, responded to Mr. Carlisle. Mr. Nigam noted that Superior Lawn Care utilizes the property to store landscaping and lawn care materials, such as mulch, top soil, and brick pavers, which it provides to contractors. He acknowledged that Superior Lawn Care did have some violations at this time, indicating three major citations.

The first occurred in 2015, and some this current year. Mr. Nigam described the changes made to the property, and why they are justifiable. He referenced shrubbery, the wood pergola, a canopy, and a fence, as well as parking too many vehicles on the site. He stated that the Superior Lawn Care Engineer at the time did not do the proper job. He informed the Commission that the applicant has removed the extra vehicles, parking them at Meijer's.

Attorney Nigam referenced a meeting with Mr. Carlisle on July 24, 2019. Mr. Nigam argued that paving the property does not fit the applicant's use of business. Gravel is better suited. He stated millings are used for gravel. Mr. Nigam admitted that the applicant should have gotten approval at the time of installation. He argued his client was unaware that approval was needed for changes made to the property, such as the wooden pergola, the fence, and the canopy.

He addressed the additional concrete pads for storage on the property, stating that when Superior Lawn Care purchased the property, it discovered these pads buried and fixed them. He argued his client is not going to increase intensity or change the use of the property, and therefore, the Planning Commission should approve his client's Site Plan. In regards to the mistakes his client has made, he stated Superior Lawn Care now knows better and will seek approval for changes in the future.

Several property owners addressed the Commission, outlining their concerns.

- Aaron Saxton, 4177 Carpenter Road, Manager of Zap Zone, stated that his concerns included: increased traffic, narrow road, air and noise pollution, and damage to his fence.
- Kimberly Vena, Superior Lawn Care Wholesale Manager, requested the Site Plan be approved. She stated that since she has been employed there, there has been no change in use of the property. She has been employed at Superior Lawn Care since 2016.
- Gaz Ismail, who lives in Novi, but owns the property north of Superior Lawn Care complimented Pittsfield Township and Washtenaw County. He argued that Superior Lawn Care is constantly pushing the envelope, that the Master Plan has this area zoned as Commercial – C2. Superior Lawn Care is not utilizing the property appropriately. He stated he wants to clean up the area.
- Tom Martin, 4244 Ridgewood, directly behind Superior Lawn Care, on the northeast corner of the property, addressed his concerns regarding the applicant violating the 7am to 5pm hours of operation, and the destruction of the trees. The trees served as a visual and audio

barrier. The destruction of the trees affects his property value and enjoyment of life.

- Pansy Mizell, 4254 Woodstream Drive, lives in the Crystal Creek development. She asked if there are still gas and propane tanks being stored on the property, and if so, does Superior Lawn Care possess the necessary licenses. She was concerned whether or not the applicant is correctly storing these, as well as other chemicals, on the property.
- Aysha Kasham, on behalf of Superior Lawn Care, stated that she is available to answer any questions regarding the uses of the property. She then addressed some of the property owner's concerns. She argued there is no storage of chemicals nor propane on the site. The applicant only stores bulk landscaping materials, such as plants, shrubs, trees, and top soil.

Ms. Kasham addressed semis utilizing the road. She stated that she, nor the owner, has had any prior knowledge of semis misusing the property. If misuse is occurring, she stated that she and the owner would ensure it ceases immediately, as they both agree this is inappropriate.

Ms. Kasham and her family, including the applicant, all reside in the Crystal Creek neighborhood behind the Commercial Site. She proclaims she and her family care deeply about Pittsfield Township and their neighborhood. She references the July 24, 2019 meeting with Mr. Carlisle, stating that the applicant plans to replace the destroyed trees.

- Pansy Mizell, 4254 Woodstream Drive, returned to clarify that her questions and concerns, regarding chemicals, stem from Pittsfield Township reports.
- Chairman Payne read a letter from Willie Curry, 4256 Woodridge Drive (See Attachment 2). Mr. Curry requests that the Conditional Use Permit be denied. The letter included pictures, which illustrate his property's view before and after Superior Lawn Care destroyed the tree line.

**Motion by Commissioner Williams, supported by Commissioner Young to close the public hearing for CUP 18-04 Superior Lawn Care.**

**MOTION CARRIED**

## **7.0 Old Business**

None

## **8.0 New Business**

### **8.1 CSPA 18-14 & CUP 18-04 Superior Lawn Care** Submitted for Preliminary Site Plan & Conditional Use Permit 4197 Carpenter Road, Section 13

Chairman Payne stated that when the applicant originally came before the Commission, for the original Conditional Use Permit, he was not in favor of it. He was not in favor due to the applicant moving Superior Lawn Care to this location without any sort of permits or approval from the Township. The Commission, at the time, reluctantly approved the Conditional Use Permit because the operations were ongoing. The Commission did not wish to harm the applicant and wanted to work with Superior Lawn Care. It was certainly made clear at that time to the applicant that future permits would be required.

Chairman Payne noted there is a history of repeatedly ignoring proper permit procedures. The applicant has essentially done what the applicant wanted, with full knowledge of said procedures. He referenced the report he had received from Code Enforcement Officer Belinda Kingsley (See Attachment 1). The report entails five pages of violations and Court appearances in very fine print. He has also spoken with Mr. Carlisle, Planning Consultant, regarding this report. He is not in favor of approving the Conditional Use Permit. He also inquired of Mr. Carlisle if it is possible to revoke the original Conditional Use Permit, if necessary.

Mr. Carlisle responded, clarifying that the amended Conditional Use Permit is before the Commission this evening. If the amendment to the amended Conditional Use Permit is denied, the applicant will then have to bring its site into compliance with the 2014 approved Conditional Use Permit. He noted that it is not possible to revoke the existing Conditional Use Permit this evening. He explained this entails a separate process and a separate Public Hearing Notification. Although it may be something that occurs in the future, it is not something the Commission can consider this evening. Before the Commission this evening is simply the proposed amendment to the existing Conditional Use Permit, and whether or not it should be approved.

Chairman Payne answered, stating he does not wish to revoke the existing Conditional Use Permit this evening. He does, however, wish the applicant to be aware of this possibility.

Commissioner Ralph referenced the memorandum provided by Counselor Nigam. He read, "The assumption of retail operations by Carlisle Wortman is incorrect

and should not be considered when evaluating Superior Lawn Care's request." Two and a half weeks prior, Commissioner Ralph called Superior Lawn Care, inquiring about whether the company sells top soil. Superior Lawn Care said, "Yes." He then drove to the property with a truck and trailer and purchased dirt. He was never asked whether or not he was a contractor. Therefore, he asserted Superior Lawn Care cannot claim the company is not conducting a retail operation.

Commissioner Young inquired about whether Superior Lawn Care is currently violating its Conditional Use Permit.

Mr. Carlisle responded, stating that Superior Lawn Care currently has numerous violations. He then clarified one of the applicant's statements, regarding the July 24, 2019 meeting. The applicant claims that during the meeting, the Township recommended Superior Lawn Care go before the Planning Commission to get approval for what has currently been done to the site.

He noted that through the legal process, two options were presented to the applicant: the first was to correct the violations and return to utilizing the Site as it was approved in 2014; or, if the applicant wished to keep what was currently on the Site, the Township would pause the judicial proceedings. The Township then informed the applicant to return to the Planning Commission to amend the original 2014 Conditional Use Permit.

At no time did the Township allude to the applicant that it was in support of the proposed amendment, nor that the Township would recommend approval of the amendment. The meeting was simply a step in the process. He wished to make clear to the Planning Commission that at no time did the Township direct the applicant to return to the Commission, it was simply one of the options presented. It was left to Superior Lawn Care to decide the best course of action.

He then continued answering Commissioner Young's question. He stated that there are numerous violations, and that the applicant was present to seek approval, so that Superior Lawn Care's current violations will be in compliance.

Commissioner Petrasko asked Mr. Carlisle about his June 10, 2019 letter. In the letter, Mr. Carlisle describes 24 issues with the amended Site Plan. In addition, there are seven other requirements, which need to be addressed. He asked whether or not these issues have been resolved.

Mr. Carlisle responded to Commissioner Petrasko. During the course of numerous proceedings, the applicant had submitted a Site Plan to come before the Commission and amend the Conditional Use Permit. The Township reviewed it three or four times, finding each time the Site Plan was not in compliance, nor did it have the correct information. The Township felt from a staff level, it could not

move the applicant to get what was needed. It was therefore brought to the Planning Commission. The Township is aware of the deficiencies and violations. At least three times, the same letter was distributed to the applicant, outlining the Township's concerns and requirements. The applicant was not responsive to these letters. Township staff felt as though at that point, there was nothing more staff could contribute. It was therefore brought before the Planning Commission to get the Commission's input. Based upon that input, the Commission would then move for approval or denial.

Commissioner Williams added that the current use is too intense for the property.

Commissioner Harris concurred with Commissioner Williams. She stated there was a reason for the initial conditions which were set in place, when the Conditional Use Permit was approved. She was not willing to retract from what was initially approved.

Commissioner Petrasko then addressed the applicant. He asked whether any pesticides or liquid fertilizer are stored on the property, or if anything was mixed on the property.

Ms. Kasham, on behalf of Superior Lawn Care, answered, "No."

Chairman Payne then asked if Code Enforcement Officer Belinda Kingsley had anything to add to the discussion.

Ms. Kingsley referenced the report which she provided (Attachment 1). She explained she did not document every site inspection, but rather the major violations. Most of the major violations were reported by the applicant's neighbors. The chemical violations, which were referenced, entailed gas tanks installation without permits. These tanks were utilized to fill up vehicles on the site. They lacked any protective measures. They were offset from the side of the driveway, which was dangerous. The tanks were removed per the Township's request. The applicant was also selling propane tanks without the proper licenses. These were also removed.

Ms. Kingsley noted the biggest violation was the large bladder installed in the back of the property. The bladder was utilized to hold liquid calcium chloride for melting ice. There was no secondary containment. The applicant had not received approval for the bladder installation. It took a significant amount of time to remove it from the Site.

The items listed in the report are items which are in violation of the Site Plan. She stated there are many other violations not noted within the five page report.

Chairman Payne stated that it seems extremely clear cut, and he hoped that the applicant was receiving a clear picture from the Commission. The Township

Planning Commission was in full support of both professional staff and enforcement staff. The Commission suggested that the applicant come into full compliance with the original Conditional Use Permit, or at a future date, the Commission will take action to revoke the existing Conditional Use Permit.

Motion by Commissioner Williams, supported by Commissioner Harris, to direct staff to draft the necessary Resolution of Denial for CSPA 18-14 & CUP 18-14 Superior Lawn Care.

### **ROLL CALL**

**YES: HARRIS, PETRASZKO, WILLIAMS, YOUNG, KIBLER, RALPH, PAYNE**

**NO: None**

**ABSENT: None**

**ABSTAIN: None**

### **MOTION CARRIED**

#### **8.2 CSPA 18-26 State Street Lots 4-5-6** Submitted for Preliminary Site Plan Michigan Avenue & State Street, Section 28

Mr. Carlisle addressed the application submitted to develop the out lots in front of the strip mall on Michigan Avenue and State Street. It is in front of the Little Caesar's, Oscar's, et cetera. The site is fronting on Michigan Avenue. The plan includes four out lots, which are being proposed for development. The applicant sought approval for consolidating these four lots into one lot. This would allow for one comprehensive development. It is a 33,000 square foot mixed use facility. This includes a mix of restaurants, retail service, urgent care, et cetera. When the application was first submitted, there were two separate developments proposed – one on one out lot, and another on two out lots.

As Ms. Lirones noted, there is a Conservation Easement which bisects the Site. Mr. Carlisle and the applicant had discussions on whether or not this was the best way to develop the Site. During discussions between the applicant's and Township's professionals, it was decided that the trees most likely would not survive, without significant protection measures. Conversely, the Site was extremely disjointed and did not lend itself very well for development, in regards to the applicant's original Site Plan. It was then discussed to return to the Planning Commission, and ultimately, the Township Board, for an approval to develop the structure as one Site.

This would require the Conservation Easement to be lifted and moved elsewhere on site. As the applicant noted, the trees in the area were reviewed, and a majority

of the trees were deemed to be in poor to fair condition. If the Site Plan is not recommended for approval, the applicant will submit a Site Plan illustrating two separate developments. He informed that the Commission is not only to consider the development itself, but also to provide direction to the Board, in regards to lifting the Conservation Easement. If the Board does not lift the Conservation Easement and move it, there is no point in discussing the application further.

Mr. Carlisle reviewed the Site Plan and deemed that were some other minor items, but stressed the major issue was the Conservation Easement. From both land-use and layout perspectives, as well as a development perspective, this one-development Site Plan is much more comprehensive and high quality than the two-development Site Plan. The applicant has noted that three of the Heritage Trees will be protected. The applicant is taking additional measures for tree preservation as well.

Commissioner Kibler asked to where will the Conservation Easement be moved.

Mr. Carlisle responded that there have been discussions to move the Conservation Easement farther north. There is another out lot that is farther north on the Site near State Street. There is a detention pond located there.

Commissioner Kibler asked if this is in the northwest corner of the Site.

Mr. Carlisle confirmed that it is in the northwest corner. He informed that the final details still need to be addressed, based on the current discussion, as well as the Board of Trustees decision.

Commissioner Kibler asked if the three largest trees were, in fact, the trees that would be maintained.

Mr. Carlisle confirmed that they were the trees, and are referred to as Heritage Trees. He stated he could provide the exact numbers, if needed. He recited the size of the trees.

Commissioner Kibler added that those trees would have a decent chance of survival after the development was completed. He noted that sometimes compromises are required.

Mr. Carlisle agreed. He stated that was one of the conversations had with a Conservation and Wetland expert. Additional measurements need to be taken, in order to ensure the Heritage Trees are protected.

Commissioner Kibler noted he has seen trees die after initial construction.

Mr. Carlisle concurred. He reiterated that the Wetland Consultant found that additional measurements need to take place, but it could be handled.

Commissioner Ralph inquired about how many trees would be destroyed.

Mr. Carlisle responded that there are eighteen trees located in the Conservation Easement. Six trees are on the Invasive Species List. Eight trees are White Swamp Oaks and are considered Heritage Trees –of the eight, the applicant is able to preserve three of the eight.

Commissioner Harris commented that she is extremely concerned, in regards to what she deems a pattern. She has trusted in Conservation Easements to be something for perpetuity. She was tremendously concerned about the precedent being set by the Commission, if it were to move the Easement for the sake of the development.

Chairman Payne commented that he is not prepared to move forward with this application at this time. He requested to see what the alternative Site Plans entailed. He shared Commissioner Harris' concern and did not wish to see the trees destroyed. Additionally, he was not in favor of adding a Drive Thru on the Site. He was not in favor of the Ann Arbor-Saline Road Starbucks Drive Thru. He argued the trees could be integrated into the design. He stressed he would like to see the alternative Site Plans.

Mr. Carlisle responded to Chairman Payne's comments about the Drive Thru. He stated that this property is within a different Zoning District than the property on Ann Arbor-Saline Road. Ann Arbor-Saline Road is a Form-Based District, whereas the current property is C-2. Therefore, the Drive Thru is a Permitted Use and does not require Conditional Use Standards to be found. The Drive Thru will be reviewed and approved as part of the Site Plan.

Chairman Payne stated he understands, but still does not like the Drive Thru.

Commissioner Petrasko agreed with Ms. Lirrones regarding the trees' beauty. He stressed he would hate to see them destroyed. He urged the applicant to find a way to incorporate the trees into the Site Plan. He suggested the trees be in the plaza area. The medical office could be moved. There is no reason the medical office needs to be attached to the retail area. He told the applicant to leave the trees alone.

Chairman Payne noted that the Commission has not seen the alternative Site Plans. He was not certain whether or not the applicant had them at the meeting, but stressed he would like insight into the applicant's thought process.

Jim Fontichioro, applicant, noted that he and his team have worked closely with Mr. Carlisle. He stated that each time Mr. Carlisle suggested something different, the team worked extraordinarily quickly to accommodate the Township's recommendations. He explained how the original Site Plan was different, and Mr. Carlisle described the benefits of constructing a single building. The applicant agreed and spent a significant amount of money implementing the recommendations. Simultaneously, the applicant is in discussions with prospective tenants. The applicant stressed that the biggest issue is that an important prospective tenant requiring an answer, in regards to the outcome of the meeting. He stressed it would be extraordinarily problematic if the Commission postponed or denied the application. He noted he was not at liberty to disclose who his client is, but that the Township would benefit from this client's presence in the community.

Mr. Carlisle stated he had discussions with the applicant about changing the Site Plan from two structures to one structure. He noted that he approached the situation from a Site Plan perspective. He was also pursuing a compromise, in regards to preserving and replacing as many trees as possible. He stressed the applicant has followed every single direction the Township has given them. He therefore takes full responsibility for that direction.

Jim Fontichioro, applicant, reiterated that he and his team has done whatever the Township required of them. He stated he and his team are now in a difficult situation.

Chairman Payne apologized to the applicant regarding the current situation. He noted that there have been a number of instances where more steps were necessary for the applicant. He hoped the applicant had the original Site Plans. Chairman Payne informed the applicant that the decision would most likely be to postpone the application. He clarified that it was not a definitive "no" at this point.

Mr. Fontichioro asked how soon he could return to the Planning Commission. He wished to know on behalf of his prospective tenant.

Chairman Payne stated that Mr. Carlisle would work to facilitate getting the applicant before the Commission as quickly as possible.

Mr. Carlisle informed Mr. Fontichioro that he has two options: to return to the November 7, 2019 meeting; or to submit the original Site Plan with two developments on two Lots. Mr. Carlisle assured the applicant that the Township would move as quickly as possible, on the applicant's behalf.

Mr. Fontichioro stated that he has also been in correspondence with Mr. Fink, Township Attorney. He asked for clarification regarding the movement of the

Conservation Easement. He inquired if he was receiving a “No” from the Commissioners on the issue.

Chairman Payne clarified that many people on the Commission are most likely against moving the Conservation Easement. He stated that he personally would like to explore the alternatives. He is not predisposed to dissolving the Conservation Easement. He therefore believed it would be best for the applicant to consider his original Site Plan with two, separate developments. If it is something that is workable and aesthetically pleasing, while still preserving the trees, and thus, the Conservation Easement, it should be sufficient. He stated that the Commission appreciates the applicant cooperating and collaborating with the Township. He urged the applicant to please not view the current situation as prejudice against the development or developers. He explained that this is the first time the Commission has dealt with an issue of this nature.

Mr. Fontichioro noted that one aspect to consider is that the applicant’s forester deemed the trees on site to be in poor to fair condition. He stated that whatever is decided, the Heritage Trees may not survive the Development Pressure.

Chairman Payne acknowledged Mr. Fontichioro’s point. He stated he appreciates the applicant planting larger trees. The fact that the trees are within the Conservation Easement is what additionally complicates the issue. He referenced Commissioner Harris’ concerns. He stated that the Commission cannot haphazardly abolish the Conservation Easement, because there are many throughout the Township. If the Commission were to lift the Easement for one developer, it would create precedent for it to lift other Conservation Easements for other developers.

Mr. Fontichioro stated he understood Chairman Payne. He then asked Mr. Carlisle what the date of the next Planning Commission meeting.

Mr. Carlisle responded that it takes place on November 7, 2019.

Commissioner Kibler asked Chairman Payne if the Commission was in a position to choose between different proposals. He also asked if what the stance was regarding the Conservation Easement.

Commissioner Harris interjected, stating that there are mixed opinions regarding the Conservation Easement.

Commissioner Kibler added that it was all about priorities. He stated that he also likes to save trees, but that this is a nice development.

Mr. Fontichioro clarified that when Mr. Carlisle suggested he change the Site Plan from two developments to one development, Mr. Carlisle made several good points, with which he agreed.

Commissioner Harris noted that the irony of the situation lies in the fact that the Commission just approved and recommended to the Board of Trustees to add a Sustainability Plan. This piece focuses explicitly on trees and tree canopies.

Commissioner Kibler added that the trees were going to be replaced more than 100%, and that trees do grow over time.

Mr. Fontichioro stated careful consideration and planning has gone into selecting the trees which will be planted. This careful planning will ensure that these trees live for a long, long time. He noted that he understands the sensitivity regarding Conservation Easements. He asserted that they are supposedly permanent, but that things do change. He then posed whether or not the discussion would be taking place if the trees were all dead.

Commissioner Harris answered that she was not sure.

Commissioner Williams asked to be shown where the trees are on the Site.

Mr. Carlisle asked the applicant's landscape architect, George Ostrowski, to inform the Commission about the quality of the trees.

Mr. Ostrowski obliged. He described how the trees are White Swamp Oak. He then stated how he agreed with Mr. Carlisle, regarding the visibility of the project along Michigan Avenue and State Street. It provides a more cohesive look for the entire development. It creates a better façade along Michigan Avenue. The plaza area, where the building bends, becomes a much more useable area. If the applicant were to have two separate developments, it quickly becomes disjointed with the long, linear island, required to preserve the trees. In terms of the trees' conditions, the Township ordinance outlines the tree survey requirements. These trees consist of fair, poor, and good condition. Sometimes, the tree may look healthy, but is hollow on the inside. He stated that if anyone has experience with Silver Maples, they would be familiar with this situation.

He then added that the proposal moves the Conservation Easement, as Mr. Carlisle indicated, to Lot 1. This is adjacent to the Detention Basin, on the Site for the Walmart property. The trees are out of the way of any future setback regarding any upcoming development of Lot 1. It creates a park-like setting for these trees. In consultation with the applicant's forester, they do not agree that these trees will thrive in the island setting. The applicant would, however, like to attempt to save as many trees as possible. If the trees die, they will be replaced by the applicant post construction—either in the Conservation Easement, or elsewhere On Site. Swamp White Oaks are trees that can handle urban conditions. They are prevalent in urban settings, such as streetscapes.

Bill Orlando, Property Manger noted he did not realize the extent of the Commission's responsibilities, in regards to preserving quality of life. He described the owner, Basim Binno, who owns and leases his properties. He owns 96 stores, and operates at 1.8% vacancy. He asserted that the company's investment dollars would most likely be utilized on its Clarkston stores, if a decision was not made quickly. The company has two different areas it is looking to develop. It may return to this project at a later date, and it may not.

Commissioner Harris stated that was fine. She then addressed Commissioner Kibler, adding that she has real concerns because the Commission recently moved another Conservation Easement. She noted that this is starting precedent. Conservation Easements were intended to be long term. She has concerns proceeding, if this pattern is to continue.

Mr. Orlando articulated that the Township will not be losing any of the Conservation Easement, because the trees would be replaced foot for foot. The Heritage Trees would, however, be lost initially.

Commissioner Harris responded what the Township is also losing is a continuous habitat for wildlife. If the Easement is moved, it would defeat part of its purpose.

Chairman Payne noted that most of the wildlife was most likely destroyed when Wal-Mart was constructed.

Chairman Payne complimented the proposed structure's aesthetics. He admired the plaza arch and where the medical office intersects the tree line. He suggested the applicant move the medical office slightly to the west. A faux-façade would maintain the building length. This would open up the corner to become some sort of plaza, which would also allow most of the trees to be undisturbed.

Mr. Carlisle interjected that a multitude of options were considered. Every Site Plan issue mentioned was confronted with the Conservation Easement issue. If the Conservation Easement concern is the highest priority, the result will be an underwhelming development on an extremely pertinent, highly visible corner of the Township. His concern was even if the developments were constructed where the Commission proposed, they still may not survive. His discussion with the applicant entailed a more comprehensive approach. He wished to save as much of the Conservation Easement as possible, while still creating the best quality development. He suggested that the applicant build closer to Michigan Avenue, which was not required. The applicant obliged. Mr. Carlisle suggested the applicant utilize higher quality materials, which was not required. The applicant obliged.

In regards to the Conservation Easement, he requested the applicant to replace the trees area for area. Additionally, he requested that more trees be planted in another area On Site, but not within the Conservation Easement. These trees must be protected from future development. Furthermore, each tree removed needed to be replaced at a one to one ratio. As a result, there would be three to four times as many inches of trees when the development is complete, than if the Conservation Easement remained. He does not like removing trees, nor does he like the precedent the Commission would set if the Conservation Easement is moved. He did, however, take a holistic approach to this application.

He strived to consider the entire picture, not just from an environmental or developmental perspective. He felt as though this concept was a good compromise. The Conservation Easement would arguably be in a better position than it originally was. He acknowledged that the consequence was losing five, significant Heritage Trees. If the applicant returns with a different Site Plan, entailing split parcels, he cannot guarantee the applicant will return with the same quality of development. In hindsight, he acknowledged it may have been best to bring the applicant to the Commission six months prior.

Commissioner Williams stated that she likes the design, particularly the plaza area. She also appreciated the higher quality materials.

Chairman Payne asked where the replacement Conservation Easement would be located. He also inquired about if the applicant returned with the original Site Plan, would it simply have the bare minimum, or it would it be the same, high quality? He assumed based on Mr. Fontichioro's statements, that it would be high quality.

Mr. Fontichioro stated that as of right now, the applicant had some idea of who would be the most meaningful and significant users. If the applicant informs the prospective tenant that the application was not approved, the development may be utilized in a completely different way. He stated if the Commission could approve the application this evening, it would be immensely helpful.

Commissioner Kibler asked if the new Conservation Easement was in fact larger and contained more trees than the original Easement, would that not be more amenable?

Mr. Fontichioro stated the new Conservation Easement would be more like a Wood Lot. He noted that the original Easement seemed to be part of a fence line, at one point in time. It does not seem planted.

Mr. Fontichioro stated it could be whatever shape the Commission liked. What is being proposed is a significant, high quality development. The applicant has tried as much as possible to accommodate the Township's concerns, related to the

development's aesthetics, and the Conservation Easement. The applicant has not disturbed any trees unnecessarily. He has collaborated with Mr. Carlisle on a multitude of occasions to determine the best placement for the Conservation Easement.

Commissioner Petrasko asked why the medical office needed to be so large. He inquired about whether or not the applicant could make it smaller than 10,000 square feet. He referenced Chairman Payne's notion regarding moving the medical office closer to State Street. He argued this would allow the Conservation Easement to be preserved. Commissioner Petrasko stated he did not understand why it needed to be attached to the retail portion.

Mr. Orlando answered that the prospective tenant requested Michigan Avenue frontage. The tenant most likely would not be interested in a State Street address.

Mr. Ostrowski stated there was another Site Plan element which was not discussed. He referenced the berm along State Street. He noted there were no berms because rain gardens were implemented. In addition to trying to preserve the trees, the applicant has gone above Township requirements for pretreating storm water. He noted that the applicant has provided rain gardens throughout the Site.

Bill Charid, the applicant's architect, suggested the Commission allow a Preliminary Site Plan Review earlier in the process. He was under the assumption that the Plan was satisfactory, until the meeting.

Chairman Payne noted it is always an option. He then asked Mr. Carlisle if he considered moving the medical office to the west. This would allow the prospective tenant to maintain Michigan Avenue frontage.

Mr. Carlisle stated he was uncertain, and that the main objective was to preserve as many trees as possible. He noted the applicant is willing to cooperate with the Planning Commission as much as possible and amend the Site Plan in any way. He stressed the main concern is if the Commission is unwilling to move or lift the Conservation Easement, it completely changes the layout.

Commissioner Petrasko stated he found it interesting that a medical facility would care whether or not its address was on Michigan Avenue or State Street.

Mr. Carlisle responded that many retailers place stake in their mailing address and frontage.

Commissioner Williams asked what the difference in the Conservation Easement square footage would be, in regards to the original Easement and the proposed Easement.

Mr. Fontichioro responded that it would be replaced foot for foot, if not more. It would be approximately 7,558 square feet for the new Conservation Easement.

Commissioner Kibler asked whether or not a group of trees preserved with in the parking lot would be considered part of the Conservation Easement.

Mr. Fontichioro answered that they are not.

Commissioner Williams stated they are in discussion about a small area.

Mr. Fontichioro indicated that across the street was a huge Conservation Easement.

Commissioner Harris stated she is not comfortable with quickly reviewing the Plan. She felt as though pressure was being placed on the Commission.

Chairman Payne stated he did not like the original Site Plan with two developments.

Mr. Carlisle stated that the Conservation Easement was the main obstacle throughout the planning process. He noted that based upon the By-Right Zoning, that plan would be approved, if it met the minimum requirements. He explained that is why he took a more holistic approach to the situation.

Chairman Payne agreed the single development Site Plan looks satisfactory. There might be some flexibility on the Conservation Easement, if additional trees can be preserved. He reiterated shifting the medical office. He turned to the Planning Commission, stating the applicant has acted in good faith. He noted in the future, applicants should be brought before the Commission sooner, if Conservation Easements are involved. If the Commission were to deny, negating a great deal of work the applicant has done with the Township, it would reflect poorly on the Township.

Commissioner Kibler noted that the area of discussion was two tenths of an acre.

Mr. Carlisle accepted responsibility for not having the applicant meet with the Commission sooner. He would like the Commission to consider the Site Plan on its merit, not the timing.

Chairman Payne stated he likes the Plan, but is concerned about moving the Conservation Easement and killing a lot of trees. He stated that the island containing the three Heritage Trees could be expanded south. It could also be widened to save more trees. Moving the medical office is another option.

Eliminating the Drive Thru would provide additional parking. He urged the applicant to make another attempt to save the Conservation Easement.

Mr. Fontichioro stated he has no objection to continuing to work with Mr. Carlisle. He stressed that it would be extremely helpful if the Commission could approve the Plan. This would allow the applicant to secure its prospective tenant.

Chairman Payne responded the Commission would most likely postpone, with some additional direction.

Mr. Fontichioro asked if the applicant will have to wait until November 7, 2019.

Chairman Payne stated he did not think a postponement was too unreasonable. This would provide the applicant feedback, and the Commission more time.

Commissioner Kibler asked if the Commission would open to some proposal for modifying the Easement, or not at all.

Chairman Payne clarified that someone would need to make a motion, with clear guidance for the applicant.

Commissioner Williams stated she might have a problem, if it were a large area, but it is not. She noted that the trees and the Conservation Easement are two separate issues.

Mr. Fontichioro added that the Conservation Easement could be placed in the continuous green belt near the Wal-Mart lot. He noted that the current Easement would be landlocked, no matter the development. The continuous belt may be more advantageous for wildlife.

Commissioner Williams asked if the trees and the Conservation Easement are two separate issues.

Chairman Payne responded that they could be viewed that way. He noted there is a range of issues. First, the Commission could decide it does not wish to remove the Conservation Easement. This could result in the applicant submitting a lesser quality Site Plan. On the other hand, the Commission could decide the current Site Plan is satisfactory. This would result in the Conservation Easement being moved. The third, middle option would be to agree to moving the Conservation Easement, but the applicant must work with professional staff to preserve more trees. The applicant would also need to provide a larger buffer around the trees through some Site Plan changes. This may improve the chances of the trees' survival.

Commissioner Kibler asked if the “X’s” on the Site Plan represented the trees that would be removed.

Mr. Fontichioro stated that the “X’s” do represent the trees. He added that every tree on the entire property has been identified.

Chairman Payne explained that if the building were to be shifted slightly, it would preserve more of the trees. He then began asking the Commissioners their preferred option.

Commissioner Ralph indicated he preferred the third option. He wished that the applicant would work with staff to move the application forward.

Commissioner Kibler was not against moving the Conservation Easement, as well as flexibility with the applicant.

Commissioner Harris noted that there needs to be a balance. She stated homes in subdivisions are built around trees. She needs to see a development that speaks to Sustainability.

Commissioner Williams was in favor of the third option. She has no qualms moving the Conservation Easement, so that it is continuous with the adjacent green belt. The more trees that can be saved, the better.

Commissioner Petrasko stated that he fell in love with the trees on State Street. He would like to see the applicant work around them.

Commissioner Young indicated he was in favor of the third option as well.

Chairman Payne noted the majority was for option 3. Essentially, the Commission will postpone the decision, as well as direct the applicant to continue working with Township staff. He encouraged the applicant to return with alternative Site Plan designs, in order to preserve more trees. He reiterated his earlier suggestions, regarding moving the medial office and Drive Thru. He suggested Mr. Carlisle have an arborist examine the trees’ health.

**Motion by Commissioner Williams, supported by Commissioner Young to postpone action on the Preliminary Site Plan for CSPA 18-26 State Street Lots 4-5-6 for the following conditions:**

- 1. Provide additional tree protection measures as directed by ECT**
- 2. Provide Heritage Tree mitigation as required by Section 14.08.F. Provide additional replacement trees or provide payment to the Township Tree Fund.**

- 3. Update parking calculations based on Section 12.05 as noted above.**
- 4. Planning Commission to consider waiver from loading space requirement.**
- 5. Provide two (2) additional drive-through stacking spaces.**
- 6. Review of site access and circulation by the Township Engineer and Fire Department.**
- 7. Revise Landscape Plan.**
- 8. Provide dumpster enclosure detail.**
- 9. Address Planning Commission comments, regarding flexibility of Conservation Easement and preserving Heritage Trees.**

#### **ROLL CALL**

**YES:** KIBLER, WILLIAMS, HARRIS, PETRASZKO,  
YOUNG, RALPH, PAYNE

**NO:** None

**ABSENT:** None

**ABSTAIN:** None

#### **MOTION CARRIED**

#### **9.0 Planner's Report**

Mr. Carlisle stated he will learn from this situation. He took responsibility for the issues discussed. He noted that Wacker is returning to the Township Board. He will report back with the details of the Board meeting.

#### **10.0 Chairperson's Report**

Chairman Payne stated that the Commission is usually in agreement with professional staff. He suggested that the Commissioners begin attending more of the planning administrative meetings. He requested a report from Mr. Carlisle from said meetings. This would assist the Commission in making difficult decisions.

#### **11.0 Commissioner's Report**

Commissioner Ralph clarifies that no more than three Commissioners can attend planning administrative meetings.

#### **12.0 Public Comment II**

Darcy Berwick, 2154 McCormick Drive, asked for clarification from Mr. Carlisle, regarding Wacker. He reiterated that his only knowledge regarding Wacker is that the company is returning to the Board of Trustees on October 23, 2019.

Christina Lirones, 151 E. Textile Road appreciated the thoughtful discussion. She agreed with Commissioner Harris. She informed that the Easements were carefully chosen. She referenced Wal-Mart's construction. Trees were intentionally preserved throughout the process. She argued the Conservation Easement is in a critical area. She referenced Pittsfield Glen. She stated that moving that Conservation Easement resulted in a dry, dead patch of trees. She does not want the Conservation Easement moved.

### **13.0 Adjournment**

**Motion by Commissioner Ralph, supported by Commissioner Young, to adjourn the meeting.**

Chairperson Payne adjourned the meeting at 8:41 p.m.