

7:00 o'clock p.m. Chairperson Martinek called the meeting of the Planning Commission to order.

MEMBERS PRESENT: Baron, Bland, Buechler, Crawford, Martinek, Mills, Rossow

MEMBERS ABSENT: NONE

ALSO PRESENT: Jorja Baldwin, Kristy Jones

VISITORS: Kevin Bunge, Tim Lozen, Greg Sparling, Allen Francis

Motion by Mills, supported by Baron, to approve the agenda as printed and posted.
Vote, Unanimous **MOTION APPROVED**

Motion by Rossow, supported by Martinek, to approve the minutes from 5/27/14 as printed and posted.
Vote, Unanimous **MOTION APPROVED**

REPORT FROM TOWNSHIP BOARD REPRESENTATIVE: Rob Crawford reports:
Construction has started on the new Township Municipal Building. Currently they are removing unsuitable soil and replacing it with clay from the I-94 project. Good news, the Township revenue sharing is increasing due to an increase in population and sales tax from retail.

REPORT FROM ZBA REPRESENTATIVE: Bob Buechler reports:
There was a request for a Class A Designation and setback variances as well as a lot split off of Rialto Court on the lake. It was granted.

CITIZENS WISHING TO ADDRESS THE BOARD

Tim Lozen, attorney and represents Ruby 07 LLC; The Zoning Ordinance in accordance with the Zoning Enabling Act says if a plan meets the requirements, it must be approved. All of the township reviewers (ie: Planner and engineer), have signed off and said that Ruby 07 has meet the standard. Some “fuzzy” concerns have been made regarding safety but that is not clearly defined in your ordinance. We feel as a matter of law, this must be approved, if there is specific requirement not being met in the ordinance then that needs to be made. No argument has even been made by the Planning Commission that they can take to the Zoning Board of Appeals. As for the ownership of the property, Rubloff got into financial trouble, left the property in poor shape. The bank filed for receivership and then the receiver sold to the party of Ruby 07 LLC free and clear of all errors from KM Port Huron LLC/Rubloff. Iron Point (a group out of Washington DC), is the company that oversees Ruby 07 LLC and what they do is buy distressed properties (at a bargain price) and develop them. Mr. Lozen showed the Planning Commission a copy from the Register of Deeds showing ownership. They want to develop this and do it right.

Allen Francis, attorney for KM Real Estate LLC (Mr. Sparling, land owner to the North); In response to Mr. Lozen; I disagree with his statement that the engineer’s and planner’s approval is standard for Site Plan Approval, that is not all that is needed or we wouldn’t be here. One of the checks of the Zoning Ordinance and Planning Commission is to provide public health and safety to the Township. These safety concerns are not “fuzzy” but very real concerns for citizens who live in this community. I personally disagree with the parking calculations and feel there is no “carve-out” but the real concern is safety in this parking lot.

Tim Lozen, in response to Mr. Francis; All of the objective criteria in the zoning ordinance are there for public health and safety concerns if you deny based on vague concerns of safety (congestion of the parking lot) you have left my client with no rights to develop the property and taken the property. There has to be some objective standard in regards to the ordinance that you have to address that we could appeal. They are not standards for congestion in the ordinance. If there is a concern that the township has become more congested then the ordinance should be amended.

Kevin Bunge, engineer for the project; The battle we have been waging has been parking stalls and ownership. Ownership has been put to rest. The “meaningless parking calculations” have been met. When I say “meaningless” I am referring to a standard of 484 stalls, that I feel is far beyond what is appropriate for this development. We have a 30 percent higher parking stall ratio than what was required of the development to the North. Issue of public safety then came up and I offered to add three speed tables that have been proven to reduce speed by 9 to 10 miles per hour according to Institute of Transportation Engineers and Federal Highway Administration. In terms of congestion, we have also reduced conflict on the main isle (or thoroughfare) by

reconfiguring the parking lot. Safety and congestion will definitely be better in this parking lot after this develop occurs there.

Greg Sparling, owner of KM Real Estate LLC; People go around speed bumps to avoid them. Going around the speed tables will just add to the problem in the parking lot instead of providing a solution.

UNFINISHED BUSINESS:

ITEM #2: SITE PLAN APPROVAL, West of 24th Avenue/North of Krafft Road / 74-20-021-3004-000:

APPLICANT: Ruby 07 Port Huron LLC, 1133 Connecticut Ave NW, Suite 800, Washington, DC 20036
PROJECT: Fort Gratiot Retail
REQUEST: Site Plan Approval
LOCATION: West of 24th Avenue/North of Krafft Road
PARCEL #: 74-20-021-3004-000

APPLICANT PRESENTATION:

BOARD DISCUSSION:

Martinek; We have a full board and have heard the presentation many times. I would like to open this up now to board discussion.

Crawford; If anyone has a concern that this does not meet our ordinance, I would like to hear it.

Buechler; I don't like it, I have concerns why they would build a 6,000 sq. ft. new development when there is 13,000 sq. ft. of unused space already existing. I feel it will create a lot of congestion and has far too much unfavorable history. I feel "hamstrung" by our ordinance and hope that Ruby 07 LLC will stand by what they say.

Martinek; I appreciate what your concerns are but we do need to point out if there any concerns with this plan that it is not in direct accordance with our ordinance.

Baron; Question for Mr. Lozen, does Ruby 07 LLC own any interest in KM Port Huron LLC or Rubloff Development?

Lozen; No, they do not.

Baron; I have tried to find substantial evidence to support my "gut feelings" of safety concerns and I have failed to find them. The applicant has provided some relief with the speed tables. I have to subscribe to our ordinance and the constitution.

Martinek; Any other members wish to address any concerns.

Crawford; There would have to be several conditions if approval was to be granted. We have all struggled with this Site Plan.

Buechler; Should we address stop signs in the parking lot.

Crawford; Could be added with the speed tables.

Motion by Crawford, supported by Bland, to approve with conditions 1. Montgomery and BMJ conditions set forth in reports dated 1/27/14 and 2/17/14 (respectfully), 2. Alternate B Landscape and Parking Plan from CES dated May 2014, 3. South West Parking area be repaired and repaved, 4. Three speed tables be added in front of the existing development, the site plan for West of 24th Avenue/North of Krafft Road (Fort Gratiot Retail, 74-20-021-3004-000)

Roll Call Vote, 6 / 1 **MOTION APPROVED**

Crawford; This has not been an easy decision and he hopes the board will look at possible amendments to our ordinance to avoid similar situations.

Mills; He would like to add a comment, that he would hope there is truth that there is no connection to Rubloff because of their disregard to our community.

Motion by Baron, supported by Martinek, to adjourn. Time, 7:38 P.M. Vote, Unanimous **MOTION APPROVED**