

**MUSKEGON CHARTER TOWNSHIP  
PLANNING COMMISSION MINUTES  
PC-19-5  
May 13, 2019**

**CALL TO ORDER**

Chairperson Bouwman called the meeting to order at 7:00 p.m.

**ROLL**

**Present: Hower, VandenBosch, Singerling,  
Bouwman, Frein, Borushko**

**Absent: None**

**Excused: Hughes**

**Also Present: Planning / Zoning Administrator Brian Werschem,  
Recording Secretary Andria Muskovin and 9 guests**

**Approval of Agenda**

Motioned by Singerling supported by Borushko to amend Item #6 on the Agenda to site plan review not public hearing special use permit. Motioned by Singerling supported by Borushko to approve the May 13, 2019 agenda.

Motion carried.

**Approval of Minutes**

Motioned by Hower supported by Singerling to approve the minutes of April 8, 2019 as presented.

Motion carried.

**Communications**

**Board Minutes for April 1, 2019 & April 15, 2019**

**Staff Report acknowledged**

**Unfinished Business - None**

**New Business –**

**1. PC 19-08 Public Hearing - Zoning Map Amendment Ordinance 19-3**

**Name: Avery Menefee IV + 47 additional properties**

**Address: 1869 Ada + 47 additional properties**

**PP#: 61-10-404-000-0297-00 + 47 additional properties**

**Zoning: Neighborhood Commercial**

**Purpose: Rezone 48 Neighborhood Commercial (C1) parcels with residential homes upon them to Single Family Residential (R1) in conformity with the township Master Plan.**

Planning / Zoning Administrator Werschem explained that there has been an ongoing issue with an overly expanded Neighborhood Commercial zoning district south of Apple Ave. There are a lot of parcels that are quite some distance from the Apple Avenue corridor that historically have always had residential homes upon them that some time ago were rezoned to neighborhood commercial (C1).

These homeowners have issues when buying and selling these properties in acquiring mortgages and insurance because these are considered pre-existing non-conforming residential homes in a neighborhood commercial zoning district. These properties are also master planned as residential.

Mr. and Mrs. Avery Menefee IV were the latest in a significant number of property owners having banking and insurance issues with their properties and have requested their parcel be rezoned back to Single Family Residential (R1). However, with the extent of the issues occurring in this area we felt that it would be best to look at as many affected parcels as possible to correct this upon the south side of Apple Ave.

Zoning Map Amendment Ordinance 19-3 was created and scheduled for a public hearing. The public hearing was noticed in the Muskegon Chronicle on April 14, 2019 and all property owners within 300 feet of all 48 parcels were sent notices on April 10, 2019.

Chairman Bouman opened the Public hearing at 7:06 P.M.

Published on 4/14/19. Two inquiries just wanting explanation. Chairman Bouwman explained how the zoning is now and how it will be with the change. Stated that it will be a benefit for the residents and that is also goes along with the Master Plan. It is better for selling and refinancing. Avery Menefee IV 1869 Ada Ave Muskegon MI stated that it will help with financing to have the zoning changed.

John Ramones 1809 Ada Ave Muskegon MI questioned when the zoning was changed. Brian Werschem stated that it was early 1990's. Mr. Ramones questioned why we changed it. Chairman Bouwman explained why it had changed and stated that the PC would recommend to the Board to make the change, but that the Board is who makes the final decision. It would be at a second meeting in

approximately 30 days. Chairman Bouwman also stated that as it is now if a commercial business purchased one of the parcels, it could request a rezoning back to commercial.

Motion by Singerling seconded by Hower to close the public hearing. Motion passed.

Motion by Singerling seconded by VandenBosch to recommend approval of Ordinance 19-3 to Rezone 48 Neighborhood Commercial (C1) parcels with residential homes upon them to Single Family Residential (R1) in conformity with the township Master Plan to the Muskegon Charter Township Board of Trustees.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein, Borushko**

Nays: **None**

## **2. PC 19-09 Public Hearing - Ordinance 19-1 amending Section 58-63 "Kennels"**

**Purpose: Amend Section 58-63 "Kennels" of the Muskegon Charter Township Zoning Ordinance to change the authorizing bodies and process for approvals for kennels.**

Planning / Zoning Administrator Brian Werschem explained that this is a public hearing to amend 58-63 of the Muskegon Charter Township Code of Ordinances to remove the building official as the sole individual deciding the location of kennels (except where specifically permitted in a zoning district). The request is to alter the language and make it a special use permit requiring Planning Commission review, special use standards be met and Township Board approval.

Chairman Bouman opened the Public hearing at 7:12 P.M.

Steven Sheldon, Muskegon Charter Township building official is uncomfortable making the decision as the Ordinance states. He would like to have it where the PC and Board will have to approve as a Special Use permit.

Motion by Hower seconded by VandenBosch to close the public hearing. Motion passed.

Motion by Singerling seconded by Borushko to recommend approval to the Muskegon Charter Township Board of Trustees of ordinance 19-1 to amend section 58-63 as follows:

Except as specifically permitted in the zoning district no kennel shall be erected, maintained or operated in the township unless first authorized by ~~the building official~~ **the Township Planning Commission and Township Board as a special use in accordance with Article II Special Uses, sections 58-52 through section 58-59 of the Muskegon Charter Township Code of Ordinances**. In considering such authorization, the ~~building official~~ **Planning Commission and Township Board** shall **additionally** consider the following standards.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein, Borushko**

Nays: **None**

### **3. PC 19-10 Public Hearing – Ordinance 19-4 amending Sections of 58-08, 58-09 and 58-11 “In General”**

**Purpose: Amend Section 58-08(e), 58-8(h), 58-8(i), 58-9(a) and 58-11(a) of the Muskegon Charter Township Zoning Ordinance regarding the use, repair, improvement, completion and restoration of nonconforming land, buildings and structures to correct and better define the use, repair, improvement, completion and restoration of nonconforming land, buildings and structures as well as extend the timeframe preexisting uses must become conforming.**

Planning and Zoning Administrator Brian Werschem explained that along with the reasons stated for PC-19-08 there exists within Sections 58-08, 58-09 and 58-11 improper language as well as conflicting language regarding the use, repair, improvement, completion and restoration of nonconforming land, buildings and structures.

We recently ran into a legal issue regarding these sections and were advised by legal counsel to correct the conflicting language within the ordinance. The substance of the ordinance does not change, only the removal of conflicting language.

Also the Supervisor has asked the planning commission to consider extending the time frame that a pre-existing non-conforming residential use in a commercial zone must become conforming due to vacancy from 90 days to 180 days.

Chairman Bouman opened the Public hearing at 7:16 P.M.

Published on 4/14/19 with no responses, no inquires.

Brian Werschem explained the three changes. He stated that they

were advised by legal counsel to make the changes.

Motion by Hower seconded by VandenBosch to close the public hearing.  
Motion passed.

Motion by Singerling seconded by Hower, to recommend approval of Ordinance 19-4 to the Muskegon Charter Township Board of Trustees to amended Section 58-08(e), 58-8(h), 58-8(i), 58-9(a) and 58-11(a) of the Muskegon Charter Township Zoning Ordinance as follows:

Sec. 58-8. - Use of nonconforming land, buildings and structures.

- (e) If the nonconforming use of any building, structure, lot or parcel of land is discontinued through vacancy, lack of operation or use, or otherwise for a continuous period of ~~90~~ 180 days or more, then any future use of such building, structure, lot or parcel of land shall conform to the provisions of this chapter; provided, however, that a seasonal nonconforming use of any building, structure, lot or parcel of land may be reestablished as long as the seasonal vacancy or lack of operation does not at any time exceed nine consecutive months.
- (h) ~~Notwithstanding any other provisions of this chapter, preexisting single- or two-family dwellings and their accessory buildings located in a district which does not permit the same can be expanded, remodeled or rebuilt.~~
- (i) Notwithstanding any other provisions of this chapter, if the use of any preexisting nonconforming building or structure as a single- or two-family dwelling has been discontinued through vacancy for a continuous period of ~~90~~ 180 days or more, the use may be continued or resumed per ~~building official~~ Zoning Administrator approval.

Sec. 58-9. - Repair, improvement and completion of nonconforming buildings and structures.

- (a) ~~Notwithstanding any other provisions of this chapter,~~ Preexisting single- or two-family dwellings and their accessory buildings located in a district which does not permit the same can be repaired or reinforced.

Sec. 58-11. - Restoration and use of damaged nonconforming buildings and structures.

- (a) ~~Notwithstanding any other provisions of this chapter,~~ Preexisting single- or two-family dwellings and their accessory buildings located in a district which does not permit the same can be reconstructed, repaired, reinforced or restored.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein, Borushko**

Nays: **None**

#### 4. PC 19-11 Site Plan

**Name:** MPLX Terminals  
**Address:** 1070 Holton Road  
**PP#** 61-10-008-100-0038-00  
**Zoning:** Commercial / Industrial (M)

**Purpose:** Parking area for trucks and office building

Planning and Zoning Administrator Brian Werschem explained that MPLX Terminals, also known as Marathon Petroleum Company, on Holton Road would like to add a small office building and tractor trailer parking area. These additions to the site are an expansion of their existing use and requires a simple site plan approval.

***The following standards of Section 58-486 for Site Plan Approval were reviewed by the Planning Commission.***

(b) Each site plan shall conform to all applicable provisions of this chapter and the following standards:

- (1) All elements of the site plan shall be designed to take into account the site's topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

*PC determined the overall topography on this large lot is altered so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.*

- (2) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

*PC determined that very little actual landscaping is being removed and some new landscaping is being added to enhance the look of the property.*

- (3) Storm water and erosion protection.

- a. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the public storm water drainage system, or nearby bodies of water.

*PC determined that no adverse effects to neighboring properties, the public storm water drainage system, or nearby bodies of water will occur as the change in storm water is being managed onsite.*

- b. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust.

*Since the project is within 500 feet of a waterway a soil erosion permit will need to be acquired from the County. This permit will assure this standard is met.*

- c. The use of detention/retention ponds may be required.

*PC determined that detention / retention ponds are necessary to accommodate changes to storm water runoff based on roof surfaces and new asphalt surfaces. PC determined the detention / retention ponds proposed are adequate.*

- d. Surface water on all paved areas shall be collected at locations so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water that may interfere with this traffic.

*PC determined that surface water will not obstruct the flow of vehicular or pedestrian traffic or create standing water that may interfere with this traffic.*

- e. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

*PC determined that this project, as proposed, will have no effect on the natural drainage such as swales, wetlands, ponds, or swamps.*

- f. Catch basins or other protective measures may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural

drainage system. Other provisions may be required to contain runoff or spillage from areas where hazardous materials are stored, or proposed to be stored.

*All hard surface areas are sheet draining to detention / retention ponds for leeching. PC determined that this protective measure is adequate for this project.*

- g. Compliance with the requirements of [section 58-487](#) shall also be demonstrated.

*Section 58-47 provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month, equal to about 25 gallons or 220 pounds, and which require site plan review under the provisions of this article or other township ordinances. This project will produce no hazardous materials so this section does not apply.*

- (4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

*PC determined that the landscape plan and layout does provide for this privacy. No dwelling units located therein.*

- (5) Every structure or dwelling unit shall have access to a public street, unless otherwise provided in an approved PUD.

*PC determined that public street access is existing and being improved.*

- (6) A pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system shall be provided.

*PC determined the pedestrian circulation system is not required.*

- (7) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.



*PC determined that the site plan accommodates safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site and the drives, streets and other elements are designed to promote safe and efficient traffic operations within the site and at its access points.*

- (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.

*PC determined this is existing.*

- (9) All streets shall be developed in accordance with [chapter 42](#), subdivisions and the county road commission specifications.

*PC determined this is existing*

- (10) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the fire and police departments.

*PC determined that the building is arranged to provide emergency vehicle access since it was approved by the Fire inspector.*

- (11) The site shall be adequately served by water supply and sewage collection and/or treatment.

*The applicant is required to connect to the City of North Muskegon Water System and has gotten preliminary approval by the Muskegon County Health Department for septic. PC determined this requirement is met.*

- (12) All loading or unloading areas and outside storage areas, including refuse storage stations, shall be screened from view of the street and/or adjacent properties by a vertical screen consisting of structural or plant materials.

*Small refuse storage area proposed with screening. PC determined this requirement is met.*

- (13) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

*PC determined all exterior lighting proposed remains onsite and no light trespass is occurring onto neighboring properties.*

- (14) Site plans shall conform to all applicable requirements of state and federal statutes and approval must be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

*PC determined this should be a condition of approval.*

Motion by Singerling seconded by Hower to approve the site plan for MPLX Terminals whose address is 1070 Holton Road, parcel number 6 1-10-008-100-0038-00 based on the standards of Section 58-486 being met contingent upon all federal, state, county and local ordinances and regulations being met.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein**

Nays: None

**5. PC 19-12 Public Hearing – Special Use Permit**

**Name: B56 LLC**  
**Address: 1635 E. Apple Avenue**  
**PP#: 61-10-402-000-0194-00**  
**Zoning: Neighborhood Commercial (C1)**

**Purpose: Authorize sales of recreational vehicles including outdoor display.**

Planning and Zoning Administrator Brian Werschem explained that B56 LLC, also known as M46 Power Sport and Marine, is proposing to expand their operation to include this site. The retail sales portion of their operation is a permitted use upon this site. They propose to sell their recreational vehicles (RV) at this location as well with outdoor display of RV's.

There is no change of site plan so staff believes only the issuance of a special use permit with outdoor display is required. However, staff required a full site plan be submitted for PC to adequately review the special use permit application. He ask that particular attention be paid to the display of RV's near Apple Avenue, discuss and amend as necessary to assure the safety of the motoring public.

The request is a special use permit. Therefore, the general standards for making determinations for a special use permit must be reviewed and met. Additionally, specific conditions should be considered to protect the interests of the neighborhood and the Township.

Chairman Bouman opened the Public hearing at 7:25 P.M.

No responses or inquiries to posting.

Bryan Green 225 Horton Rd Muskegon MI would like to have boats, ATV's and snowmobiles on an outdoor display. Bryan informed the PC that there is no issue with line of site when asked by Joe Singerling.

Motion by Singerling seconded by VandenBosch to close the public hearing. Motion passed.

The Special Use standards were reviewed.

**Sec. 58-57. - General standards for making determinations.**

The planning commission and township board shall, upon separate occasions, review the particular facts and circumstances of each proposal in terms of the following standards and shall find adequate evidence showing that the proposed use:

- (1) Will be harmonious with and in accordance with the general objectives or with any specific objectives of the general plan or current adoption.

*PC determined that recreational vehicle sales along the Apple Ave. corridor is harmonious with and in accordance with the general objectives or with any specific objectives of the general plan or current adoption.*

- (2) Will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.

*PC determined that this is designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.*

- (3) Will not be hazardous or disturbing to existing or future neighboring uses.

*PC determined this will not be hazardous or disturbing to existing or future neighboring uses.*

- (4) Will be a substantial improvement to property in the immediate vicinity and to the township as a whole.

*PC determined the allowable use in the corridor is a substantial improvement to property in the immediate vicinity and to the township as a whole rather than a vacant, deteriorating building.*

- (5) Will be served adequately by essential public facilities and services; such as highways, streets, police and fire protection, drainage structures, refuse disposal, or schools; or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide adequately for such services.

*PC determined that essential public services and facilities shall be able to be provided under the proposed use. This plan has been reviewed and approved by the Fire Inspector as well.*

- (6) Will not create excessive additional requirements at public cost for public facilities and services and will not be detrimental to the economic welfare of the township.

*PC determined that no additional requirements at public cost for public facilities and services are anticipated.*

- (7) Will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.

*PC determined that the use will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare or odors.*

- (8) Will be consistent with the intent and purposes of this chapter.

*PC determined that recreational vehicle sales and retail services is consistent with the intent and purpose of special uses in the neighborhood commercial zoning district.*

Motion by Singerling seconded by VandenBosch to recommend approval of the special use permit for recreational vehicle sales and outdoor display to the Muskegon Charter Township Board of Trustees for B56 LLC whose address is 1635 E. Apple Avenue upon parcel number 61-10-402-000-0194-00 as submitted.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein**

Nays: None

**6. PC 19-13 Public Hearing – Site Plan**

**Name: B56 LLC**  
**Address: 1635 E. Apple Avenue**  
**PP# 61-10-402-000-0194-00**  
**Zoning: Neighborhood Commercial (C1)**

**Purpose: Authorize sales of recreational vehicles including outdoor display.**

Planning and Zoning Administrator Brian Werschem explained that this is the site plan for PC-19-12. The zoning ordinance does require a site plan review for all special use permits.

Brian Werschem made a statement that they had an issue with storm water runoff but that it had been corrected. Bryan Green stated that when the cover of the storm drain when put it was solid, but has now been changed to a slotted cover.

***The following standards of Section 58-486 for Site Plan Approval were reviewed by the Planning Commission.***

(b) Each site plan shall conform to all applicable provisions of this chapter and the following standards:

- (1) All elements of the site plan shall be designed to take into account the site's topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

*There is no change other than the ability to display recreational vehicles upon the lot so pc determined that it does not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.*

- (2) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter. Landscaping shall be preserved and/or provided to ensure that proposed uses will

be adequately buffered from one another and from surrounding public and private property.

*PC determined that no impact to landscaping as very little if any landscaping exists.*

(3) Storm water and erosion protection.

- h. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the public storm water drainage system, or nearby bodies of water.

*PC determined that the change in use will require no change in surface water removal methods which are currently functioning properly at this time, since the new property owner discovered previous issues and has already made the necessary repairs.*

- i. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust.

*PC determined that it is existing and functioning properly.*

- j. The use of detention/retention ponds may be required.

*PC determined that no detention / retention ponds are necessary.*

- k. Surface water on all paved areas shall be collected at locations so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water that may interfere with this traffic.

*PC determined that it is existing and functioning properly.*

- l. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

*PC determined that none exist upon parcel.*

- m. Catch basins or other protective measures may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. Other provisions may be required to contain runoff or spillage from areas where hazardous materials are stored, or proposed to be stored.

*PC determined that it is existing and functioning properly.*

- n. Compliance with the requirements of [section 58-487](#) shall also be demonstrated.

*Section 58-47 provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month, equal to about 25 gallons or 220 pounds, and which require site plan review under the provisions of this article or other township ordinances. This project will produce no hazardous materials so this section does not apply.*

- (4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

*PC determined that the dumpster enclosure proposed is the only necessary barriers and no dwellings located therein.*

- (5) Every structure or dwelling unit shall have access to a public street, unless otherwise provided in an approved PUD.

*PC determined public street access is existing and being improved.*

- (6) A pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system shall be provided.

*PC determined that the pedestrian circulation system is not required.*

- (7) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site shall be provided. Drives, streets and other elements shall be designed to

promote safe and efficient traffic operations within the site and at its access points.

*PC determined that the site plan accommodates safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site and the drives, streets and other elements are designed to promote safe and efficient traffic operations within the site and at its access points.*

- (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.

*PC determined it is existing and sufficient.*

- (9) All streets shall be developed in accordance with [chapter 42](#), subdivisions and the county road commission specifications.

*PC determined it is existing and sufficient.*

- (10) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the fire and police departments.

*PC determined that the building is arranged to provide emergency vehicle access. Approved by the Fire inspector.*

- (11) The site shall be adequately served by water supply and sewage collection and/or treatment.

*Site is currently connected to sanitary water and sewer.*

- (12) All loading or unloading areas and outside storage areas, including refuse storage stations, shall be screened from view of the street and/or adjacent properties by a vertical screen consisting of structural or plant materials.

*Small refuse storage area proposed with screening. PC determined that this requirement is met.*

- (13) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

*PC determined that all exterior lighting proposed remains*



*onsite and no light trespass is occurring onto neighboring properties.*

- (14) Site plans shall conform to all applicable requirements of state and federal statutes and approval must be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

*PC determined this will be a condition if approved.*

Motion by Singerling seconded by Hower to approve the site plan for B56 LLC whose address is 1635 E. Apple Avenue upon parcel number 61-10-402-000-0194-00 with the following conditions:

Contingent upon all federal, state, county and local ordinances and regulations being met and approval by the Township Board of the Special Use Permit PC 19-12.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein**

Nays: None

## **7. PC 19-14 Site Plan**

**Name: Old Bach LLC**  
**Address: 1701 E. Apple Ave**  
**PP#: 61-10-403-000-0233-00**  
**Zoning: Neighborhood Commercial (C1)**

**Purpose: Redevelop the existing Happy's Pizza site into a Firehouse Subs and FROYO (Frozen Yogurt) with drive through**

Planning and Zoning Administrator Brian Werschem explained that Joe Gorbach representing, the franchise holder of Firehouse Subs, acquired the old Happy's Pizza building and proposes to convert the location into a Firehouse Subs location with a small extra space for some type of frozen yogurt / ice cream shop. The only very significant change is the removal of a portion of the structure and the installation of a drive through around the building.

Joe Gorbach 1842 Antisdale Norton Shores MI stated that 75% (south side) of building will be Firehouse Subs and 25% (north side) will be a frozen yogurt business, with the drive thru being only for Firehouse Subs. Pick up window will be on the East side of the building. He will be removing trees behind the building to make room for the drive thru and landscape will be

going in. He would like to open sometime in September. Drive thru will be accessed from Shonat and will have signage for drive thru. Hours would be 10:00 A.M to 9:00 P.M., 7 days a week.

Hower asked about the alley (utility easement for sewer) and Mr. Gorbach stated that it goes to Subway Subs but no farther. Hower also asked if there would be dine in and Mr. Gorbach stated that there would be 26 seats inside.

Firehouse Subs will use the old Happy's pizza sign and just add the Frozen Yogurt to the top of the existing sign. Mr. Gorbach will also be adding a catch basin for run off. VandenBosch asked about the elevation difference between Subway and Firehouse and how was he planning on fixing it. He stated that he has a friend that is in the landscaping business and would be bringing rock over.

***The following standards of Section 58-486 for Site Plan Approval were reviewed by the Planning Commission.***

(b) Each site plan shall conform to all applicable provisions of this chapter and the following standards:

- (1) All elements of the site plan shall be designed to take into account the site's topography, the size and type of the lot, the character of adjoining property and the type and size of buildings. The site shall be developed so as not to impede the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.

*PC determined that this is a desirable use of the location and will not to impede, but rather enhance, the normal and orderly development or improvement of surrounding property for uses permitted in this chapter.*

- (2) The landscape shall be preserved in its natural state, insofar as practical, by removing only those areas of vegetation or making those alterations to the topography which are reasonably necessary to develop the site in accordance with the requirements of this chapter. Landscaping shall be preserved and/or provided to ensure that proposed uses will be adequately buffered from one another and from surrounding public and private property.

*PC determined that there is very little landscaping to preserve and the landscaping proposed is an improvement to the location.*

- (3) Storm water and erosion protection.

- a. Appropriate measures shall be taken to ensure that removal of surface waters will not adversely affect neighboring properties, the public storm water drainage system, or nearby bodies of water.

*MDOT has been consulted and since the site currently discharges all of its storm water into the Apple Ave. storm water system, it will be allowed to continue to discharge 100% of its storm water into the Apple Avenue storm water system. Michael Brege, the operations technician from MDOT, requested the applicant to possible help with surface water that is running down a spillway onto the sidewalk along Apple Ave. They are proposing to add a catch basin to help Mr. Brege with this storm water which is an overall improvement to the system.*

- b. Provisions shall be made to accommodate storm water, prevent erosion and the formation of dust.

*PC determined existing and functioning properly.*

- c. The use of detention/retention ponds may be required.

*PC determined no detention / retention ponds are necessary.*

- d. Surface water on all paved areas shall be collected at locations so that it will not obstruct the flow of vehicular or pedestrian traffic or create standing water that may interfere with this traffic.

*PC determined existing and functioning properly. Approved to continue by Michael Brege from MDOT.*

- e. Areas of natural drainage such as swales, wetlands, ponds, or swamps shall be protected and preserved insofar as practical in their natural state to provide areas for natural habitat, preserve drainage patterns and maintain the natural characteristics of the land.

*PC determined that none exist upon parcel.*

- f. Catch basins or other protective measures may be required to contain oil filters or traps to prevent contaminants from being discharged to the natural drainage system. Other provisions may be required to contain runoff or spillage from areas where hazardous

materials are stored, or proposed to be stored.

*PC determined that they are existing and functioning properly as well as an additional catch basin is being installed to improve conditions.*

- g. Compliance with the requirements of [section 58-487](#) shall also be demonstrated.

*Section 58-47 provisions shall apply to all businesses and facilities, including private and public facilities, which use, store or generate hazardous substances and polluting materials in quantities greater than 100 kilograms per month, equal to about 25 gallons or 220 pounds, and which require site plan review under the provisions of this article or other township ordinances. PC determined that this project will produce no hazardous materials so this section does not apply.*

- (4) The site plan shall provide reasonable, visual and sound privacy for all dwelling units located therein. Fences, walks, barriers and landscaping shall be used, as appropriate, for the protection and enhancement of property and for the privacy of its occupants.

*Dumpster enclosure proposed as only necessary barriers and no dwellings located therein.*

- (5) Every structure or dwelling unit shall have access to a public street, unless otherwise provided in an approved PUD.

*PC determined that the public street access is existing and being improved.*

- (6) A pedestrian circulation system which is insulated as completely as reasonably possible from the vehicular circulation system shall be provided.

*PC determined that the sidewalk providing a pedestrian circulation system is existing and adequate.*

- (7) Safe, convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site shall be provided. Drives, streets and other elements shall be designed to promote safe and efficient traffic operations within the site and at its access points.

*PC determined that the site plan accommodates safe,*

*convenient, uncongested, and well-defined vehicular and pedestrian circulation within the site and the drives, streets and other elements are designed to promote safe and efficient traffic operations within the site and at its access points.*

- (8) The arrangement of public or common ways for vehicular and pedestrian circulation shall be connected to existing or planned streets and pedestrian or bicycle pathways in the area.

*PC determined it is existing and functioning properly.*

- (9) All streets shall be developed in accordance with [chapter 42](#), subdivisions and the county road commission specifications.

*PC determined it is existing and functioning properly.*

- (10) All buildings or groups of buildings shall be arranged so as to permit necessary emergency vehicle access as required by the fire and police departments.

*PC determined the building is arranged to provide emergency vehicle access. Approved by the Fire inspector.*

- (11) The site shall be adequately served by water supply and sewage collection and/or treatment.

*PC determined that the site is currently connected to sanitary water and sewer.*

- (12) All loading or unloading areas and outside storage areas, including refuse storage stations, shall be screened from view of the street and/or adjacent properties by a vertical screen consisting of structural or plant materials.

*Small refuse storage area proposed with screening. PC determined this requirement is met.*

- (13) Exterior lighting shall be arranged so that it is deflected away from adjacent properties and so that it does not impede the vision of traffic along adjacent streets.

*PC determined all exterior lighting proposed remains onsite and no light trespass is occurring onto neighboring properties.*

- (14) Site plans shall conform to all applicable requirements of state and federal statutes and approval must be conditioned on the applicant receiving necessary state and federal permits before final site plan approval or an occupancy permit is granted.

*PC determined this will be a condition if approved.*

Motion by Hower seconded by Singerling to approve the site plan for Old Bach LLC whose address is 1701 E. Apple Ave, parcel number 61-10-403-000-0233-00 with the following conditions:

Contingent upon all federal, state, county and local ordinances and regulations being met.

Ayes: **Hower, VandenBosch, Singerling, Bouwman, Frein**

Nays: **None**

**Public Comment - None**

**Adjournment**

**Motioned by Hower supported by Frein to adjourn at 7:45 P.M.**

**Motion carried.**

**Respectfully submitted by,**

**Sandra Frein  
Secretary**