

MINUTES
BEDFORD TOWNSHIP PLANNING COMMISSION
8100 JACKMAN ROAD, TEMPERANCE, MICHIGAN
SEPTEMBER 12, 2018

PRESENT:

MATTHEW ANGERER, CHAIR
DENNIS JENKINS, VICE-CHAIR
LAMAR FREDERICK, TOWNSHIP BOARD LIAISON
TOM ZDYBEK
RON FRITZ
JOE GARVERICK
DAN STEFFEN, SECRETARY

EXCUSED:

NONE

ABSENT:

NONE

ALSO PRESENT:

MARTY KAMPRATH, LENNARD, GRAHAM & GOLDSMITH, LEGAL COUNSEL
KAREN M. KINCAID, PLANNING AND ZONING ADMINISTRATOR
JODIE L. RECTOR, PLANNING AND ZONING, ASSISTANT, RECORDING SECRETARY

Angerer called the Bedford Township Planning Commission meeting to order at 7:00 p.m. The Pledge of Allegiance was said. Steffen called the roll. Quorum present.

APPROVAL OF THE AGENDA

Motion by Steffen, supported by Zdybek, to approve the agenda. Motion carried.

APPROVAL OF THE MINUTES OF AUGUST 8, 2018

Motion by Frederick, supported by Zdybek, to approve the minutes of August 8, 2018. Steffen Abstained. Motion carried.

PUBLIC COMMENT (LIMIT 3 MINUTES)

Steve Worley-10177 Cemetery Road-Erie, MI 48133-spoke on behalf of the Lewis Avenue Baptist Church and State Line Christian Church- Mr. Worley spoke on both rezoning requests scheduled on the agenda, voicing opposition on both. Mr. Worley stated the northwest corner of Lewis Avenue and Smith Road rezoning request abuts a residential neighborhood and the southeast corner of Lewis Avenue and Smith Road abuts Lewis Avenue Baptist Church and Stateline School. Mr. Worley spoke on the surrounding parcels already commercially zoned and that the Planning Commission should not allow additional commercial businesses. Mr. Worley spoke on high traffic concerns and concerns for the children and the church with both the requests to rezone to commercial, as it would increase traffic flow.

Steve Lennex-7261 Forest Valley, Lambertville- Mr. Lennex stated there is no proof unless there is a traffic study showing there would be an increase in traffic flow to go from one grade of commercial zoning to another. Mr. Lennex stated that is totally false and referred to other PBO

properties within the Township with high traffic volumes (Dr. Laymen's Office). Mr. Lennex stated this intersection is fully equipped to handle the existing traffic and any increase in traffic.

Steve Worley-10177 Cemetery Road-Erie, MI 48133- Mr. Worley stated Smith Road is a concern for increase in traffic. Mr. Worley spoke on specific times of day when the traffic volumes are high during hours 3-5 o'clock on Smith Road, agreeing that Lewis Avenue maybe able to handle the increase in traffic, however not Smith Road. Mr. Worley again reiterated the concern of safety of traffic and Smith Road being one of the busiest intersections within Bedford Township.

OLD BUSINESS

A) CONTINUATION OF JOSEPH & PATRICIA LASCALA REQUEST FOR A REZONING OF PARCEL NUMBER 5802-570-014-00, FROM PBO, PROFESSIONAL BUSINESS OFFICE, TO C-3, GENERAL COMMERCIAL, LOCATED ON THE NORTHWEST CORNER OF LEWIS AVENUE AND SMITH ROAD, OTHERWISE KNOWN AS 6601 LEWIS AVENUE, TEMPERANCE, MI 48182 (PUBLIC HEARING HELD ON AUGUST 8, 2018 AS PUBLISHED)

Kincaid reviewed the memo stating this item is a continuation from the August 8, 2018 Planning Commission meeting where the public hearing for the rezoning request was held. Kincaid stated therefore there will be no further public comment for this item unless addressed during the "Public Comment" section identified on the agenda. Kincaid stated an email was sent to the applicant asking if they had any additional information they would like to include in the Planning Commission Packet and to this date, the Planning Department has not received a response from the applicant indicating they were submitting any additional information. Kincaid noted the material that was provided to the Planning Commission at the August 8, 2018 meeting is included in the packet and the August 8, 2018 minutes scheduled for approval can be used to recap discussion and action that took place regarding this issue. Kincaid added the only additional information provided in this packet is to address a question from Tom Zdybek regarding when the property was rezoned from R-2B to PBO.

Steve Lennex-7261 Forest Valley, Lambertville-Representative for the applicant -Mr. Lennex stated his comments are how the LaScala's believe; however, they may still want to speak at a later time. Mr. Lennex spoke on conversations he had outside the meeting regarding the Planning Commission being biased towards C-3 zoning, singling out three members only and not the entire Planning Commission. Mr. Lennex spoke on the Planner's Review to reject the request with all the negative comments and the negative impacts on the surrounding area. Mr. Lennex stated there is not one single area of fact nor one positive comment of a benefit this rezoning request would be to the Township. Mr. Lennex spoke on the Township Board voting 7-0 to rezone from R-3 to C-3 on the parcel across the street, adding 5 of the 7 Board Members are still on the Township Board. Mr. Lennex stated he brings up this example in hopes the 2018 Planning Commission will "get on board" with the same vision for this intersection that the elected Township Board Officials have already supported. Mr. Lennex stated that any applicant that requests a rezoning should be given the follow basic courtesy from any Board:

1. Respect for the property rights of property owners
2. Always should be objectivity, not bias

3. Recognize the positive and not just the negatives
4. Extremely important to be fair and consistent

Mr. Lennex urged the Planning Commission to support the vision for this corner and not only grant this request, but the next request on the agenda as well.

Garverick spoke on concerns on permitted uses, such as a bar, with the proximity of the parcel to a school and church. Kincaid advised all uses within a C-1 zoning district, to include a bar/restaurant would be permitted, as a C-3 zoning district permits any uses within a C-1 or C-2 zoning district. Steffen referred to the minutes from the previous meeting as he was not in attendance, stating he felt a C-3 zoning district would not be inappropriate for the area as the Master Plan is for a mixed-use having light commercial, however does allow for some flexibility. Steffen felt abutting residential, the uses permitted could be favorable to the residents or even desirable. Angerer added some uses would have restrictions set forth within the ordinance requirements, such as setbacks, parking, lighting, buffering, etc. Garverick still voiced concern on a bar or adult entertainment. Kincaid stated there are restrictions on setbacks; however, there are no setback requirements within the ordinance on a bar. Kincaid added any use proposed would have to meet all ordinance requirements. Angerer advised the Commission Members that this is just a recommendation to the Township Board. A lengthy discussion continued on the permitted uses and ordinance requirements, especially on setback (distance) requirements for uses from a school or a church. Kincaid reviewed the uses and setback on several permitted uses. Kincaid clarified at this time discussion is on the Northwest corner parcel. Angerer advised the Commission Members that this is just a recommendation to the Township Board. Kincaid concurred, adding the request will go before Monroe County Planning for a recommendation and then on to the Township Board for a decision.

Frederick stated he assumed due to Mr. Lennex's presentation, the proposal from the Planning Commission of a C-1 Zoning District is no longer an option. Mr. Frederick spoke on the courtesies Mr. Lennex requested in his presentation saying first, the property rights of the owner are subject to the zoning, which the owner knew when he purchased the property; second, the zoning is a benefit to the community as a whole, meaning those areas should be zoned in a transition (C-3 to a C-2 to C-1 then residential). Frederick continued saying perhaps in this situation the Planning Commission should discuss contract rezoning. Frederick spoke on the large subdivision directly behind the subject parcel, saying he feels a C-3 zoning district would not be beneficial. Frederick spoke on the positive of the application stated in the 1977 zoning map and clearly Lewis Avenue intended, even nearly 50 years ago, to be the commercial corridor. Frederick spoke on the issue he is struggling with, being the proximity of the neighborhood and how will they be effected, especially if there was to be further development on the site.

Zdybek agreed with Frederick and added moving to a less restrictive zoning without knowing the proposed use is a difficult decision to make and where everyone involved will be happy. Frederick inquired if there had been any marketing study done for this area. Kincaid stated she is not aware of any marketing studies having been conducted in the subject area. Kincaid noted even if there was a plan proposed, the Planning Commission and Township Board must consider all uses permitted in all commercial zoning districts, as any use permitted in the zoning district that can meet the requirements of the zoning ordinance requirements would be a permitted use. Zdybek thanked Kincaid for that clarification.

MOTION BY STEFFEN, SUPPORTED BY GARVERICK, TO RECOMMEND APPROVAL REGARDING THE JOSEPH & PATRICIA LASCALA REQUEST FOR A REZONING OF PARCEL NUMBER 5802-570-014-00, FROM PBO, PROFESSIONAL BUSINESS OFFICE, TO C-3, GENERAL COMMERCIAL, LOCATED ON THE NORTHWEST CORNER OF LEWIS AVENUE AND SMITH ROAD, OTHERWISE KNOWN AS 6601 LEWIS AVENUE, TEMPERANCE, MI 48182, AS IT IS CONSISTANT WITH THE BEDFORD TOWNSHIP MASTER PLAN AND THE BALANCE APPROACH WITH GROWTH, AND HAVING THE AVAILABILITY OF DIVERSE COMMERCIAL PROPERTIES WILL BENEFIT THE TOWNSHIP.

**Roll call as follows: Voting Aye: Steffen, Garverick, Fritz and Angerer
Voting Nay: Frederick, Jenkins and Zdybek
Excused: None
Absent: None
Motion carried.**

NEW BUSINESS

- A) OPEN THE PUBLIC HEARING REGARDING THE ALI PARSIPOUR REQUEST FOR A REZONING OF PARCEL NUMBER 5802-102-026-10, FROM PBO, PROFESSIONAL BUSINESS OFFICE, TO C-3, GENERAL COMMERCIAL, LOCATED ON THE SOUTHEAST CORNER OF LEWIS AVENUE AND SMITH ROAD, OTHERWISE KNOWN AS 6560 LEWIS AVENUE, TEMPERANCE, MI 48182***

Motion by Jenkins, supported by Steffen, to open the public hearing at 7:45 p.m. Motion Carried.

Kincaid reviewed the analysis saying the request is to rezone approximately a 2.416-acre lot from PBO, Professional Business Office, to C-3, General Commercial, located on the southeast corner of Lewis Avenue and Smith Road (MB&T vacant building). The parcel located to the South of the subject parcel is zoned AG, Agricultural (Lewis Avenue Baptist Church), to the west across Lewis Avenue, C-3, General Commercial (vacant), east PBO, Professional Business Office (Lewis Avenue Baptist Church and Stateline School) and north is C-2, Shopping Center (vacant).

Kincaid noted there is an existing building on site. Kincaid said it should be noted that should the site be rezoned, the currently permitted “facilities for human care such as hospitals, sanitariums and convalescent homes” use is not a permitted use in a commercial zoning district. All other PBO permitted uses are allowed in commercial zoning districts.

Kincaid stated the Master Plan adopted on October 28, 2015 designates this area as Mixed-Use and further describes the intent to promote mixed uses and flexible redevelopment in areas outside of the Village Centers, having a mix of residential, office and lower intensity commercial uses.

Kincaid stated the Planning Department requested a review of the rezoning request. Lucie Fortin from The Mannik & Smith Group and Planner for Bedford Township, supplied an overall review of the subject area and the information was included in the Planning Commission packet for review.

Kincaid said following are the uses permitted within a C-3 zoning district. The C-3 General Business Districts, as herein established, are designed to provide sites for more diversified business types which would often be incompatible with the pedestrian movement in the Local Business District or the Community Business District.

400.1301 - Principal uses permitted.

Sec. 1301. In a General Business District, no building or land shall be used and no building shall be erected except for one or more of the following specified uses unless otherwise provided in this Ordinance; subject to the review and approval of the site plan by the Planning Commission:

1. Any principal use permitted in Section 1201 [Section 400.1201] of the C-2 District, subject to the applicable regulations of this Article.
2. Bus passenger station.
3. Dance hall or catering hall when conducted within completely enclosed buildings.
4. Hotel or motel, subject to the following conditions:
 - a. Each unit shall contain not less than 250 square feet of floor area.
 - b. No guest shall establish permanent residence at a motel for more than 30 days within any calendar year.
5. Veterinary hospitals or clinics, provided all activities are conducted within a totally enclosed building and no outdoor kennels are constructed.
6. Bowling alley, indoor archery range, indoor tennis courts, indoor skating rink, or similar forms of indoor commercial recreation, provided that all buildings are set back at least 100 feet from any abutting residential districts.
7. Tire, battery and accessory sales.
8. Billiard hall, billiard room, pool hall or pool room, or an establishment for the operation of coin-operated amusement devices, or other similar indoor recreation uses.
9. New car, truck or boat sales provided that:
 - a. The main use is carried out within an enclosed building with open-air display of new or used vehicles as an accessory use only.
 - b. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - c. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two street rights-of-way.
 - d. The requirements of Section 1816 [Section 400.1816] shall apply if there is open-air display on the site.
 - e. No major repair or major refinishing shall be done on the lot.
 - f. A minimum parcel area of five acres shall be required.
10. Business in the character of a drive-in or open front store, subject to the following conditions:
 - a. A setback of at least 60 feet from the right-of-way line of any existing or proposed street must be maintained.
 - b. Access points shall be located at least 60 feet from the intersection of any two street rights-of-way.
 - c. Development of the site shall be in accordance with Section 1916 [Section 400.1916].

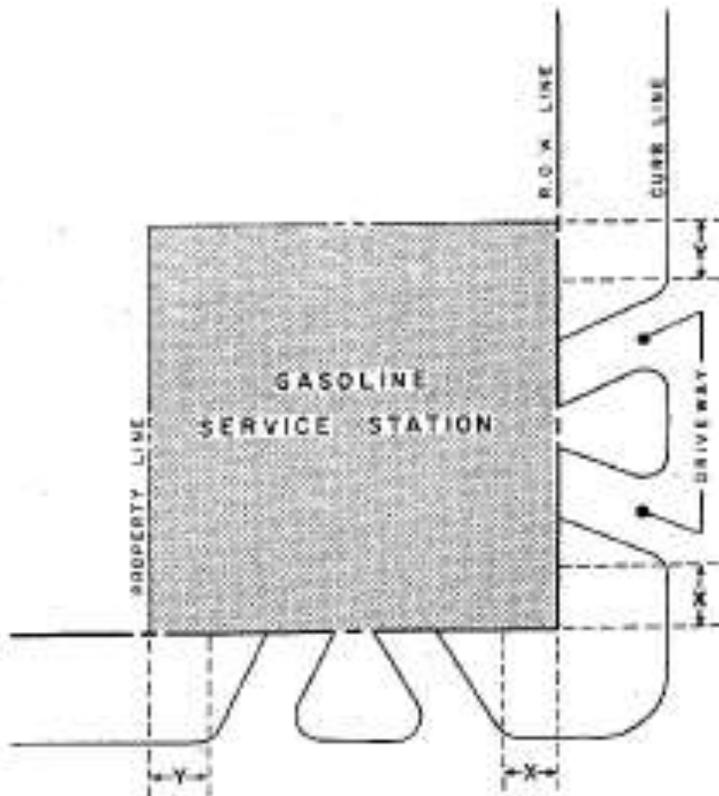
- d. A six foot high completely obscuring wall shall be provided when abutting or adjacent districts are zoned for R, PBO, C-1, C-2 or C-3 Districts. The height of the wall shall be measured from the surface of the ground. Said wall shall further meet the requirements of Article XVIII, General Provisions.
11. Mortuary establishments, when adequate assembly area is provided off-street for vehicles to be used in funeral processions, provided further that such assembly area shall be provided in addition to any required off-street parking area. A caretaker's residence may be provided within the main building of mortuary establishments.
12. Child care centers subject to the following conditions:
 - a. No portion of a child care center shall be located within 300 feet of any gasoline pumps, underground storage tanks, or any other explosive material.
 - b. One parking space shall be provided for each employee working during the largest shift plus one space for each eight children the facility is licensed to receive for care at any one time.
 - c. A child loading/unloading area shall be provided to the Planning Commission to assure safe access to the facility and the adequacy of parking areas and maneuvering lanes to circulate peak hour traffic.
 - d. On-site traffic circulation shall be restricted to a one-way traffic flow, where possible.
 - e. Any on-site outdoor play area shall be enclosed by a fence that conforms to the applicable requirements of Section 1912 [Section 400.1912].
 - f. Any facility boundary which abuts property which is residentially used or zoned shall be screened according to the provisions of Section 1911 [Section 400.1911], subsections c. and h. and any other applicable regulations.
 - g. Signs shall conform to the applicable requirements of Section 1922 [Section 400.1922].
13. Other uses similar to the above uses.
14. Accessory structures and uses customarily incident to the above permitted uses.

400.1302 - Principal uses permitted subject to special approval.

Sec. 1302. The following uses may be permitted upon making application and submitting any reasonable exhibits or information required by the Planning Commission, and after paying any fees established by the Township Board by resolution or ordinance, and after public hearing, review and approval of the site plan by the Planning Commission; and under such conditions as the Planning Commission imposes after finding that the use is not injurious to the district and environs, is not contrary to the spirit and purpose of this Ordinance, is not incompatible with already existing uses in the area, will not interfere with the orderly development of the area, would not be detrimental to the safety or convenience of vehicular or pedestrian traffic, will be served adequately by essential public facilities and services, will be consistent in assuring that the general public health, safety and welfare will not be infringed upon, and will be in compliance with all Township, County, State and Federal laws and regulations; and which, once approved, shall be deemed to authorize only one specific use, and shall expire and become null and void without further notice or action by the Planning Commission in any case where the special approval use has not been established within six months after the Planning Commission's grant of approval thereof or where the special approval use is discontinued or ceases to exist for six consecutive months or for 18 months during any three year period; and which may be revoked by the Planning

Commission after it finds that any of the requirements of this Ordinance or conditions of approval are not being maintained.

1. Outdoor sales space for exclusive sale of new or used automobiles, house trailers, boats, or rental of trailers, boats or automobiles, all subject to the following:
 - a. The lot or area shall be provided with a permanent, durable and dustless surface, and shall be graded and drained as to dispose of all surface water accumulated within the area.
 - b. Access to the outdoor sales area shall be at least 60 feet from the intersection of any two street rights-of-way.
 - c. No major repair or major refinishing shall be done on the lot.
 - d. A minimum parcel area of five acres shall be required.
 - e. Development of the site shall also be in accordance with Section 1916 [Section 400.1916].
2. Plant materials nursery for the retail sale of plant materials not grown on the site, and sales of lawn furniture, playground equipment and garden supplies subject to the following conditions:
 - a. The storage or display of any materials or products shall meet all setback requirements of a structure.
 - b. All loading and parking shall be provided off-street.
 - c. The storage of any soil, fertilizer, or other loose, unpackaged materials shall be contained so as to prevent any affects on adjacent uses.
 - d. A minimum parcel area of five acres shall be required.
 - e. Development of the site shall also be in accordance with Section 1916 [Section 400.1916].
3. Auto wash when completely enclosed in a building:
 - a. Steam cleaning or vacuuming may be permitted outside the building when the parcel does not abut a residential district on the same side of the street.
 - b. Development of the site shall be in accordance with Section 1916 [Section 400.1916].
4. Gasoline service station for the sale of gasoline, oil and minor accessories only, and where no repair work is done, other than incidental service, but not including steam cleaning or undercoating, vehicle body repair, painting, tire recapping, engine rebuilding, auto dismantling, upholstery, auto glass work, and such other activities whose external effects could adversely extend beyond the property line.
 - a. Access to a gasoline service station shall be provided by driveways which are at least 24 feet wide. Said driveway shall not be located closer than 60 feet to the future right-of-way of any intersecting street or to another curb break or entrance drive on the same side of the street.
 - b. The minimum lot area shall be 22,000 square feet, and the minimum frontage on any street shall be 150 feet, both based upon proposed right-of-way of the Master Plan.



X = MINIMUM DISTANCE A DRIVEWAY OR CURB CUT, FOR ACCESS, CAN BE LOCATED FROM A STREET INTERSECTION.

Y = MINIMUM DISTANCE A DRIVEWAY OR CURB CUT, FOR ACCESS, CAN BE LOCATED FROM AN ADJOINING PROPERTY LINE.

LOCATIONS OF DRIVEWAYS FOR GASOLINE SERVICE STATION

- c. Gasoline stations shall not be permitted within 500 feet of any entrance or exit to property on which is located a public library, public or private school, playground, playfield, park, place of worship, or hospital.
- d. There shall be no storage of wrecked or disabled motor vehicles, automotive parts or tires on the premises, except within completely enclosed buildings. Outside above ground tanks for storage of gasoline or any inflammable liquids or gases is prohibited.
- e. All work performed on any vehicle shall be entirely within a building.
- f. Parking of trucks, trailers, and other vehicles offered for sale or rent is prohibited, except where such use is permitted by the zoning district regulations and subject to the procedural requirements relative thereto.

- (h) The door to each miniwarehouse individual storage unit, stall or locker, shall remain shut and no storage item shall be visible from outside the unit, stall or locker except when loading or unloading.
- (i) The sale or rental of items related to the miniwarehouse use, such as boxes, locks, dollies, ropes, covers and similar such items, and also the rental of trucks and trailers for the hauling of items to be stored on the site, may be permitted so long as the business is transacted, and all items except for the rental trucks and rental trailers are kept within a miniwarehouse office building. Adequate parking for the rental trucks and rental trailers must be provided, and the area for said parking, which must not be included in any computation of minimum required parking for the site, is limited to one-third of the total usable floor area of the non-office miniwarehouse buildings permitted and existing on the site. The parking of rental trucks and rental trailers may not be located in any ingress, egress or maneuvering lanes, and must be located so as not to interfere with fire protection access.
- (j) No other use other than the principal use of miniwarehouse storage, or those uses permitted in subparagraph (i) above, shall be permitted on the parcel, and there shall be no repairing or maintaining of any stored items, and there shall be no other activity, hobby or purpose allowed on the parcel.
- (k) The site shall be graded and drained, so as to dispose of all surface water accumulated on the site in such a way as to preclude drainage of water onto adjacent property, road rights-of-way, or towards buildings. All areas required for ingress, egress or for passing or maneuvering shall be provided with asphaltic or concrete surfacing in accordance with the specifications approved by the Planning Commission. There shall be asphaltic or concrete surfacing of 30 feet between miniwarehouse buildings and at least 20 feet of asphaltic or concrete surfacing in front of all miniwarehouse buildings which do not face another miniwarehouse building. There shall also be asphaltic or concrete surfacing of all parking areas, parking areas for the rental trucks and rental trailers, and areas for outside storage.
- (l) Access to the miniwarehouse site shall be restricted to tenants only by means of a controlled entrance device, which may include, but is not necessarily limited to a gate with a padlock, electric opening device, or some other means of limiting access to the site.
- (m) No building erected on the site shall exceed 35 feet in height when the parcel abuts a Residential District. Other than when the parcel abuts a Residential District, the building height shall comply with the appropriate District regulations of Article XVIII.
- (n) There shall be no signs on any of the miniwarehouse buildings. Unit identification is permitted on the door of individual units but shall not be larger than seven inches in height. The sign identifying the facility shall not exceed ten feet in height nor be more than 80 square feet in area. The sign shall be located in the front yard setback of the parcel.
- (o) All lights shall be shielded so as to direct light onto the buildings on the site and away from the adjacent properties.
- (p) No door openings for any miniwarehouse unit shall be constructed facing any Residential District.
- (q) The exterior facade of any miniwarehouse building shall be constructed of non-combustible materials.

8. Commercial kennel, subject to the following conditions:
 - a. A commercial kennel must be licensed by, and comply with all requirements and directives of the Animal Control Division of the Monroe County Board of Health.
 - b. There shall be no excessive noise, or obnoxious odors, flies, or other nuisances caused by the keeping of any animals.
 - c. All dogs, cats, or other household pets, must be kept confined within a building, pen, run, kennel, fenced area, exercise area, or other structure or permanent area at all times.
9. Fireworks—The retail sale, and related handling and display for sale of fireworks (not manufacturing, or wholesale warehousing or distributing), subject to the following conditions:
 - a. Such requirements imposed by the Planning Commission to establish a safe environment for the retail sale, and related handling and display of fireworks.
 - b. For purposes of this subsection 9, "Fireworks" are defined by Michigan law (i.e., MCL § 750.243a, as amended) and which are legal to offer for sale, display for sale, sell at retail, keep with intent to sell, possess, give, furnish, transport, use, or explode without obtaining a municipal permit as provided in Michigan Compiled Laws Section 750.243a(3), as amended.
 - c. No fireworks shall be stored, handled, displayed for sale, nor sold from tents, portable buildings, canopies, temporary firework stands, sheds, PODS (Portable on Demand Storage), conex containers, campers, trailers, lean-to's, accessory buildings, trailers or motor vehicles.
 - d. The retail sale, and related handling and display for sale of fireworks shall be in an enclosed permanent building which shall comply with Section 1303 [400.1303], "Site Development Standards" for C-3 General Business Districts.
 - e. All structures used for the retail sale, and related handling of and display for sale of fireworks shall comply with the requirements relevant to such use of the most current Building Code, Plumbing Code, Mechanical Code, Electrical Code, Maintenance Code, and Fire Code, adopted by or with jurisdiction over Bedford Township, and all other applicable Federal, State and local laws, statutes, rules, regulations and codes.
 - f. Campfires, outdoor fires, or the burning of boxes, paper, plastic products, waste materials or any other debris or materials, shall not be permitted on the premises at any time.
 - g. No retail sale, or related handling or display for sale of fireworks shall be permitted within 300 feet of the property lines of a private or public school, place of worship, park, residential dwelling, places of public assemblage (i.e. reception halls), or gas stations or fuel facilities which handle, process, store, sell or ship flammable liquids or combustibles, or within any setback established and in effect pursuant to any federal, state or local law, statute, rule, regulation or code, whichever is greater.
 - h. The retail sale and related handling and display for sale of fireworks may only be conducted on a premises with a freestanding, self-contained, stand-alone suitable building owned and/or operated as one primary use on one legal parcel, and not as one of several commercial activities, stores or vendors operating within a commercial multi-unit property or [on] the same parcel or uses.
 - i. All Building and Fire Code inspections shall be completed and passed, and a valid Bedford Township Certificate of Occupancy (C of O) must be issued in advance of

the proposed structure being used for the retail sale, or related handling or display for sale of fireworks.

- j. Enforcement and penalties. To the extent they differ and are contrary to the standard provisions set forth in Article XXIX [Section 400.2900] of this Zoning Ordinance, enforcement, penalties, and other remedies for violation of the provisions of section 9 of this Ordinance [Section] shall be as follows:

Each owner, tenant, operator and occupant of any building, structure, land or premises where any condition in violation of this subsection 9, shall exist, and any person, firm, corporation, partnership, or other organization or entity, or anyone acting on behalf of said person, firm, corporation, partnership, or other organization or entity, who violates any of the provisions of subsection 8 of this Ordinance [Section], shall be responsible for a "minimum" of a municipal civil infraction as defined by Michigan law, and subject to a civil fine(s) determined in accordance with the following schedule:

- 1st violation within a 1-year period \$500.00
- 2nd violation within a 1-year period \$1,000.00
- 3rd violation within a 1-year period \$1,500.00
- 4th or subsequent violation within a 1-year period \$2,000.00

After a 4th violation within 1 year, the Township official(s) with the authority to enforce this subsection may charge the matter as a criminal sanction wherein the violator shall be guilty of a misdemeanor, punishable by a fine not to exceed \$500.00, or imprisonment in the Monroe County Jail, for a period not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. Each day a violation of this Ordinance continues, shall be deemed a separate offense. A violator of this Ordinance shall also be subject to such additional or alternate sanctions, remedies, and judicial orders as are available and authorized under Article XXIX [Section 400.2900] of this Ordinance and Michigan law.

- 10. Adult entertainment businesses—It is recognized that there are some uses of property which, because of their very nature, are known to have seriously objectionable operational characteristics, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to insure that such adverse effects will not cause or contribute to the blighting or downgrading of the surrounding areas. These regulations are for the purpose of locating such uses in areas where the adverse impact of their operation may be minimized by separation of such uses from one another and from other specified uses. Any adult entertainment businesses, which are regulated uses as defined below, shall be subject to a finding that such uses will have no generally or specifically deleterious effect on adjoining districts, properties, or the Township at large, and shall also be subject to the standards hereinafter established for each proposed regulated use:

- a. Definitions (for this Section 1302.9 [Section 400.1302.9]):
 - (i) *Adult entertainment business.* Adult bookstores, adult cabarets, adult novelty businesses, adult motion picture theaters, adult personal service businesses, and restricted adult businesses.
 - (ii) *Specific anatomical areas.* Less than completely and opaquely covered human genitals, pubic regions, buttocks, and female breasts below a point immediately above the line of the areola; and human male genitals in a discernibly turgid state, even if completely and opaquely covered.

- (iii) *Specific sexual activities.* Activities which include, but are not limited to: human genitals in a state of sexual stimulation or arousal; acts of masturbation, sexual intercourse, or sodomy; fondling or other erotic touching of genitals, pubic regions, buttocks, or female breasts.
 - (iv) *Massage parlor.* Any establishment where private massage is practiced, used, or made available as a principal use of the premises.
 - (v) *Modeling studio.* Any establishment which offers as its principal activity the providing of models for other persons to paint, draw, or photograph.
 - (vi) *Tattoo parlor.* Any establishment which offers the application or placing, by any method, designs, letters, scrolls, figures, symbols, or any other marks upon or under the human skin with ink or any other substance resulting in the coloration of the skin by the aid of needles or any other instrument designed to touch or puncture the skin.
 - (vii) *Establishment.* A business or enterprise which utilizes any building, structure, premises, parcel, place or area.
- b. Adult entertainment business regulated uses shall be one or a combination of more than one of the following:
- (i) *Adult bookstore.* An establishment having a substantial or significant portion of its stock in trade devoted to the sale or rental of books, magazines, newspapers, video tapes, video discs, motion picture films, or any other media, whether printed or electronic, which are characterized by their emphasis on portrayals of Specific Sexual Activities or Specific Anatomical Areas, or an establishment with a segment or section devoted to the display of such materials.
 - (ii) *Adult cabaret.* An establishment which features one or more dancers, strippers, male or female impersonators or similar entertainers, performers, wait staff or other persons who reveal or show Specific Anatomical Areas of their bodies or who engage in, perform, or simulate Specific Sexual Activities.
 - (iii) *Adult novelty business.* An establishment which offers for sale devices which simulate human genitals or devices designed for sexual stimulation.
 - (iv) *Adult motion picture theater.* An establishment used for presenting to others motion picture films, video cassettes, cable television, or other visual media, distinguished or characterized by an emphasis on Specific Sexual Activities or Specific Anatomical Areas for observation by patrons therein.
 - (v) *Adult personal service business.* An establishing having a person or persons, while nude or while displaying Specific Anatomical Areas, providing personal services for another person or persons, which include, but is not limited to, the following activities and services, if the person or persons providing the personal service are nude or display Specific Anatomical Areas: massage parlors, exotic rubs, modeling studios, tattoo parlors, body painting studios, wrestling studios, and theatrical performances.
 - (vi) *Restricted adult business.* Any of the above defined uses, which are not customarily open to the public generally, but only to one or more classes of the public, excluding any minor by reason of age.
- c. Location. An Adult Entertainment Business regulated by this Ordinance may be located in the Township only in conformance with the following restrictions:
- (i) No regulated Adult Entertainment Business shall be permitted within 1,200 feet of any state licensed child care facility, place of worship or other religious

facility, day nursery, preschool, primary school, secondary school, college, university, public library, public building, public park, public playground, or any residentially zoned district or residential use.

- (ii) No Adult Entertainment Business shall be permitted within 1,000 feet of the property line of any other Adult Entertainment Business.
 - (iii) The distances provided for in this subsection c. entitled "Location", shall be measured by projecting a straight line without regard for intervening buildings or structures between the nearest points of the property lines of the protected use and the proposed regulated Adult Entertainment Business, or between the nearest point of the zoning district boundary from which the regulated Adult Entertainment Business is to be separated to the nearest point of the property line of the proposed regulated Adult Entertainment Business.
- d. Use regulations:
- (i) No person shall reside in or permit any person to reside in the premises of an Adult Entertainment Business.
 - (ii) No lessee or sub-lessee of any property shall convert that property from any other use to an Adult Entertainment Business without the express written permission of the owner of the property for such use.
11. Certain commercial outdoor recreation activities, such as volleyball, basketball, shuffleboard, bocce, skateboard park, batting cages, and miniature golf, subject to the following standards and conditions:
- a. The allowed usage will include volleyball, basketball, baseball and softball, soccer, bag toss/corn hole, shuffleboard, bocce, skateboard park, batting cages, ice skating, and miniature golf. Any other commercial outdoor recreation activity must be specifically approved by the Planning Commission pursuant to special approval. No fire arm range, firearm discharge, target practice, archery range, or any other dangerous activity shall be allowed.
 - b. The minimum acreage upon which such commercial outdoor recreation activity shall be allowed is on a five (5) acre parcel. If additional commercial uses are located on the five (5) acre parcel, then there shall be at least two (2) acres minimum available for the commercial outdoor recreation activities.
 - c. The setbacks from any commercial outdoor recreation activity may be established by the Planning Commission as part of the special approval as deemed appropriate for the type of activity approved. If not set by the Planning Commission, the setback for any outdoor recreation activity shall be at least fifty (50) feet from any parcel lot line adjacent to a residential zoning district and thirty-five (35) feet from any parcel lot line adjacent to a non-residential zoning district. Any variation of setbacks approved by the Planning Commission as part of the special approval which are less than stated in the preceding sentence, shall only be allowed after identification by the applicant and finding by the Planning Commission of unique circumstances and characteristics of the property and/or business which are present to warrant such lesser setbacks, along with the providing of enhanced screening to buffer such lesser setbacks.
 - d. The parcel upon which the commercial outdoor recreation activities exist shall contain no less than a three hundred (300) foot parcel width at the front yard setback line.
 - e. The hours of operation of the commercial outdoor recreation activity may be established by the Planning Commission as part of the special approval. If not set by

the Planning Commission, the hours of operation shall exist between the hours of 10:00 a.m. and 12:00 a.m. (midnight). The Planning Commission may designate that only courts, playing areas, fields, skateboard parks, cages, rinks and courses further from residential zoning districts be used after 10:00 p.m.

- f. Minimum parking spaces shall be consistent with Section 1904 and specifically under Paragraph c(14), except that instead of one hundred fifty (150) square feet of usable floor area, it will be one hundred fifty (150) square feet of area devoted to the actual commercial outdoor recreation activity, such as the actual volleyball or basketball courts, baseball, softball or soccer fields, bag toss/corn hole courts, shuffleboard playing area, bocce fields, skateboard park, batting cages, ice skating rinks, and miniature golf courses. There shall be no parking allowed on roads, drives, grass, or landscaped areas, or any other area not designated on the site plan for parking.
- g. Section 1907 and Section 1911 relating to landscaping and screening, and obscuring walls, shall apply, but the Planning Commission may increase or reduce landscaping and screening, and obscuring walls, based on the particular site involved, as well as based on the commercial outdoor recreation activities that are involved.
- h. Exterior lighting shall comply with Section 1908.
- i. Section 1913 relating to site plan review shall apply, however, if no new habitable buildings are erected, subsection 6, entitled "formal site plan not required", shall apply.
- j. There shall be a six (6) foot fence required around the entire parcel (except facing the front lot line on the road providing ingress and egress to the parcel), or alternatively, around the area devoted to all of the commercial outdoor recreation activities, or alternatively, around each court or court areas, or field or fields, or playing area or areas, or skateboard park or parks, or cage or cages, rink or rinks, or course or courses, but the Planning Commission may specify particular fencing requirements for different portions of the area or areas devoted to different types of commercial outdoor recreation activities, or based on the particular site involved or the commercial outdoor recreation activities involved.
- k. Food and drink may be sold in conformance with the laws, rules, and regulations of the Michigan Liquor Control Commission, Monroe County and Michigan Health Departments, and any other municipal, county, state, or federal entity having jurisdiction.
- l. Bathroom and serving areas may be provided, subject to "k" above, and subject to approval of the site plan by the Planning Commission.
- m. The road providing access to the parcel containing the outdoor recreation activities shall be a public and paved road.

12. Accessory Structures and uses customarily incident to the above permitted uses.

(Ord. No. 44A-19, 1-22-80; Ord. No. 44A-55, 8-19-86; Ord. No. 44A-107, 7-2-91; Ord. No. 44A-122, 3-1-94; Ord. No. 44A-124, 3-22-94; Ord. No. 44A-270, § 1, 4-21-09; Ord. No. 44A-274, § 1, 9-21-10; Ord. No. 44A-284, § 7, 5-14-13; Ord. No. 44A-308, §§ 2.A., 2.B., 8-16-16)

400.1303 - Site development standards for C-3 General Business Districts.

Sec. 1303. The following development standards shall apply to all buildings, structures and uses of land in C-3 General Business Districts, and are in addition to any other applicable requirements of this Ordinance. The Bedford Township Site and Architectural Design Manual, as

may be separately adopted and amended from time to time by the Planning Commission, shall be reviewed and referred to, in order to provide clarity, guidance, insight and suggestions with regard to the design of properties, which shall serve to assist both the Planning Commission and the developer/owner to understand and meet the requirements of this Zoning Ordinance, the Township's Development Design Standards Ordinance, and other applicable Township Ordinances, or other laws relating to site plan review and development:

A. *Architectural elements.*

1. Building facades shall incorporate recesses and projections, or architectural or landscaping features which visually reduce the mass of the building facade as shown by example in the Bedford Township Site and Architectural Design Manual.
2. Architectural interest shall be provided by referencing the Bedford Township Site and Architectural Design Manual.
3. Wherever possible, variations in roof lines are encouraged to reduce the massive scale of the structure and to add visual interest. Roofs shall have features which conceal flat roofs and roof-top equipment.
4. Each principal building with an anchor tenant, shall have a clearly defined, customer entrance with features such as canopies or porticos, arcades, arches, wing walls, and integral planters.
5. Wherever possible, primary entrances and the facade shall be designed to provide three-dimensionality to the building structure consistent with the Bedford Township Site and Architectural Design Manual.
6. Lighting shall also conform to the lighting regulation requirements of Section 1908 [400.1908] of this Ordinance and as required as part of the site plan review.
7. The Bedford Township Site and Architectural Design Manual will be used as the primary guideline to determine the architectural style, color and color scheme that embraces the character of the Township's visual environment.

B. *Exterior colors and materials.*

1. Facade colors shall be consistent with the recommendations and suggestions in the Bedford Township Site and Architectural Design Manual.

C. *Miscellaneous design elements.*

1. Loading docks, trash collection, outdoor storage including seasonal storage, and similar facilities and functions shall be incorporated into the overall design of the building and the landscaping so that the visual and acoustic impacts of these functions are minimized. There shall be no utility hook-up permitted for recreational vehicles.
2. These provisions shall be construed to be in addition to the loading and unloading regulation requirements of Section 1906 [400.1906], and those other regulations of this Ordinance, which, along with that required as part of the site plan review, shall also be complied with.

D. *Building and unit dimensions.*

1. All buildings and structures, when considered collectively as a whole, shall not exceed an area greater than 25 percent of the net parcel area. Net parcel area is defined as the gross parcel area minus the road right-of-way.

E. *Site amenities.* The proposed general business development project may include sidewalk and/or bike path connections to existing and future developments subject to unique topographic or site features, current sidewalk ordinance requirements, and Michigan Barrier Free requirements.

- F. *Signage.* Any site signage, including entrance monuments and wall signage, shall meet the sign regulation requirements of Section 1922 [400.1922] of this Ordinance.

400.1304 - Area and bulk requirements.

Sec. 1304. See Article XVIII, Schedule of Regulations limiting the height and bulk of buildings the minimum size of lot by permitted land use and providing minimum yard setback requirements.

It should be noted that all uses within the C-2 and C-1 zoning districts are also permitted within the C-3 zoning district as long as all requirements can be met. As well, many of the uses require special approval, have stipulations, and/or are conditioned. Kincaid noted Attorney Brescol's submitted letters were included in the Planning Commission packet for review.

Kincaid read aloud the e-mail submitted to the Planning Department from Pastor Hobbins.

Joshua Newbolton-Principal at Stateline Christian School & Associate Pastor at Lewis Avenue Baptist Church- 1425 Hagley, Toledo, Ohio-Mr. Newbolton spoke in opposition to the request with the concerns of the use due to the proximity of the school and church. Mr. Newbolton inquired if a gun shop would be permitted. Mr. Newbolton agreed with Pastor Hobbins' submitted letter. Mr. Newbolton requested the Commission to maintain the existing PBO zoning for the safety of the children and the church.

Mike Cochren-5195 (inaudible) Toledo, Ohio-Representative from Lewis Avenue Baptist Church- Mr. Cochren also spoke on the same concerns and opposition to the proposed rezoning.

Tony Brescol-Attorney for the applicant- Mr. Brescol spoke on their diligence with the application and the responses submitted in regards to the planner review letter by Mannik and Smith. Mr. Brescol spoke on the relevant differences between this parcel's request and the previous request stating it is not adjacent to residential. Mr. Brescol noted the adjacent parcels are the school and church on both sides. Mr. Brescol advised of the approximate 8,000 square foot building to hopefully enhance the corner. Mr. Brescol advised it is not the applicants' intentions to bring in anything inappropriate or bring down the values of the area. Mr. Brescol advised the applicant will speak further on that matter. Mr. Brescol advised the overall result is to improve property values. Mr. Brescol referred to the unique circumstances that was included in the Planning Commission's packets, is that the applicant is limited. Mr. Brescol advised it is not a zoning issue but it is a real issue as Monroe Bank & Trust has a standing practice that on every piece of real estate where they once had a structure, they implement a deed restriction. Mr. Brescol advised there is a 10-year deed restriction on the property which does not permit any financial industry in the building until 2028. Mr. Brescol further spoke on the area, uses and that there is not a liquor license available within the township at this time. Mr. Brescol spoke on the continuity on this corridor and they believe under their criteria this request fits with the surrounding zonings and the possible land uses, and protects the surrounding parcels with the setback requirements and the deed restrictions already in place. Mr. Brescol added the intent is to create a marketable piece of real-estate to bring jobs and benefits to the community.

Ali Parsipour-Applicant- Mr. Parsipour said this hearing request is very important to his family and thanked his wife as he came back in town from a family vacation. Mr. Parsipour gave a history of his life. Mr. and Mrs. Parsipour developed a company called Job Property

Management and currently manage rentals and commercial properties. Mr. Parsipour travels from Toledo to Michigan weekly and saw the beautiful building and property deteriorating. Mr. Parsipour stated he saw potential with the vacant building, inquired on the property and hopefully with support from the township and the community Mr. Parsipour hopes to rejuvenate the property and bring value to the community. Mr. Parsipour stated he understands the requirements meeting the lighting, parking, sidewalks, etc. and just wants to improve the quality of life for the area. Mr. Parsipour explained with the restrictions on the property and the township requirements on uses, he hopes the Commission will approve the request to give him the opportunity to provide a use beneficial to the community. Mr. Parsipour thanked the Commission for taking the time to review the application.

Steve Worley-10177 Cemetery Road-Erie, MI- Mr. Worley stated he grew up going to the school and church and loves this community. Mr. Worley reiterated the need for protection for the school, children and church. Mr. Worley stated he respects the request from the buyer, however what about the next owner, and that he knew what the property was zoned before purchasing the property. Mr. Worley urged the Commission to leave the PBO zoning. Mr. Worley again stated his concern regarding increase in traffic and the safety of the existing uses in the area. Mr. Worley expressed strong objection to the request.

Motion by Jenkins, supported by Frederick, to close the public hearing at 8:15 p.m. Motion Carried.

Angerer spoke that the commission has to decide on what is the best for the Township. Steffen voiced support of the commercial growth and that specific corridor supports the commercial use. Steffen added residential growth within the community needs commercial to coincide to make a balance within the Township. Garverick reiterated his concerns with the proximity of the school and church, especially should a bar be the use within the building. Kincaid noted from a previous comment that a weapons store would be State regulated. Mr. Kamprath stated that weapons are regulated by the State and our ordinance has no setback requirement for a restaurant/bar, however, there may be requirements that would be regulated by the State and/or Liquor Control. Jenkins inquired on a bar in proximity to a church being regulated by a Liquor Control. Mr. Kamprath advised a liquor license would be regulated by the State. Frederick asked on C-2 uses not being permitted as the parcel does not meet the required acreage. Kincaid noted the site could not be rezoned to C-2, however, that does not mean the uses would not be permitted by ordinance as long as they would meet the requirement if the property were rezoned to C-3. Planning Commission members discussed in length zoning districts, uses and setback requirements.

Jenkins clarified his objection to the previous request was due to the proximity to the adjacent residential and strategy 1.3 within the Master Plan states to encourage commercial development within the village centers and along appropriate corridors where compact and coordinated development can occur without impacting residential land uses. Jenkins noted this request does not have the same issue. Frederick agreed with Jenkins. Discussion on a bar/restaurant use and the possibility of binging a negative effect on the church. Frederick inquired on a mixed-use zoning district being in the planning process as it is within the Master Plan. Kincaid advised it is within the planning process with several others. Kincaid stated however the Master Plan does not change the zoning district, it is a guide for future land uses.

MOTION BY STEFFEN, SUPPORTED BY JENKINS, TO RECOMMEND APPROVAL REGARDING THE ALI PARSIPOUR REQUEST FOR A REZONING OF PARCEL NUMBER 5802-102-026-10, FROM PBO, PROFESSIONAL BUSINESS OFFICE, TO C-3, GENERAL COMMERCIAL, LOCATED ON THE SOUTHEAST CORNER OF LEWIS AVENUE AND SMITH ROAD, OTHERWISE KNOWN AS 6560 LEWIS AVENUE, TEMPERANCE, MI 48182 AS IT IS CONSISTANT WITH THE MASTER PLAN AND WILL ENHANCE THE LEWIS AVENUE CORRIDOR.

Roll call as follows: Voting Aye: Steffen, Jenkins, Garverick, Fritz, Zdybek, Frederick and Angerer

Voting Nay: None.

Excused: None

Absent: None

Motion carried.

PUBLIC COMMENT –

None.

INFORMATION –

Kincaid advised there will be a meeting on September 26, 2018 as there are two Public Hearings scheduled.

COMMISSION / STAFF COMMENT –

Kincaid also reminded the Commission and the applicants that the requests will go to Monroe County Planning for consideration and a recommendation and then presented to the Bedford Township Board for a decision.

ADJOURNMENT –

The meeting was duly adjourned at 8:37 p.m.

Respectfully submitted,

Jodie L. Rector, Recording Secretary