

1. **Call to Order** - THE MEETING WAS CALLED TO ORDER BY CHAIRMAN LARRY FOX AT 7:00 PM

2. **Pledge of Allegiance**

3. **Roll Call**

PRESENT: Joe Colaianne, Thomas Murphy, Larry Fox, Michael Mitchell

ABSENT: Jeff Newsom, Sue Grissim, Keith Voight

4. **Approval of Meeting Agenda**

Motion to Approve Meeting Agenda

A Motion to approve the Meeting Agenda was made by Commissioner Colaianne and seconded by Commissioner Mitchell. Motion carried unanimously.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Joe Colaianne, Trustee
<b>SECONDER:</b>	Michael Mitchell, Commissioner
<b>AYES:</b>	Colaianne, Murphy, Fox, Mitchell
<b>ABSENT:</b>	Newsom, Grissim, Voight

5. **Call to Public**

None

6. **Public Hearing**

a. Rezoning #19-001

Chair Fox opened the Public Hearing at 7:03 PM and gave an overview of the Public Hearing process.

Director Langer summarized the request stating the following:

- Indicated the location.
- Applicant is required to submit an application, a legal description and a written explanation of how they feel the requested rezoning is merited. A site plan is not required.
- Staff prepares a report outlining all of the possible uses that would be permitted in the new zoning category.
- The Future Land Use Map (FLUM) and the Comprehensive Plan are part of the review criteria. The FLUM indicates this property is designated as Planned Industrial / Research & Development.
- Three potential zoning categories that could be in this area are Research & Development, Light Industrial and Industrial.
- The Planning Commission makes a recommendation; the Township Board makes the final decision.
- The Planning Staff, in their report, has recommended denial of this request.

The Applicant, Pat Kehoe, with ACE Civil Engineering and Tony Biddix's representative, stated the following:

- Property is in the vicinity of other Industrial properties and abuts the expressway.
- Looking for some kind of industrial use.
- No plan at this time but is interested in the rezoning to allow some flexibility in moving forward with the site plan process for something more industrial related.

- Wants to listen to the comments, work with the Township and community.
- Feels the Industrial zoning category would be more compatible with the uses to the north and west.
- Difficult to use the property as currently zoned with those surrounding uses and the abutting expressway present.

**Call to the Public**

Patrician Single, W. Peterson Drive, Hartland Township, President of the Pleasant Valley Home Owners Association;

- Has there been an Environmental Impact study done on the impact on the wetlands and water table?
- The residential zoning is acting as a buffer now for the existing neighborhood to the south.
- Concerned having heavy industry abutting residential properties.
- Road access is not adequate for the current residential use.
- Wallace Lake Drive is the bus stop for the school children.
- Concerned about the impact to the water quality of the lake and quality of life.

Ken Pritchard, W. Peterson Drive, Hartland Township;

- PIRD zoning category states the desire is for businesses that do not create dust, noise, and heavy truck traffic.
- I Industrial zoning would allow the cement plant to expand.
- Property does not have the required road frontage for this zoning category.
- Large area of wetland on the property and should never be developed.
- Portions of the lot could be developed for some other more compatible use.

Don Milner, Wallace Lake Drive, Hartland Township;

- All access from W. Peterson is a private drive key-holed through Wallace Lake Drive to exit onto Old US 23. An industrial complex would have to share that as well. The road is not well maintained as it is.
- Concerned about the lack of public sewer at this location for an industrial use.

Deb Milner, Wallace Lake Drive, Hartland Township;

- Concerned about environmental impact; wetlands, and wells.
- Concerned about traffic, noise and dust as is already present with the cement factory.

[Unknown]

- Must be a buffer between the industrial use and the residential.
- Concerned with additional traffic in an area where there are children and no sidewalks.

Joe Taylor, Deign Ct., Hartland Township;

- Concerned about additional noise.

Mike Ryan, W. Peterson Drive, Hartland Township;

- Shared photos and information about the wetlands and flooding on the property.
- Area already has drainage issues during times of snow melt or heavy rain.
- Shared photos and information about Wallace Lake Drive.
- Should not be rezoned to Industrial and risk contaminating the drains and wetland.
- Previous administration indicated the Industrial use should stop with the Livingston Concrete property.
- During drier times of the year, the marsh area still has cattails; the water is coming out from the ground.

Paul Adams, N Old US 23, Hartland Township;

- Environmental study should be done as an industrial use will impact the wetland filter system.
- Access should be off of Old 23, not Wallace Lake Drive.
- Asked for more information about documents and procedure/timing.

Bill Hershey, W. Peterson Drive, Hartland Township;

- Would like an Environmental study completed.
- Concerned about additional traffic.
- Concerned about the impact on his property value.

Paul Black, W. Peterson Drive, Hartland Township;

- Agreed with the other residents who have commented and the staff recommendation.
- Concerned about not having a buffer between the uses.

Yvonne Merkel, W. Peterson Drive, Hartland Township;

- Agreed with the other residents who have commented.
- Concerned with additional noise during the night, traffic and wetlands.

Aaron Krese, W. Peterson Drive, Hartland Township;

- Concerned about additional traffic with new drivers.
- Appreciates the wildlife present in the area.

Nicole Johnson, W. Peterson Drive, Hartland Township;

- Concerned about additional water run-off.

Tom Ferguson, W. Peterson Drive, Hartland Township;

- Concerned about additional cost for sewer, noise and inadequate road access.

Chair Fox closed the Public Hearing at 7:55 PM

Chair Fox and Director Langer gave a brief demonstration of how to find meeting materials on the Township website.

Chair Fox referred to the staff memo dated April 18, 2019.

#### **Zoning Ordinance Rezoning Criteria**

##### Section 7.4.3.A. Consistency with the adopted Comprehensive Plan.

Director Langer gave an overview of the three zoning categories; I Industrial, LI Light Industrial, PIRD Planned Industrial Research and Development, that fall under the purple color on the Future Land Use Map. In this portion of the purple area, staff has determined the I Industrial zoning category would not be consistent with the Comprehensive Plan.

##### *Section 7.4.3.B. Compatibility with the site's physical, geological, hydrological and other environmental features.*

Chair Fox stated the report mentions the wetlands, open water and a possible stream.

Commissioner Colaianne stated these all fall within Part 303 of the Michigan Natural Resources and Environmental Protection Act requirements; his question to the Applicant is has a wetland delineation been done?

The Applicant replied no, it has not been done. They are only looking for the zoning change. By virtue of the comments tonight, we recognize the property is Master Planned for some type of industrial, surrounded on a few sides by industrial, subject to existing noise already. They feel an industrial use is more compatible with what the property really is. They realize when they go through Site Plan Review

they will have to delineate wetlands, do drainage studies, detailed designs, realistically not all of the 35 acres will be developed. They are just looking for the use which is more compatible with industrial than it is with residential.

Commissioner Colaianne encouraged the members of the public to share their comments during the next Call to the Public later in the meeting.

Commissioner Colaianne stated the reason he brought the question forward is to try and understand what portion of the property is usable space and intended for development. He is concerned about the wetlands that are present as they serve as a natural drainage and filtering system for the tributaries which is the lake. This property is providing a buffer for the concrete plant. The wetland looks like a high quality wetland but we do not have any information about it.

The Applicant stated no matter how the property is developed, the wetland will have to be delineated and storm drainage will have to be designed around it. All of these items will be worked out during the site plan process if it gets to that point.

Chair Fox stated you can understand the concern looking at the map. The high and dry area is close to the existing residential and a small strip by the concrete plant with the wetland area in the middle. Their concerns, and ours, would be if the wetland were to remain, and the little strip of high and dry developable land abutting people's backyards were developed, the buffer will be lost. The request is for Industrial, the heaviest use, with what the Ordinance describes as "obnoxious odors and noise permitted" in their backyards. He understands what they are saying. That piece of information would help people understand where the project would really go. Right now, it looks like it would go in their backyard or next to the concrete plant with a wetland in the middle.

Commissioner Mitchell stated the way he reviewed it, the available property to build on is being forced toward the residential.

Commissioner Murphy stated he would agree completely and that is without considering the study that has to be done to find out how close they can get to those wetlands. If that is a fairly accurate display of the wetland, it is going to be pushed closer and closer to the residential.

Section 7.4.3.C. Reasonable return on investment with current classification of SR.

The Applicant stated with the wetlands, the addition of a road, the distance to get to the area where you could build, in an area that is probably not going to generate real high home sales, the return on the investment for a residential developer does not look favorable.

Chair Fox asked, to help him understand the reasonable return on the investment, how long has the property owner owned this property?

The Applicant stated he did not know.

Chair Fox stated the property has been zoned SR Suburban Residential, using the word very loosely, forever. His comment on the reasonable rate of return would be one purchased the property with an understanding it was zoned residential. The return should be based upon the investment they made in the SR category, which it has always been to the best of his knowledge, and what it is today. Not to consider using the thought if I flip it to an industrial property without consideration of the other 13 points for purposes of improving my return; that does not work as well for me, particularly when it was purchased under that zoning.

Section 7.4.3.D. Compatibility of all potential uses allowed in the proposed I District with surrounding uses and zoning.

Chair Fox clarified asking the Applicant if he was saying it should be zoned I Industrial because of the concrete facility to the north, and a smaller piece of industrial to the west.

The Applicant added there is an expressway on the east.

Commissioner Colaianne stated again there is SR Suburban Residential to the south. It needs to be compatible with the neighboring parcel to the south which is a sensitive area.

Commissioner Murphy stated the residential is built up against the freeway as well.

Chair Fox stated there is also a piece of CA Conservation Agriculture which is residential also.

*Section 7.4.3.E. Capacity of infrastructure and other public services and street system*

The Applicant stated without knowing the specifics of the actual development it is hard to comment on that. Anything that is developed there would have to adhere to current regulations. His understanding is that sewer and water are not a reasonable distance there, but there is some area on the property that perks. Depending on the type of facility that goes in, they should be able to make that work for a water well. The road access is what it is. It would be hard to deny this user access to his own site.

Commissioner Murphy stated he does not think there is any question of denying the owner access to his site.

Chair Fox agreed stating the question is what is that access? What is that property being used for? There is a difference on load on the road for residential. What is being asked for is the heaviest industrial use. There are other opportunities: research and development, office, it could stay SR. There are many opportunities that exist that would not fall in this heavy industrial category. Only addressing what was requested, can we change this to I Industrial? The use of the road that is in conflict with a school bus stop and an entrance to a residential area is concerning.

*Section 7.4.3.F. Capability of the street system to accommodate the expected traffic generated by uses allowed in the requested zoning district.*

Chair Fox stated that for I Industrial zoning, 300 feet of street frontage is required. This site has 166 feet on Wallace Lake Drive.

Director Langer stated there is 1100 feet of frontage on US 23 but he cannot access it. That is a question the Planning Commission will need to decide; is it frontage for access or frontage on a public street even if one cannot access it?

Chair Fox stated one must take all of the points being discussed and not focus on one. There are 13 points that must be looked at in totality not just one.

*Section 7.4.3.G. Apparent demand for uses permitted in the requested zoning district.*

Director Langer stated the applicant has not provided information regarding the demand for uses in the I Industrial district. The Township is not aware of any industrial uses that have expressed an interest in development in the Township.

The Applicant stated there is nothing in the works at this point.

Chair Fox stated there must have been something that caused it to be a request for Industrial rather than a less intense zoning category.

The Applicant stated they are aware the Planning Commission can recommend a lesser zoning category. They wanted to get the discussion going on this and see where it led. They feel it is a tough property to be zoned SR Suburban Residential. If you look at the Master Plan and the surrounding zoning, it fits that it should be something different than it is. They are willing to work through those items to obtain and end result that is a better fit for everyone.

The Planning Commission briefly discussed their options and how to proceed.

Director Langer encouraged the Planning Commission to answer the question that is being asked. If the Applicant chooses to seek a different zoning category, then that opens the Planning Commission up for additional discussion. Right now the question is being asked and he has to prepare them. This goes well beyond the Township level. His advice is the Planning Commission should create an affirmative record here that answers that question.

*Section 7.4.3.H. Ability to comply with zoning regulations.*

Director Langer referred to the Michigan Department of Environmental Quality (MDEQ) wetland map and stated the MDEQ is the only entity in the State that can determine what a regulated wetland is and where the boundary of the wetland is. Maps have been provided to indicate areas of concern. The maps are a guide. The map for this location indicates there may be some regulated wetlands on this property that should be investigated. Because of that, he cannot ascertain how much of this land is buildable and would meet the required setbacks, provide adequate parking, screening and everything else.

*Section 7.4.3.I. Appropriateness of the requested zoning district.*

Director Langer referred to the Future Land Use Map indicating the surrounding zoning and the areas of conflict. He stated there are many questions due to features that are not known. It is for the Planning Commission to decide but staff has recommended it is not appropriate.

Chair Fox stated his reaction to this request is that it is not appropriate due to the amount of residential on both sides of US 23. He is concerned with maintaining a buffer between different uses of differing intensities. The Applicant has requested the Township's highest and most intense use. The concrete factory is our highest and most intense use. They are placed there and are fine but that does not mean that type of use should come any closer to existing residential areas. This property is wonderful looking and could potentially provide wonderful uses besides our highest and most intense use. He would ask the Applicant to consider what is going on along US 23 and not assume just because there is a concrete plant north of the site that everything below it would not work with what he wants to do. He is concerned about buffering and about the appropriateness of the request. He cannot support this request.

Commissioner Colaianne stated he agrees with Chair Fox and is also concerned about the sensitivity of the watershed at that location, the lake, and the tributaries. Bringing an intense use like the Industrial zoning designation, he would be surprised at what use would not impact the watershed there in an adverse manner. He is aware that impacts to wetlands can be mitigated in a variety of ways, but there is no reason to develop this property in light of the role it plays in the watershed system. Hartland sits at the headwaters of two watersheds; the Shiawassee and the Huron. When we impact the watershed, we are impacting an area larger than just the Township. He feels we need to be sensitive to that.

Commissioner Mitchell stated he is struggling with not being able to comprehend how much of the property is suitable to build on. There are wetland setbacks but the location of the wetlands has not been determined. There is a lot of water in that area headed to the lake system. He agrees with other comments and is sensitive to the possible impact to the wetland especially without having any idea what the development might be.

Commissioner Murphy stated he agrees with the other comments and referred to the Zoning Ordinance Section 3.1.17.A. Intent "*The intent of the I, Industrial District is to accommodate manufacturing, assembling, and fabrication activities including large scale or specialized industrial operations, which have the potential for emitting obnoxious odors, generating heavy truck traffic, producing noises, displaying bright light and other external physical effects which may impact surrounding districts. The I District is structured to permit the manufacturing, processing and compounding of semifinished or finished products from raw materials as well as from previously prepared materials,*" he continued stating that is what could end up being here. He does not think this piece of property should be rezoned to Industrial for that purpose.

*Section 7.4.3.J. Amendment of permitted or special uses versus rezoning.*

Chair Fox stated there is no information.

*Section 7.4.3.K. Exclusionary and Spot Zoning Issues.*

Director Langer stated this is not an exclusionary or spot zoning issue where the zoning would exclude an otherwise lawful use of land or where one lot is like an island completely surrounded by a different zoning category. There is Industrial to the north and slightly to the west.

*Section 7.4.3.L. Submittal of similar request within one year.*

Chair Fox stated this is not applicable.

*Section 7.4.3.M. Other Factors.*

Chair Fox stated there are no other factors.

The Applicant stated, after all that has been said, he would ask that this request be tabled to give them the opportunity to review the other zoning options that might be available. This might be a better transitional zoning area. They would request the opportunity to discuss that before a decision is made, come back again and maybe offer some suggestions, if that is appropriate.

The Planning Commission discussed the options going forward.

The Applicant stated it is his understanding the Planning Commission can recommend a different zoning category.

Chair Fox asked for the Director's advice and if he stands by what he said earlier in the meeting.

Director Langer stated he does. There can be discussion but his advice is that it comes from the Applicant to consider something else, then the Planning Commission could consider that. He is looking at this as going beyond the Township's role and his advice is to always answer the question that was asked. Right now the question is to rezone it to Industrial. His advice is to make a decision based on that request. That would put the Planning Commission in the best case scenario to defend that decision. There is also a question whether you can hold off making a decision tonight to allow the Applicant to regroup and put together a proposal, is what he is hearing.

Commissioner Colaianne stated the other option is the Applicant can withdraw the application.

Director Langer stated that if the application is withdrawn, that would close the matter. If they wanted to come back with something else they would have to reapply. He continued, if the Planning Commission postpones or tables this discussion and the Applicant modifies the request to something else, would it have to be re-noticed and a new Public Hearing scheduled? That is venturing into some gray area. His understanding is that re-noticing may not be required but the Township may want to send new notices.

Chair Fox asked could the Applicant request the application be withdrawn. If Mr. Biddix is truly interested in communicating with everyone, he is going to want that notice as that is the only means of communication with the neighboring properties.

Director Langer clarified if the application is withdrawn, it is done.

Chair Fox stated the Applicant could come back in a month or two and reapply.

The Applicant stated he would prefer the request be tabled so they can speak to Mr. Biddix personally and explore other options.

Commissioner Colaianne stated the suggestion to withdraw might allow the residents to be noticed as the notification costs are part of the application fee.

Director Langer clarified, if the question was would the Applicant have to pay an additional fee for re-noticing, He answered that is not clearly identified.

Commissioner Colaianne stated his problem is the due process of all parties; there is the due process of the Applicant and the due process for the neighboring property owners within 300 feet. If this were tabled, the property owners would not get the notice unless they are paying attention to the website. He is not comfortable with that.

Chair Fox agreed.

Commissioner Murphy stated he is not comfortable with that either and reminded the Planning Commission of the Director's advice to answer the question set before them.

Chair Fox stated the issue with doing that is the Applicant cannot return with another request for one year.

Director Langer clarified that is one of the review criteria; it does not necessarily prevent the Applicant from coming back with another request within a year.

Chair Fox gave the Applicant the option to withdraw the application or they would vote on the request this evening. If a new application were brought forth, new notices would then be sent. Tabling would not allow for the noticing process.

The Applicant stated it is very common to table projects after a Public Hearing has been held for a development. The public has been notified because they are here. He does not see how that is an issue.

Chair Fox stated we do not know when the issue would come back and be on the agenda again.

The Applicant asked if it could be tabled with that specified as part of the motion.

Chair Fox stated when applications have been tabled, which is very rare, we have set the date so the people in the audience know when it is coming back, but we do not know what day that is because we do not know what the Applicant is going to do, or how many informal meetings there might be, or conversations with the Director. People have a right to know and they need to know when it is going to happen. We have always tabled with a date.

The Applicant again requested the item be tabled.

The Planning Commission briefly discussed the options.

The Applicant stated the Planning Commission could recommend a different zoning category.

Commissioner Colaianne responded the information contained in this application would not merit doing such a thing if they have the authority to do that; there is not sufficient information. For the same reasons as discussed today, he would not consider Light Industrial or Research and Development. There are a lot of wetlands here and it does not appear to be accommodating the buffer strips that need to be taken care of with respect to the residential properties to the south. At this time, there is not enough information. He would not consider that as well.

**Commissioner Colaianne offered the following motion:**

**Motion to recommend denial of Rezoning Application #19-001, a request to rezone approximately 35 acres, from SR (Suburban Residential) to I (Industrial), located west of US-23,**



east of Old US-23, and north of Wallace Lake Drive and West Peterson Drive in Section 33 of Hartland Township (Parcel ID #4708-33-401-090) property owner/applicant Tony Biddix.

Seconded by Commissioner Murphy

Planning Commission briefly discussed including the basis for the denial.

Commission Colaianne revised his motion to include the following:

The basis for the motion to deny is based on the findings in the staff report dated April 18, 2019 and the information shared at this meeting. The basis is as follows:

1. The requested rezoning of the subject property to the I (Industrial) zoning classification is not consistent with the Township’s Comprehensive Development Plan, which indicates the property should be developed as Light Industrial or Planned Development.
2. The site is not adequately served by services, such as water, sewer, and roads, which would better suit the uses permitted in the I (Industrial) zoning district.
3. The only access to the subject property appears to be from a road that provides access to a single family residential area
4. There are significant wetland features on the subject property; and it is not clear how the property could be developed in the I (Industrial) zoning classification without negatively impacting those features.

The Maker and Seconder agreed. Motion carried unanimously.

<b>RESULT:</b>	<b>RECOMMENDED TO DENY [UNANIMOUS]</b>	<b>Next: 5/21/2019 7:00 PM</b>
<b>MOVER:</b>	Joe Colaianne, Trustee	
<b>SECONDER:</b>	Thomas Murphy, Commissioner	
<b>AYES:</b>	Colaianne, Murphy, Fox, Mitchell	
<b>ABSENT:</b>	Newsom, Grissim, Voight	

**7. Old and New Business**

a. Use Determination Kubota-Bobcat Dealership

Director Langer summarized the use determination as follows:

- Originally looked at the LaFontaine site at 9990 Highland, zoned GC General Commercial.
- It was determined the use could be permitted but no outdoor storage would be allowed.
- Business plan changed requiring outdoor storage which was not compatible with the previous use determination.
- Found a new location at 948 Old US 23 zoned PD Planned Development.
- No established standards for this particular PD.
- First step is to have a use determination. If the use is determined to comply at this location as staff is recommending, they would be able to proceed with Site Plan Review, get into the site, and the property will be rezoned to LI Light Industrial at a later time to clear up the zoning for the future.

Chair Fox stated there was an informal Site Plan Review Committee meeting and he would support this use at this location with the outdoor display component. He stated it feels like it fits in the LI district.

Commissioner Mitchell stated he agrees it looks very nice, fits well, and may provide more opportunity than the previous choice.

Commission Murphy asked how the two zoning districts compared; PD versus GC.

Director Langer stated the previous site was GC General Commercial with automobile sales. A car could be displayed in a lot but no other equipment, accessories or outdoor storage.

Commissioner Murphy stated he was fine with it also.

**Commissioner Colaianne offered the following Motion:**

**MOTION: The Planning Commission finds the proposed use to be similar in nature and compatible to uses of the same nature or class as uses listed in the LI district.**

**Seconded by Commissioner Murphy. Motion carried unanimously.**

<b>RESULT:</b>	<b>APPROVED AS AMENDED [UNANIMOUS]</b>
<b>MOVER:</b>	Joe Colaianne, Trustee
<b>SECONDER:</b>	Thomas Murphy, Commissioner
<b>AYES:</b>	Colaianne, Murphy, Fox, Mitchell
<b>ABSENT:</b>	Newsom, Grissim, Voight

**8. Call to Public**

Paul Adams, N Old US 23, Hartland Township;

- Thanked the Planning Commission for their thoughtful consideration.
- Thinks an Environmental Impact Statement should be part of the Rezoning application process.
- Appreciated the question about length of time the property has been owned by this party.
- The parcel has access, it is not being denied, and thinks once a property is rezoned improving the road access should be part of that process.
- Access to road frontage is important not just road frontage.
- Thinks the FLU Map designation could be a mistake.

**9. Planner's Report**

Director Langer reported Panda Express has received a Land Use Permit and once a building permit has been obtained from Livingston County construction should begin shortly after.

**10. Committee Reports**

None

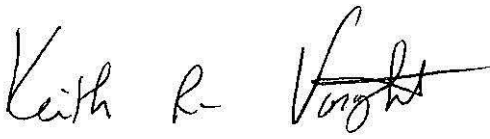
**11. Adjournment**

Motion to Adjourn

A Motion to adjourn was made by Commissioner Mitchell and seconded by Commissioner Colaianne. Motion carried unanimously. The meeting was adjourned at approximately 9:02 PM.

<b>RESULT:</b>	<b>APPROVED [UNANIMOUS]</b>
<b>MOVER:</b>	Michael Mitchell, Commissioner
<b>SECONDER:</b>	Joe Colaianne, Trustee
<b>AYES:</b>	Colaianne, Murphy, Fox, Mitchell
<b>ABSENT:</b>	Newsom, Grissim, Voight

Submitted by,

A handwritten signature in black ink that reads "Keith R. Voight". The signature is written in a cursive style with a horizontal line extending from the end of the word "Voight".

Keith Voight  
Planning Commission Secretary