The Charter Township of Orion Planning Commission held a Public Hearing on Wednesday, March 1, 2023, at 7:05 p.m. at the Orion Township Municipal Complex Board Room 2323 Joslyn Road, Lake Orion, MI 48360.

PLANNING COMMISSION MEMBERS PRESENT:
Scott Reynolds, Chairman  James Cummins, Commissioner
Don Gross, Vice Chairman  Joe St. Henry, Secretary
Kim Urbanowski, BOT Rep to PC  Jessica Gingell, Commissioner

PLANNING COMMISSION MEMBERS ABSENT:
Don Walker, PC Rep to ZBA

CONSULTANTS PRESENT:
Alissa Starling, (Township Planner) of Carlisle Wortman Associates, Inc.
Mark Landis (Township Engineer) of Orchard, Hiltz, and McCliment, Inc.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:
Joe Latozas  Scott Gabriel
Steven Keltsch

PC-23-03, Lapeer Road Burger King Rezone, located at 1155 S. Lapeer Rd. (parcel #09-14-226-011).

Mr. Ronn Nadis with Cousins Landsky 39395 W. 12 Mile Rd., Farmington Hills, MI, presented.

Mr. Nadis stated that he was an attorney and he represent Carrols LLC which is the owner of 1155 Lapeer Rd. property, which they may know as Burger King south of Meijer’s development. The property has been used as a Burger King restaurant with a drive-thru since it was constructed in the 1980s. The property was purchased by Carrols in 2016 and Carrols has continued to operate the property as a Burger King since that time. Carrols is one of the largest restaurant franchisees in the United States, it operates over 1,000 Burger King franchises and a number of Popeye franchises as well in many states in the United States. They have operated Burger King restaurants since 1976.

Mr. Nadis said Carrols bought the property in 2016 and it was already a Burger King at that time. He showed the Commissioners an aerial shot from Gateway and pointed out that at that time Kmart was there in 1980, the bank was there next to that, and the other three properties southerly of that were still vacant. Then in 1990, those vacant properties were not vacant anymore. They were built sometime in the 1980s. During that time, they assumed it had proper zoning as it was approved. They are told that it does not have a Special Land Use permit but was approved as a use there at some point thereafter and is hard to tell when exactly. It was given an Office Professional (OP) zoning designation. Under Office Professional (OP) today that use would not be permitted. For some number of years, Burger King has been operating there as a non-conforming use, and they are trying to do something about that.

Mr. Nadis stated that they are transparent and continue to be about their reasons for wanting the rezone. This site is 35 years old; it is tired, it needs to be redone, and Carrols is prepared to make a pretty substantial investment to knock down the building and put in a state-of-the-art version of a Burger King franchise. It is something that is obviously done with the idea that to make the location profitable it needs to attract customers, and this is a way to do that. Unfortunately, because of its current zoning, they don’t have the ability to do that because an Office Professional (OP) outside of the Lapeer Overlay District, a drive-thru wouldn’t be permitted. They needed to make some sort of change in order to allow them to do that, that was their initial motivation. As they looked at this, they began to realize that they shouldn’t just be motivated by their need to make these changes, but the fact is that the Master Plan actually suggests that this should be done anyway. He showed them a slide taken from the Master Plan, not from the
ordinance, it showed the current zoning in the area. He added that Burger King was in the green in Office Professional (OP) but otherwise it was a hotch-potch of different kinds of commercial classifications but included the red which is General Business (GB), the Meijer’s General Business (GB), and further down there is a Coney that is General Business (GB). When they looked at the Master Plan, they discovered that the Township would like to see that area actually be more uniformly in the General Business (GB) category, and right in the middle of that is the Burger King location.

Mr. Nadis said in order to make this determination the Planning Commission would have to find some facts that would support each of the criteria. The Planner has already made that evaluation. They endorse the findings of the Planner and are fairly clear about why it is that they need this. He wanted to briefly review each of the sections of the Planner’s review. The first one relates to the objectives of the Master Plan. The obvious objective is to move this area to a General Business classification and the change they are asking is to change it from Office Professional (OP) to General Business (GB). The second was to evaluate whether there is a conflict with the existing uses of property in the general area. The uses in the general area really are a whole slew of different kinds of commercial uses including General Business (GB) uses. He felt there was no conflict at all, and this Burger King has been there for 35 years, it is a developed site, it has all of its utilities, and has been operating in harmony with the periodontist next door and there was a couple of bank properties on the other side. General Business (GB) would be consistent with the general area as it is being used and as it is contemplated to be used. What is the suitability of the property in question to the uses permitted under the existing zoning classification? They would only say that they think that Office Professional (OP) is actually not suitable, (OP) is actually really intended for office-type professional and administrative services. It contemplates having testing and research prototype planning and similar kinds of uses. In fact, the ordinance makes clear that (OP) is specifically designed to prohibit retail establishments and other kinds of facilities that generate heavy traffic. That is simply not consistent with the idea of making that whole area General Business (GB). Lastly, what is the trend? It appears that the trend is moving in the direction of General Business (GB).

Mr. Nadis thought that the rezoning of the site from Office Professional (OP) to General Business (GB) would turn out to be beneficial to both the property owner and the Township. They could advance their goal of redeveloping the property to a fresh Burger King facility subject to the site plan review and the Special Land Use permit. Then the Township can then advance its stated goal of changing the zoning in the area to General Business (GB) and bring it into alignment with the use that has been there for so many years.

Chairman Reynolds asked if there were any citizens that would like to make any comments or questions. There were none.

Chairman Reynolds asked the Planning Commissioners if there were any comments or questions. There were none.

Chairman Reynolds closed the public hearing at 7:18 p.m.

Respectfully submitted,

Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

March 15, 2023
Planning Commission Approval Date