

CHARTER TOWNSHIP OF ORION PLANNING COMMISSION

***** MINUTES *****

REGULAR MEETING, WEDNESDAY, APRIL 3, 2024

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, April 3, 2024, at 7:00 p.m. at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

PLANNING COMMISSION MEMBERS PRESENT:

Scott Reynolds, Chairman
Don Walker, PC Rep to ZBA
Jack Lovat, Commissioner

Joe St. Henry, Secretary
Don Gross, Vice Chairman

PLANNING COMMISSION MEMBERS ABSENT:

James Cummins, Commissioner
Kim Urbanowski, BOT Rep to PC

1. OPEN MEETING

Chairman Reynolds opened the meeting at 7:00 p.m.

2. ROLL CALL

As noted.

CONSULTANTS PRESENT:

John Enos, (Township Planner) of Carlisle Wortman Associates, LLC
Mark Landis, (Township Engineer) of Orchard, Hiltz, and McCliment, Inc.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:

Scott Gabriel	Matthew Pisko
Scott Jones	Patrick Mahoney
Terri Consiglio	Kathy Wrighton
Shirley Mitchell	Judith Hempton
Debbie Wylin	Debbie Thompson
Dane Thompson	Katie Consiglio
Dawn Wallin	Barb Schalk
Joe Fleming	Michelle Fleming
Ronald Lunney	Dieter Fuenfer
Sue Hackstock	Dottie Kowalski
Bill Wagner	

3. MINUTES

- A. 3-20-24, Planning Commission Regular Meeting Minutes
- B. 3-20-24, PC-23-32, The Villages of Orion, Public Hearing Meeting Minutes
- C. 3-20-24, PC-24-04, Township Initiated Text Amendment, Public Hearing Minutes

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, to approve all sets of minutes as presented. **Motion carried.**

4. AGENDA REVIEW AND APPROVAL

Moved by Vice-Chairman Gross, seconded by Secretary St. Henry to approve the agenda as presented. **Motion carried.**

5. BRIEF PUBLIC COMMENT – NON-AGENDA ITEMS ONLY

None.

6. CONSENT AGENDA

None.

Chairman Reynolds adjourned the regular meeting at 7:05 p.m. and opened the public hearing at 7:05 p.m. for PC-24-08, Kroger D649 Retail Fuel Center, request for a Conditional Rezone of one parcel, located at 3111 South Baldwin Rd. (09-29-126-039), from Office and Professional (OP) to General Business (GB) with conditions, in accordance with the concept plan depicting a fueling station with 8 dispensing columns that allow for 16 pumps, a 540 square foot transaction kiosk, and an offer of additional conditions.

Chairman Reynolds closed the public hearing for PC-24-08 at 7:54 p.m.

7. NEW BUSINESS

A. PC-24-07, Pinball Social Determination of Use, 784 S. Lapeer Rd. (parcel #09-11-476-019).

Chairman Reynolds asked the applicant to give them an overview of their use so they could discuss how it proceeds.

Mr. Scott Jones 127 Pinball, 617 Kingstone Ct., Oakland Township presented.

Mr. Jones said he was there on behalf of MJC Companies, speaking on their behalf. They are requesting a determination of use not otherwise included within the Restricted Business (RB) zoning district. Their proposed use for this location is for a pinball game room promoting a family-friendly social atmosphere with private indoor recreational use of multiple pinball machines that can be played by their customers on a monthly/daily/weekly basis. They are going to have sales and service of coin-operated machines as well as weekly tournaments, corporate events, private parties, knowledge-based seminars, and workshops. The proposed location is zoned Restricted Business (RB). In the verbiage, there is no current verbiage addressing arcades or game rooms on the record. The permitted land use per the matrix is entertainment, amusement, recreational use, private indoor recreational facilities, and general appliance repair services, and the pinball social sashays all three of those requirements. It was his belief that they would meet those requirements through the intended use per the Charter Township of Orion's Zoning Ordinance Restricted Business (RB) District use matrix 11.01.

Mr. Jones stated that the current company operated is 127 Pinball. Through 127 Pinball they are a family-owned and operated business. They specialize in the rental sales and service of pinball and other coin-operated machines. Their proposed site location for Pinball Social is 784 S. Lapeer Rd. Lake Orion is a plaza-style mall consisting of block construction with paved parking. Their proposed use of this location is for a pinball game room promoting a family-friendly social atmosphere with private indoor recreational use and multiple pinball machines that can be played by their customers on a monthly/daily/hourly basis, along with the sales and service of coin-operated machines, weekly game tournaments, private corporate events, birthday parties, knowledge-based seminars, and workshops events. There will be no alcohol sales permitted or use at this location. 784 Lapeer Rd. is located in the northwest corner of Lapeer and Clarkston Rd. The property is a plaza-style mall with paved parking consisting of 2,989 square feet, with front door access along with alley access from the rear. The rear alley is large enough to accommodate all of their shipping and receiving needs, so it does not interfere with patrons or surrounding businesses. The interior layout of the proposed property is an open floor plan with a single bathroom, three front entry doors, and an 8' 6" rollup overhead door at the rear. The majority of the space will be used for the game room supporting their daily business with the rear portion being reserved for shop services, repair maintenance, shipping, and receiving. The access for the customers will be from the front door only with the rear

overhead door being reserved for business operations such as delivery, shipping, customer drop off, and pick-up of games. No movement of games, shipping and or receiving or customer drop offs will be permitted during open public business hours. No patrons will be granted direct access to the rear shop portion of this space. Their proposed hours are Monday through Wednesday they would be closed to the public, and that time would be reserved for appointments, only for private events, tournaments, seminars, clinics, and the service of customers games, and the games on site. They will be open to the public Thursday from 3 p.m. to 10 p.m., Friday from 2 p.m. to 11 p.m., Saturday and Sunday from 10 a.m. to 11 p.m. No minors will be permitted during school hours or after 9 p.m. unless they are accompanied by a parent or an adult. There is going to be a strict no-loitering policy for anybody who doesn't have the proper wristband for the day.

Mr. Jones showed the Board Members the proposed layout of the site. The intention is to have a communal area/lounge area on either side they have restaurants, so he had no intention of competing with them. He hoped to bring them into the mix as well where people can walk next door get a carryout bring it back, eat at their place, shoot some pinball, and go have dinner at either of the restaurants next door vice versa.

Mr. Jones said the goal is to appeal to an older clientele; he didn't want this to be like Dave and Busters. They will be expensive pinball machines that people with sought-after titles that they want to play. It will be more of a refined clientele is what he was hoping for.

Planner Enos read through his review date stamped March 20, 2024

Chairman Reynolds said if there isn't a use clearly spoken to in the ordinance that is where this process comes about. This is not a site plan approval or anything like that, just purely an understanding of the use itself and how it should be allowed, permitted, or controlled within the ordinance.

Chairman Reynolds turned it over to the Planning Commissioners for their thoughts and discussion.

Commissioner Walker said it is at the northwest corner of Lapeer and Clarkston. He asked if they were moving into something that was already there. Mr. Jones replied yes. Chairman Reynolds said it is in the existing shopping center north of Buckhorn Lake, the Alibi Shopping Center.

Commissioner Walker stated they indicated that there would be no alcohol or no food of any kind or soft drinks. Mr. Jones said he would have snacks and soft drinks, but they are not going after a liquor license. Commissioner Walker asked if they would have sandwiches. Mr. Jones replied he didn't think so, he didn't want to compete with the restaurants, and he would like to have a relationship with those nearby and encourage his customers to patronize them as well.

Chairman Reynolds said he thought Commissioner Walker danced around the same topic of is alcohol served. He knew they had seen some bar atmospheres that had pinball machines and arcades. He thought as a proposed use he didn't really see any difference from the general description of retail entertainment and service nor the service component of appliances any different. He didn't see an issue with it being anything but a permitted use by right in the (RB) district. Furthermore, if they were to include alcohol, he thought it would be no different than a bar use where there would be a special land use component to it to just understand those parameters and hours. He thought as proposed, and he appreciated the in-depth presentation that they brought forth this evening.

Vice-Chairman Gross said he agreed that the ordinance, although is general provides enough flexibility in the ordinance to say that it is a permitted use within the (RB) district.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission determines the use as described in the application for PC-24-07, Pinball Social Determination of Use **is** clearly similar in nature to the uses and compatible with the listed and existing uses in any that district listed in Ordinance #78 in the (RB) section 11.01 regarding retail, entertainment, and service users.

Discussion on the motion:

Chairman Reynolds asked Planner Enos if there were any reasons why it wouldn't also be something they would see in the (GB) district or is that stretching he knew some of those were very similar. If anything (RB) is more restrictive than (GB), correct? Planner Enos replied that is correct, the General Business (GB) as opposed to Restricted Business (RB), he would assume this would be permitted in the (GB) district as well.

Chairman Reynolds asked if they wanted to add that to (GB) too or just wanted to keep it in (RB). Planner Enos thought that would be a good idea.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported, to include in the motion that the proposed use of pinball type uses would also be permitted use in the (GB) district.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross, yes; Lovet, yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

B. PC-24-08, Kroger D649 Fueling Station Conditional Rezone, 3111 S. Baldwin Rd. (parcel #09-29-126-039).

Chairman Reynolds asked the applicant to come back up to the podium if he had anything additional to add.

Mr. Mathew Pisko thanked them for their thoughtful consideration and if there are any questions he will be glad to help.

Planner Enos read through his review date stamped March 26, 2024.

Chairman Reynolds said there was a review from the Fire Marshal just one, the general use. This is a Conditional Rezone they are not talking about the site plan even though they have seen a site plan this evening. There weren't any additional concerns from the Fire Marshal. They are a recommending body. This involves the Board of Trustees also. Whatever motion or lack of motion they make this evening does have to include a second step from the Board of Trustees, they are only a recommending body.

Vice-Chairman Gross said when he reviewed this both through the material that was submitted as well as going out on the site and looking at the site, he was torn because he sees the area as being low-key in terms of the character of the area. It is not a Lapeer Rd. type of road. It is more low-key, and although there is a lot of traffic on Baldwin, it is low-key in terms of the adjoining uses. It is lower density, there is a lot more residential along the corridor. He thought that the improvements to Baldwin Rd. in terms of the boulevard and the roundabout have kind of reinforced that low-profile type of use. The current zoning is Office and he believed that was a

reasonable use of the property. It is consistent with the Master Plan. He was appreciative of the presentation, but he was not convinced.

Chairman Reynolds said he echoed the concern about compatibility with the surrounding area. He is a resident of the Township and a resident that frequents Baldwin Rd. and the north side and the more rural portions of their community. He did appreciate the Conditional Rezone that was brought forth and the number of conditions that were brought forth. He knew it was a point of discussion for many years and arguably whether the use is deemed appropriate or needed by all residents he did think there was some practical sense to it. He thought at the least the number of conditions that the applicant has brought forth is not something that we are requesting that is something that they are bringing forth conditionally not something that they would be negotiating back and forth but something that they are saying this is exactly what is going to happen here. This effectively leads them to the plan that they are presenting this evening even though they are not looking for site plan approval. He knew there were some concerns with the use but thought there was also concern with what could go there. Even now the back is not operational but the drive-through or other permitted uses that are in the current zoning could also be more impactful traffic-wise or general use. There is a long list in their packet this evening but in the general sense of weighing those options. He was generally in favor of recommending the rezone with the conditions set forth. He thought there were some pretty key features here that they know what they are getting and can lead them to that determination to where if it weren't to work out that it reverts back, those are some pretty strong conditions, that purely in this Township they rarely see. Not that that is a reason to approve but he did think it was compatible and thought that the site being set back from the road and maintaining that buffer and the fact that it is connected with the existing Kroger store, to him it seems compatible.

Commissioner Walker said he was conflicted by this. He sees what the residents are saying. He didn't necessarily agree with the increase in traffic. He has lived here since 1988 and traffic is abysmal everywhere. He wasn't sure that this would increase the traffic. If you were going to go to the service station you would do it on your way home or the way somewhere when you were going north or south and not make a special trip. The concern he had was whether there would be additional traffic, if you went to the Kroger store looking at the overlay would that increase traffic through that parking lot? There would be people who rather than going back on Baldwin go through north to Waldon and cause more traffic going that way. He agreed with Vice-Chairman Gross in that from the view of the area it isn't so hard and fast. He lives off of Lapeer, this isn't Lapeer this is different, there is more residential here. He didn't think he agreed with the petitioner even though they did a very nice job, and offered a lot of conditions that they didn't have to, that they would have asked for, but wasn't sure that was still enough.

Secretary St. Henry stated that he grew up in Keatington and was very familiar with that area. Two of his sisters still live over on that side of the Township. It has changed significantly obviously over the last 40 years since his family moved there. He was part of this Planning Commission when they looked at the original proposal, it was before the construction and widening of Baldwin Rd., and the roundabouts. Their concerns then focused on the location of the actual pump area because they wanted it directly in front of Ace Hardware. They had some concerns about the wetland in that part of the development as well as the traffic flows amongst the stores including the Kroger, and how much room there was really there. The obvious question came up why they don't just buy the bank, take the bank out, and put it in front of there? They had actual community members come and recommend that Kroger do that. He remembers that specifically. Now that Baldwin Rd. has been widened and the roundabouts in place traffic flows, too much traffic he was sure especially if you live over there on a daily basis. The traffic issues have been mitigated to a certain extent he thought. He was conflicted because he knew what that part of the Township that area was like many years ago, it is not like

that anymore. He understands the business case. The bank issue could be taken care of and that is what they asked for back several years ago. This is a Conditional Rezone. There are several steps that have to take place before this would ever be approved, addressing all the issues of the Planner, of the community. This is just the very first step in that and just agreeing to the possibility of a rezone. He thought people needed to take that into consideration. This will come back before them at least one or two more times for them to see if the Board of Trustees approves the Conditional Rezone.

Vice-Chairman Gross said he wanted to indicate that he goes to that Kroger store a lot, not five days a week but he is over there quite often. He would probably be a customer of the gas station if it went in, but he didn't think it was the appropriate use at that location, and the benefit of moving this forward.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission forward a recommendation to the Township Board to **deny** PC-24-08, Kroger D649 Retail Fuel Center Conditional Rezone Request, to rezone 3111 South Baldwin Rd. (parcel #09-29-126-039) from Office and Professional (OP) to General Business (GB) with conditions, based upon the following findings of facts: that the current zoning of Office and Professional (OP) is reasonable and is consistent with the objectives of the Master Plan; the proposal is not consistent with the existing uses of the property within the general area of the property in questions; the zoning classification of the property within the general area is reasonable; the proposal is incompatible with the policies and uses designated for the land and area in the Master Plan and is a deviation from the overall goals, objectives, and character of the Township; the development will not advance the public interest weighing the reasonable expected burdens likely to result from allowing the development against the reasonably expected benefits to be achieved by the development.

Discussion on the motion:

Chairman Reynolds said he generally hears the opposition to the rezone. He thought Master Plan wise; the corner is Master Planned general commercial. He thought that did allow what they were seeing here this evening. He was torn and obviously could see the benefit. He did appreciate the number of conditionals brought forth to them. That is something that they normally do not see and the is purely an elective by the applicant to bring clarity instead of a lack of clarity for some of these developments that they see.

Mr. Pisko said he was considering tabling for a larger quorum for the body, that was one of his thoughts. In reading Planner Enos's letter it has been said several times that what they are proposing is incompatible with the Master Plan or the future land use. The way he interpreted that was that is not the case, what they are proposing is compatible with what the Master Plan had dictated for that parcel. They are proposing to take and raise a closed bank which is not inexpensive. There is a vault in the bank, and to get rid of a closed eyesore that is connected to a commercial center to help keep that Kroger store healthy and promote cross-merchandising. This is not a money grab gotcha for the residents, this is a benefit for their customers. This can lead to interior model expansions and the health of the shopping center. We have been waiting and have been extremely patient, they have to have a willing seller and a willing buyer. They now have an opportunity to get that bank, which was what was suggested all those many years ago. They have developed a plan, and they think it is completely compatible with the future zoning in that commercial center. It is a common occurrence to have fuel with a grocery store and cross-merchandising.

Ms. Dotty Kowalski 2500 Browning said she wanted to support his motion of denial.

An unknown citizen said she would like to support the denial of this motion. Mr. David Adams said he was simply going to make a request that the motion be reframed for an adjournment and reconsideration simply because, with all due respect, he didn't believe the way that the motion had been drafted was allegorically accurate or fair. He thought that Vice-Chairman Gross drew a lot of conclusions, and he respected his opinion, but he characterized them as fact and was asking for a little more time for further consideration perhaps at the next agenda.

Chairman Reynolds said there has been a motion made it would have to be retracted if the applicant has asked for an opportunity. Planning & Zoning Director Girling said the motion could fail and then there would be the opportunity for a new motion.

Chairman Reynolds stated that the applicant has asked for the opportunity to postpone action on the case this evening. He asked if there were any considerations to retract your motion due to lack of quorum. Vice-Chairman Gross replied not at this time.

An unknown resident said he supports the motion to deny and as a local citizen as well as a Kroger customer he thought it was the right thing to do for this community. He thought more people would benefit from not having another gas station in their area.

Ms. Deborah Wylin 2398 Eaton Gate said she supports the denial and wanted to remind them they have two lakes right there that feed into each other and there is a drain that goes underneath the water system all connects. One little leak destroys them.

An unknown resident supported the motion for denial.

Ms. Kathy Wrighton 2665 Browning Dr. also supports the motion for denial.

Mr. William Thompson 2416 Mercury Dr. also supports the motion.

Ms. Barbara Schalk 2590 Browning Dr. also supports the motion.

Mr. Scott Gabriel 941 Joslyn said he wanted to bring up the point of what was said that ten years ago when this was brought up; this was exactly what the citizens asked for. This is one of the smallest profitable Kroger's. It is well within the realm of possibility that it could close. That is the anchor store for that entire strip mall. Something is going to go into that bank building it could be another pot shop, be careful what you wish for.

Chairman Reynolds said there is a motion to recommend denial to the Board of Trustees for the previously stated reasons. A yes vote would be agreeing with the motion to recommend denial, a no vote would be opposing the recommendation to deny.

Roll call vote was as follows: Gross, yes; Walker, yes; St. Henry, yes; Reynolds no; Lovat, no. **Motion carried 3-2 (Cummins & Urbanowski absent)**

Moved by Chairman Reynolds, seconded by Commissioner Walker, that the Planning Commission **postpones** action on PC-24-08, Kroger D649 Retail Fuel Center Conditional Rezone Request. Requesting to rezone 3111 South Baldwin Rd. (parcel #09-29-126-039) from Office and Professional (OP) to General Business (GB) with conditions, for the following reasons: to allow for the case to reappear with an additional quorum present.

Discussion on the motion:

Ms. Terri Consiglio asked when this would be postponed to. Chairman Reynold said to a future agenda. They can't determine that this evening but if you would like to know when the future agenda will appear on their Planning & Zoning staff will be happy to provide that, it will not be publicly noticed again like it was for the public hearing itself. Their staff will take their name and information and do their best to keep everyone in the know. They do this for PUDs and all the other cases. The postponement here still doesn't mean that is the singular action that would occur. The Board of Trustees is still involved in that process because they are purely with the zoning change, a recommending body. Ms. Consiglio asked why it would not be made publicly noticed. Chairman Reynold replied due to the actual zoning act they are required to put a public notice out for the public hearing itself not for a repost unless there was another public hearing. All of the agendas and PC cases are publicly posted they are just not publicly notified like they were in the mail for the other public hearing. Ms. Consiglio said it would be up to them. Chairman Reynolds said that our staff is more than willing to help with that process. It is also published on the website, there are many sources. We will do our best if they call the Planning & Zoning office and in the next day or two, they will get a good idea. They have meetings on the first and third Wednesdays of every month. Ms. Consiglio said it was not automatic that it would go to April 17th. Chairman Reynolds replied correct, so they have to determine they are assembling those agendas as they speak and it depends on the number of cases how reviews come back.

Roll call vote was as follows: St. Henry, yes; Gross, no; Lovat, yes, Walker yes; Reynolds, yes. **Motion carried 4-1 (Cummins & Urbanowski absent)**

C. PC-24-09, Burger King Renovation Site Plan, 1155 S. Lapeer Rd. (parcel #09-14-226-011)

Mr. Ron Nadis is the attorney with Couzens & Lansky 39395 W. 12 Mile Rd, Farmington Hills presented.

Mr. Nadis said he represented Carrols, LLC which is the owner and operator of the property located at 1155 S. Lapeer Rd.

Mr. Nadis stated that this property has been used as a Burger King restaurant with a drive-through 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.

Mr. Nadis said that Carrols is the largest Burger King franchisee in the country with over 1,000 locations.

Mr. Nadis stated that he wanted to give a brief explanation of what happened last year. As they know a site plan very similar to the one that is being proposed was conditionally approved by this Planning Commission with a land use permit for a drive-through, last May. Unfortunately, when the cost of the redevelopment was fully calculated, including an unexpected cost for the storm sewer system, the company began looking for alternatives to make the project economically feasible. This took the form of a revised storm sewer system concept keeping a portion of the building intact and then renovating the rest among other things. They tried mightily to bring it to fruition. The Orion Township staff pitched in to assist, and he really appreciated that. Unfortunately, the lack of time before the end of 2023 and the fact that the proposed model was actually not even the newest Burger King model that was going to be rolled out in 2024 caused the company to rethink its approach, and that brings them to this current proposed plan.

Mr. Nadis said the model of building that is now being proposed is the newest 2024 version. It is called a sizzle model, and it is designed to create a more upscale feel with more amenities to address how customers, especially post-covid, engage with fast food establishments. Particularly in addition to adding a second drive-through lane. This model adds a separate pick-up lane for online orders shrinks the building's footprint to account for many fewer dining customers and provides a sleeker and more upscale look. The store will be completely renovated both inside and out and there will be a substantial investment. The company is on board given they are getting to pursue this newest model and creating the newest image for the company which they are pursuing.

Mr. Nadis stated that it was their intention to withdraw the site plan conditionally approved by the Planning Commission on May 17, 2023, and replace it with this new site plan. There is some time period during which a special land use that is approved can be tied to a revised or a new site plan or just barely within that time period. They are not asking for a special land use permit at this moment because the one that was previously approved would still apply if they could get site plan approval for this new plan.

Mr. Nadis said that in many ways the site plan is not that much different from when it was previously considered and conditionally approved. Much of the existing building would be demolished. It is actually going to be a much smaller building with the entire back part of the building cut down and the front glass portion is going to be converted from a play area to a dining room. The rest of the glass front on the northerly side, left side if you are looking at the store, will be completely refaced and enclosed. He gave them a couple of rendering night shots. He added those are preliminary, this is a brand-new store that is being rolled out nationally, and there are still some fits and starts in terms of what they want it to look like. He did notice on the rendering there is a white side of the building that seems to shine brightly, that is not really what it looks like exactly, but they can discuss finishes afterward if that is important. They are proposing the same two-lane drive-through, which is virtually identical to the prior version so that they can maintain prior special land use approval. The building will be significantly smaller as will the corresponding parking field. As with the original plan, they have added a road to allow those coming out of the drive-through to reenter, the road in front of the store, to reenter if they need to without having to go back onto Lapeer Rd. There is a sidewalk that will allow pedestrians to actually walk up to the building and use the site.

Mr. Nadis stated that given that this represents a significant improvement to the Burger King store already there, they believe it will have no adverse impact on the surrounding neighbors or the Township as a whole. On the contrary, they hope it will be viewed as a significant improvement. The Township Ordinance 30.01F provides a series of standards that were considered at least discussed briefly a year ago, he didn't want to spend much time discussing those standards other than to say that they believe that each of the 12 standards has been satisfied with their plan. They have tried the best they can to use this site, it is a limited site but they tried their best to fit everything in and meet the ordinance requirements. He thought that they had come pretty close and thought they had satisfied all of the standards. If there are questions about whether they meet any of the standards they certainly are happy to address those.

Mr. Nadis said what he thought he would do instead was focus on the items that were raised by the Township Engineering consultant and the Planner. There seems like a long list but many of them on the list are bookkeeping or housekeeping issues that he just wanted to go through quickly and reassure them and the consultants that they are going to after this hearing resubmit a plan that will address all of those issues.

Mr. Nadis stated that the first item was the location of the future right-of-way which was unknown at the time. There are some published documents that say that there are differing right-of-way widths along Lapeer Rd., and he thought that was true. It turns out that in front of this store, the right-of-way is actually known, and they have supplied a drawing from MDOT that actually shows that it is a 195-foot right-of-way on the southerly, right in the middle of the store and the northerly side. It is all actually 195 feet, and he wasn't sure what else they could produce or supply to them to satisfy that first item. When he is done, they can let him know if this does or doesn't do it.

Planner Enos said he wasn't sure if he was going to go through all the 20-plus comments that he had. He added that he was right, many of these are pretty simple to address. He didn't know if the Planning Commission wanted to go through every single one of these when they are really replacing one type of landscaping with another, adding some details, and cut sheets to the overall plan. They will need a variance for the speaker box because they are adjacent to multi-family, so that will require a variance. Overall, in regard to what they have proposed they were pleased. They have taken a lot of time and gone through a lot of different evolutions, but typically they are not going to walk through each one of his items. Certainly, if the Planning Commissioners wanted some clarification or expansion on some of those, they could share those.

Mr. Nadis said he appreciated that, and he could assure them that if they asked for them to take something off the plan or put something on the plan, they would take care of those and most of them are acceptable to them. Planner Enos said they can talk about the screening adjacent to the multi-family as well, there can be some revisions to that. There are a couple of items that he will mention and then he will not go into too much detail here.

Mr. Nadis showed them they intend to address the way delivery trucks will maneuver around the site. He thought that they had shown they could maneuver around the site and find a place that would be out of the way enough for the very short periods of times that they are delivering. It is a couple of days of week in the morning when there is not a lot of traffic, and they still will be able to maneuver around. They provided a second one that shows where making a left turn out of the driveway by a Ford F150 which is about the biggest vehicle that would be going through there, that they can make the left turn and the garbage truck turning radius to get into the dumpster area. Those were provided in this package, and they will have a look at it.

Mr. Nadis said there were a couple of specific items that he did want to talk to them about. It is the landscaping issues that are giving them heartburn. He wasn't sure how they wanted them to address it but they did want to point out the suggestion that they were short a couple of shade trees in the front of the building they would very much like to try to address that except the suggestion that they put them in that area is really problematic because there are trees in the front and the sides and the building doesn't have a whole lot of visibility. If they put one or two shade trees in the area right in front of the building along Lapeer Rd. it will block the one little sign they have out front and any visibility. There are things they can talk about to add a tree here or there and maybe that will help.

Mr. Nadis stated that they went out to the site before they came today, and they were really struck by the natural screening in the back. There was a suggestion that they put in the rows of evergreens. He just wanted to point out to the Planning Commission that the reason they would prefer that whatever screening they do in the back to screen the multi-family behind that that be the natural screening that is there already. There is a greenbelt that is in the back, and they have some mature trees in there that they have left in partly in order to create this buffering. There was a suggestion that there was a requirement that they put in screening, but their read of the ordinance is that it is really not a mandatory thing and that this is only under Section 27.

Chairman Reynolds said they were kind of dancing around some minuet items, he knew they were important to everyone here. He thought what would be helpful to the Commission was to go through the reviews. He knew they were talking about some of those topics that are being brought forth but instead of isolating down to the specific concerns he thought it would be good for the overview, and then cross off the bigger stuff that they are all in agreement with. Then maybe discuss some of these items like the buffer and some of the front landscaping.

Planner Enos read through his review date stamped April 1, 2024.

Mr. Nadis noted that in order to make sure that the trucks could turn properly they did have to shrink the triangle so it is not as big as it was, so there will be a little landscaping in there but not a lot. One other change that was made, one island had to be shortened a little bit to make sure there was enough room for all the trucks to get by.

Planner Enos said he did appreciate them turning in those turning templates this afternoon.

Chairman Reynolds asked if they had seen a photometric yet. Planner Enos said they have provided a photometric plan; however, it is not specific to this site which was interesting. The photometric plan that they provided isn't specifically based on this site, it is based on the manufacturer's layout, there is a detail on that photometric plan. Mr. Nadis said he thought that was generally right but there is a full photometric analysis for this site. It includes all of the lighting that is there. What they did was they put in a disclaimer that said we are using the manufacturer's specs for these lights. They are making assumptions about what those lights will create based on the manufacturer's specs. They haven't verified it themselves. It is not like it is for a different site or some generic review, it actually incorporates these. He added that he was there with Patrick Mahoney from Lauer-Manguso, he is the architect, and he is the most familiar with this part of it.

Mr. Patrick Mahoney from Lauer-Manguso stated that the lighting study done is specific to this site and was done by a company called LSI which provides the downlights on the canopy and the pole lights on all the poles for the site. They do not supply sconces, he thought there were four or five sconces on the building. Because of that, they are using that manufacturer's data, and because they don't create that data that is why they put the disclaimer note. If that is not acceptable, they will have them remove the building lighting that they would like to use and put something on that they think is less aesthetic, but LSI would create. Planner Enos said if that building-mounted lighting meets the ordinance requirements on footcandles then they are comfortable with it. Mr. Mahoney stated it does in every way.

Engineer Landis read through his review date stamped April 1, 2024.

Mr. Nadis said they will accommodate the seven-foot-wide sidewalks, that is not an issue.

Ms. Euponine Pierre with Mannik & Smith 607 Shelby St. Suite #300 Detroit, MI part of the Engineering Design team stated the reason they did not include the paved area is because the existing drainage allows for it to mesh into the whole site. However, if the engineering team thinks it is necessary to re-pave the food drive, then that can be easily done in the revised set that they will resubmit. Engineer Landis said that is the existing pavement that they are going to leave in place, they are just proposing not to repave. Mr. Pierre said it would be the existing pavement to leave in. Engineer Landis said that satisfied his concern.

Chairman Reynolds asked Planner Enos his thoughts on administrative rereview of these or does he think that it is some items that they need to discuss beyond the few that have been

brought forth today. Planner Enos said he thought these could be handled easily administratively. They will have to grant the waiver for the alley access, and they will have to get a variance for the speaker box.

Chairman Reynolds said from his understanding of the photometric he didn't really care who or what company and what disclaimer gets provided to it. It is very frequent that all of those get meshed together and utilize photometrics from the manufacturer. As long as they have something on record that proves the photometric of the utilized fixtures on site, he didn't foresee any issue with the disclaimer, unless Planner Enos disagrees with that. Planner Enos said he was comfortable with that.

Chairman Reynolds stated that it seemed they were crossing over into some minor comments that they were skipping over. He said it seemed like it was alleviated of the green belt at the eastern portion of the property to be maintained as the existing buffer. He asked Planner Enos if additional was still needed there or if that suffices the need. Planner Enos said he thought it would suffice. He added that the difference is if this was single family, they would want stricter, but this is multi-family residential per the ordinance.

Chairman Reynolds said shade trees along M24 right-of-way, thoughts on what they want to see. Obviously, they are looking at the center portion directly west or northwest of the building out in front, with landscaping being provided. He asked if there were any thoughts on that condition. He thought that if landscaping was provided in other locations, he would be ok with that. Planner Enos stated there is room on either side of it to add those trees, and he understood the visibility issue. Secretary St. Henry said there was not a lot of landscaping in front of the building now, and there hasn't been for 30 years. Chairman Reynolds said to still have the ability to meet the landscape requirement that they were asking for but not directly in front of the building, so one of the other sides of that side of the structure. Mr. Nadis replied by adding two shade trees. Chairman Reynolds asked if that was in agreement. Mr. Nadis replied yes.

Chairman Reynolds said to be clear landscaping, item 7.4 on Carlisle Wortman's review letter the triangular area that is being provided was a point of contention. Mr. Nadis replied that it is to be provided just in a very small area. Chairman Reynolds said he understood it was being decreased in size based on the revised plan.

Chairman Reynolds stated that the brick face and all the other things that are going to complement the building. He asked if there were any disagreements with the general review items. Are there any things that they disagree with in Carlisle Wortman's letter beyond these points that they discussed? Mr. Nadis said there was a question on whether or not that the brick that was proposed that surrounds the dumpster enclosure would be coordinated with the rest of the building; the answer was, he sure hoped so. They are certainly going to make it as nice as they can. He wanted to give them a heads-up there was some suggestion that the brick matches the brick of that decorative area on the side of the building, most of the side of the building is not brick it is going to be some other material. Chairman Reynolds asked if it was complementary to this part of the structure. Mr. Nadis replied it is complementary, it will look beautiful. They are not ignoring that at all.

Mr. Nadis said the reference to the island was supposed to be 10-ft. wide; it is only 6 feet wide. While they might be able to expand it, if necessary, they weren't sure what the compelling reason would be in the ordinance. More importantly, the only way to do it was to shrink 4 spaces to 9-ft. wide. While that is possible, Carrols really prefers to have the 10-ft. wide spaces because it is easier for people to get in and out. The ordinance allows 9-ft. but if people get dings on their cars, they would prefer to leave it. Chairman Reynolds asked if they had a

concern with that. Engineer Landis said the ordinance does allow 9x19 but if they want to keep them 10-ft. that is fine. He didn't know the landscaping requirements for shrinking the island. Planner Enos said they could grant a waiver for the narrowness of that island he just had some concerns about the turning radius there. The reason for the 10-ft. is to keep landscaping robust and alive but if 6-ft. works with the 10-ft. he would agree to that waiver. Chairman Reynolds said he was fine with that with the understanding that there is landscaping over there.

Vice-Chairman Gross asked if they need to make the motions on the setbacks. Chairman Reynolds said yes; all of those are applicable to the plan that they see. Vice-Chairman Gross asked if they had been taken care of. Chairman Reynolds said they are present in the plan, there are some of the conditions that have been addressed in the resubmitted plan, but it still needs to be re-reviewed, so the waivers still stand. Planning & Zoning Director Girling said they are old cases; the original demo is not the same case. Then they had a couple of modifications that are not the same case, so those waivers don't carry forward, this is a new case. Chairman Reynolds said they have provided many of these waivers previously.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** a driveway setback waiver for the plans date stamped March 7, 2024, since this is a reiteration of the previously approved plan.

Roll call vote was as follows: Lovat, yes; St. Henry, yes; Gross, yes, Walker yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** a landscape greenbelt width wavier under section 14.03 D, 2 from the required 30 feet for the east boundary line for PC-24-09, for the plans date stamped March 7, 2024, since this is a reflection of the previously approved plan.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross, yes, Lovat yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

Moved by Vice-Chairman Gross, seconded by Commission Walker, that the Planning Commission **approve** the interior parking lot island width waiver for the plan date stamped March 7, 2024, Section 27.05A, 6, c, since this parking lot consists of only one aisle in the surrounding area and the parking lot is heavily landscaped.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker, yes, Lovat yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

Moved by Vice-Chairman Gross, seconded by Commission Walker, that the Planning Commission approve the parking lot adjacent to the road tree count wavier under Section 27.05A, 4, a, for the plans date stamped March 7, 2024, since the existing vegetation limits the practical application of landscaping.

Discussion on the motion:

Chairman Reynolds asked Planner Enos if that was inclusive of the two relocated trees. That is the understanding that those will still be there. Planner Enos replied that is right it is a condition. Those trees will be relocated that they wanted in the front, will be relocated elsewhere. Chairman Reynolds said the motion as it reads it needs to be amended to five. Planning & Zoning Director Girling said that if she was understanding it correctly, they were not being held to the seven at the front, so the waiver would apply, however, they would put five somewhere else. It is a condition of waiving this so that

they would voluntarily put five on the sides. Mr. Nadis said their proposal was there, they were two short on the road, they couldn't fix that. They can try to put two shade trees elsewhere on the site to make up for the fact that they don't have the two shade trees on the road but that doesn't fix the issue. He didn't know if it was a waiver or a waiver with this condition that they plant two more trees somewhere else.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported that they add two more trees with the understanding that they will be relocated elsewhere on the site.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker, yes, Lovat yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

Moved by Vice-Chairman Gross, seconded by Commissioner Walker that the Planning Commission **grants** site plan approval for PC-24-09, Burger King Site Plan, located at 1155 S. Lapeer Rd., parcel 09-14-226-011, for plans date stamped received March 7, 2024, based upon the fact: the modification per the Planner's and Engineer's reports are reflected in this plan.

Discussion on the motion:

Chairman Reynolds said to clarify the effort is to address all of the open comments within the professional consultant letters and to have them be administratively reviewed.

Chairman Reynolds stated that all items should be addressed other than item 7.2 which would be the shade trees.

Planning & Zoning Director Girling said it technically has to be denied so they can go for a variance. Planner Enos said a variance for the speaker.

Chairman Reynolds said he would make a recommendation to the motion maker to recommend denial to seek the variance for the speaker. If that variance is granted the motion that they previously made would stand.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported to recommend **denial** to seek a variance for the speaker box. If the variance is granted, then the motion that they previously made would stand. The applicant would provide a letter withdrawing the site plans request under PC-23-15, PC-23-44, and PC-23-56 be withdrawn. The applicant removes all signage from the plans except for the location only of the ground sign. That includes all the previously stated motions.

Discussion on the motion:

Mr. Nadis said he wanted to be clear that the condition that would be resubmitted with everything taken care of but also that there not be any signs on the plan. There shouldn't be any signs on this plan. Planner Enos said that the elevations that they provided showed a 20-foot pole sign and then they have signs on the building. Mr. Nadis said they are not shown in the plan. Planner Enos said the renderings were submitted as part of the package.

Roll call vote was as follows: Walker, yes; St. Henry, yes; Gross, yes, Lovat yes; Reynolds, yes. **Motion carried 5-0 (Cummins & Urbanowski absent)**

8. UNFINISHED BUSINESS

None.

9. PUBLIC COMMENTS

None.

10. COMMUNICATIONS

None.

11. PLANNERS REPORTS

A. Discussion on Tree Ordinance.

Planner Enos said they are still working through the draft language but thought they would be pleased with the memo type of overview of the changes that they will be making. Some big ones too in terms of protected trees are moving from 4 inches to 6-8 inches, which is not unusual. The one that they think they have really wrestled with in the past is now they have an exemption of trees that are in the building envelope, parking lots, roads, maneuvering lanes, and stormwater facilities, they are not going to exempt those areas. If they are taking trees out of those areas, they are going to have to replace those, except for the building envelope. All the other things they have had in the past will have to replace those. He thought that would really open the door for more tree preservation like they have asked for. They are working through the language and will provide a cleaned-up copy of that ordinance when they get a shorter agenda.

Planning & Zoning Director Girling said the exemption of clearing as many trees as you want if you are residential and under five acres, she thought five acres seemed big. Those that exist have a lot of mature trees and if they keep it at 5 acres, a homeowner can go out without even plans to put a home and clearcut. Planner Enos said that is their current language. Chairman Reynolds thought that needed to be reviewed against other communities. Planning & Zoning Director Girling said they support them looking at something. Chairman Reynolds said that he would also support the understanding of the buffers they looked at in their Master Plan. Also, is there anyone else utilizing landscaping as leverage for bonus criteria? That feeds into other conversations with PUD but they are talking about clear space and open space and would like to think about that. It might not be in this section but something. Planning & Zoning Girling said it seems like they are trying to eat an elephant all at once so maybe this is cursory and then they do a second swipe on those other sections. If they wait too long and then they get busy and then they get nothing done.

B. Spring 2024 Citizen Planner via Zoom

Chairman Reynolds said this is a large course and it is being offered online is a huge benefit that it is not in person, so they do commit to the course. They do have a training budget allocated to everyone on this Commission. They do have requirements of training to fulfill so this could easily be that for themselves. Planning & Zoning Director Girling went through it, Trustee Urbanowski went through it, and there are a number of people who have gone through it and thought it was very valid and impactful. Planning & Zoning Girling said it was a very rounded education, and if anybody is interested, you are then able to do a capstone project and get a Master Citizen Planner distinction.

Secretary St. Henry asked for the date for the workshop that they agreed to attend. Planning & Zoning Director Girling replied on April 29, 2024.

Chairman Reynolds said they have a requirement for training. His thought was if they ever had a light agenda, he would love to see a 15–20-minute presentation to help them understand traffic studies better. Just a general overview of why Thursday, why general trips, that kind of stuff. Whether that be Engineer Landis or someone else, he would love to see that as an opportunity. The other one he asked the Fire Marshal and a discussion on general operation

within the Township. They talk about sirens-activated gates and thought it would be good to see that for a half hour.

12. COMMITTEE REPORTS

None.

13. PUBLIC HEARINGS

A. 4-17-24 at 7:05 p.m. PC-24-11, 1465 Brown Road Conditional Rezone, request for a Conditional Rezone of one parcel, located at 1465 Brown Rd. (09-34-300-010), from Office and Professional (OP) to Industrial Park (IP) with conditions, in accordance with the concept plan depicting a single-story building, construction of a private access drive that services the existing property, renovation of an existing building for a medical marihuana provisioning center and marihuana retail facility, or any other condition offered by the applicant.

B. 4-17-24 (immediately following PC-24-11, Public Hearing at 7:05 p.m.), PC-24-12, Orion Township Public Library, requesting Special Land Use approval for a library located at 825 Joslyn Rd. (parcel #09-09-452-020).

Chairman Reynolds said to clarify the use is not changing it is an existing Special Land Use request, the library has approached them to make improvements to the site including additional parking. Because it is an existing special land use, it is being amended. They are following the thorough procedure to be advertised but there is no major change to be proposed to the property other than a parking improvement and resurfacing all of those lots.

14. CHAIRMAN'S COMMENTS

None heard.

15. COMMISSIONERS' COMMENTS

None heard.

16. ADJOURNMENT

Moved by Chairman Reynolds, seconded by Vice-Chairman Gross, to adjourn the meeting at 10:09 p.m. **Motion carried.**

Respectfully submitted,

Debra Walton
PC/ZBA Clerk
Charter Township of Orion

April 17, 2024

Planning Commission Approval Date