

CHARTER TOWNSHIP OF ORION PLANNING COMMISSION

******* MINUTES *******

REGULAR MEETING, WEDNESDAY, APRIL 17, 2024

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, April 17, 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

Joe St. Henry, Secretary
Don Gross, Vice Chairman

PLANNING COMMISSION MEMBERS ABSENT:

James Cummins, Commissioner
Kim Urbanowski, BOT Rep to PC

Jack Lovat, Commissioner

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:

Tom Beauchamp	Shaun Houck
Allen Eizember	George Ostrowski
Mary Pergeau	Jim Phillips
Justin Dunaskiss	MaryAnn Thorndycraft
Chase McMunn	Tom Sovel
Jim Abramczyk	Joe Farris

3. MINUTES

- A. 4-3-24, Planning Commission Regular Meeting Minutes
- B. 4-3-24, PC-24-08, Kroger D649 Retail Fuel, Public Hearing Meeting Minutes

Moved by Secretary St. Henry, seconded by Commissioner Walker, to approve both sets of minutes as presented. **Motion carried.**

4. AGENDA REVIEW AND APPROVAL

Moved by Vice-Chairman Gross, seconded by Commissioner Walker 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-24-11, 1465 Brown Rd. 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 marijuana provisioning center and marijuana retail facility, or any other conditions offered by the applicant.

Chairman Reynolds closed the public hearing for PC-24-11 at 7:13 p.m.

Chairman Reynolds opened the public hearing at 7:13 p.m. for 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 closed the public hearing for PC-24-12 at 7:20 p.m. and reconvened the regular Planning Commission meeting.

7. NEW BUSINESS

A. PC-24-12, Orion Township Public Library Special Land Use and Site Plan, located at 825 Joslyn Rd. (parcel #09-09-452-020).

Chairman Reynolds said if the applicant had anything else to add go ahead and do so now. This is their opportunity to walk them through the details.

Mr. Tom Sovel with Spalding DeDecker said they are the civil engineering consultants working with the library on this project. It was mid-last year when they connected with the library and their desire to make some improvements to their parking lot. There were concerns with the layout. There was some confusion when people came in. There is a little drop off drive, but people were using it as the main driveway so there were some unsafe conditions with patrons coming out. They have a shortage of parking for some of their events, not every day but enough that it becomes a headache when they are short on parking. They are looking to match other libraries in the area that now have drop-off and pickup windows, which was a shortcoming of their library.

Chairman Reynolds asked if he could walk them through what the changes are if there are any changes to the building and just the general changes of the parking lot would be helpful to the general audience.

Mr. Sovel stated that the parking lot is aged, it is now 40 years old and probably hasn't had a whole lot done so there is a desire to repave it. As part of that then maybe improve the layout, maybe make it a little more efficient, expand it. He showed the Planning Commissioners their plans. He added that as they can see on their plan the darker shade and that arc that is the existing parking lot footprint. That is what is going to be repaved, the asphalt is going to be removed and new asphalt is going to be put down. The lighter shading is the expansion of the parking lot. The front door they got rid of the drop-off driveway in the front. They actually have improved the barrier-free parking. It is directly adjacent, there is a sidewalk right in front of it with direct access to the front door so there is no need to cross any driveways on the site. They have added a separate loading zone because that was another problem that the delivery trucks would pull up and block that driveway. They have provided a separate spot for them to pull in. They will be putting a little bump-out on the building with the windows for drop-off and pickup. There will be a slot for after-hours drop-offs and a window for pick-up during library hours.

Mr. Sovel said they have done pretty extensive landscaping throughout. If they have seen the site, there are islands out there where there are nothing too them. They are going to be improved. They will be planted groundcover, trees, and new lighting in the parking lot. Pretty significant improvements for the library.

Planner Enos read through his review dated April 8, 2024.

Chairman Reynolds stated that this is an existing use that was previously approved but based on the current ordinance when it was originally approved in 1980 it didn't have the current special land use approval. Because they are bringing forth these improvements it was elected by the library to bring everything up to speed. It is kind of a check and balances thing more so than anything. Planner Enos said as a special land use those conditions that are attached to it run with the property. Their ordinance is a living document that continually changes in regard to landscaping and lighting. They are bringing it up to speed on those most current ordinances.

Engineer Landis read through his review dated April 5, 2024.

Chairman Reynolds said they did have a review from the Fire Marshal, the originally submitted plans there were a number of comments and he was not recommending approval. Some of the same comments the primary one being turning radiuses for the emergency apparatus on the site but as previously mentioned there was a resubmittal earlier this week that hasn't been reviewed or further discussed but has the opportunity to address those comments.

Chairman Reynolds stated there was a review from the Department of Public Services, a site walk, and then the Water Resource Commissioner had some comments on the case as they typically are asked to for an application.

Chairman Reynolds turned it over to the Planning Commission for their initial thoughts.

Chairman Reynolds said his initial thoughts were no major conditions with the special land use as it is an existing use within the Township. He had a couple of questions about the site plan mainly for the landscaping component of it and thought some of it to him was addressable administratively with their staff upon re-review.

Vice-Chairman Gross asked if they could handle the special land use request first. Chairman Reynolds said if he would like to make a motion, they can put a motion on the table and further discuss.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approves** PC-24-12, Orion Township Public Library, Special Land Use request for a library, located at 825 Joslyn Rd. (parcel #09-09-452-020), for the plans date stamped March 22, 2024. This approval is based upon the fact: that the request reflects the existing land use and it is compatible with adjacent uses; it is compatible with the Master Plan; there will be no negative impacts on the traffic since this is an existing use on the property; it will provide an enhancement of the surrounding environment by improving the parking availability on the site; and it does not isolate the existing land use from any other properties.

Roll call vote was as follows: St. Henry, yes; Gross, yes; Walker, yes; Reynolds, yes. **Motion carried 4-0 (Cummins, Lovat, & Urbanowski absent)**

Vice-Chairman Gross stated that the parking arrangement really reduces the welcoming entrance of the library to the parking area, it kind of isolates it from what it used to be with the main entrance drop-off area, which has now been eliminated. He is just seeing that as

downgrading the public exposure to the library. There is one area of access through the new front parking that is being provided and it is barely wide enough for two people to walk in abreast of each other. Recognizing that the customers of the library are going to be adults and adults with children, he was wondering if that area should be expanded to reflect a larger area between the parking area. That was just an observation that he thought they reduced the welcoming aspect of the library to the general public.

Secretary St. Henry asked what the issue was with the necessitating the change to the front entrance. Mr. Sovel said they had a few issues with that area. It is intended as a pedestrian drop-off area. They would consistently have delivery trucks and even some people parking in that area. Often, they would have to ask people to move despite the posting of no parking/fire lane every ten feet along that stretch. Just the traffic flow in general funnels all traffic through the pedestrian drop-off, the signs in the parking lot force people to the right there. Many people ignore that and take a sharp left into where the opposing traffic should be coming and take a right to exit the parking lot.

Chairman Reynolds said his personal take, he hears it is change it is something that they are not used to seeing but there does facilitate some other benefits to this plan. One of the other things for him not to overlook is the book pick-up drop-off window that is occurring on the north side of the building now, so there are some tradeoffs there. There are a lot of PC cases that he has a personal preference on, but they meet the ordinance, so it comes down to entrusting the leadership of the library to make sure that their investments are headed in the right direction.

Chairman Reynolds said he would like to see the landscape islands essentially be provided with landscaping material. He asked if there were thoughts on why that isn't occurring or why that cannot occur. Mr. Sovel stated that the updated plan added ground cover on all the islands.

Secretary St. Henry asked if the new loading zone that is off to the side will be clearly marked so they won't have this issue of UPS trucks parking right in front of the main entrance. Right now, the book drop-off is still a box in the middle of the parking lot, and he can see how that could have caused some issues.

Mr. Sovel said he wanted to comment on the existing configuration versus the new configuration upfront. For people who park in the parking lot currently, they are crossing two drive lanes to get to that front door, including barrier-free access. This consolidated all of the barriers free there at the front door. It is a pretty wide sidewalk going up to that front entry. They do provide a 15-foot-wide stripped access right up into that sidewalk and there is probably a 20-25-foot-wide promenade going up to that front door.

Chairman Reynolds said in general he is in favor of the site plan as it has been submitted. He does think that the applicant needs to address the comments set forth, so their March plan has a number of open comments that need to be addressed by their consultants to satisfy him as a Planning Commissioner. He thought there has been shown that there is an opportunity to address these comments and if they weren't to be addressed, they can come back to them but thought they are fairly minor in nature across the board.

Vice-Chairman Gross said although he has his concerns, it does comply with most of the Zoning Ordinance requirements and the applicant has expressed their concerns as to why they have rearranged the parking the way they have.

Moved by Vice-Chairman Gross, seconded by Secretary St. Henry, that the Planning Commission **grant** site plan approval for PC-24-12, Orion Township Public Library Site Plan, located at 825 Joslyn Rd. (parcel #09-09-452-020), for plans date stamped received March 22,

2024, based upon the fact: that the plans show a reflection of an increase in parking for the site and the circulation has been addressed; it would make the approval subject to resolving any unresolved issues in the Township Planners and the Township Engineers review letters.

Discussion on the motion:

Chairman Reynolds asked to also include the Fire Marshal's review he is not recommending approval based on the current plan. He did think there was an opportunity to address those comments to make sure he had an opportunity to speak his piece.

Vice-Chairman Gross amended his motion, Secretary St. Henry re-supported that any unresolved issues with the Fire Marshal's review letter of April 3, 2024, be resolved.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross, yes; Reynolds, yes. **Motion carried 4-0 (Cummins, Lovat, & Urbanowski absent)**

B. PC-24-15, Orafol Automotive Graphics Office Expansion Site Plan, located at 57 Kay Industrial Dr., (parcel #09-35-400-046).

Chairman Reynolds asked the applicant to step up to the podium to state their name and address for the record and walk them through their application.

Mr. Sam Ashley with Cunningham-Limp is the developer and consultant on behalf of Orafol Automotive Graphics, 28970 Cabot Dr., Suite #100, Novi, MI presented.

Mr. Ashley said tonight before them is an office modernization project, part of the Master Plan associated with Orafol Corporation, formally known as Kay Automotive Graphics.

Mr. Ashley stated that the 57 Kay Industrial Drive building has a complimentary sister building just to the north of it, the KPMF building. There was an extensive addition that was just added to that, updated the façade. One of the corporate plans when Orafol acquired Kay Industries in 2019 was to create a North American headquarters campus in which these two facilities really are the anchor.

Mr. Ashley said that it was mentioned six months ago when they were seeking a variance for the KPMF project that they have been extensively working on trying to combine the two parcels. Given the fact that the 57 Kay Drive site is a plotted lot, and the KPMF site at 67 is an acreage lot State Law prohibits them from combining those lots, therefore there are some unique circumstances that came into play both with what was before them tonight and the previous building that was added.

Mr. Ashley stated that to walk through what the proposal is here today really is focused on an office replacement. Currently, on the west side of the existing building, there is roughly a 9,000-square-foot single-story that was original to the original development of this facility. The replacement plan is to go to a two-story structure of just over 18,000 square-feet. What is unique in doing so is that the departments will stay the same primarily executive, sales, and engineering, automotive test lab components that are currently within that footprint, those same departments will stay within it. The fact that they are looking to create a corporate headquarters campus and thus are going to a two-story footprint really ties in well with the investment that was made on the building to the north but really sets off that this is the headquarters facility for Orafol.

Mr. Ashley said part of the reason to go to two-story is so that they have a large two-story common lobby that is within that space, reorientation of the vehicle labs, and then the other desire of the corporation is to take the existing detention pond that is adjacent to M24 and invest substantial dollars and converting that into underground stormwater detention to adjust the parking associated to the office facility. Again, as a business parking as a whole is really being utilized between both parcels.

Mr. Ashley stated as they looked at the site, they received review comments from all of the consultants. They did submit today, and he wasn't sure if it made it to their packet but a memo really outlining point by point all of the comments that they have acknowledged they will address and respond with drawings and working with staff to address all of their points. Specifically, there are three variances that were flagged in the comments. One is associated with the side yard setback, so the south end of the building adjacent to Kay Industrial Dr. The footprint for the office that they are replacing they did their best to really stay within the general footprint of what is currently there, however, to the south side it is extending beyond the existing footprint by 9/10s of a foot so slightly further south than where the current wall is.

Mr. Ashley said he did want to note that in 2016 when the last improvement was made to this building there was a side yard variance granted. He has not seen the language, or any conditions associated with it but it was granted in fact because as they did work on the east side of the building there was a need to have that in place. In addition to that, there was a comment for lot coverage, again, in 2016 there was a variance granted for lot coverage. A side point to this and part of the reason he gave the origination in 2021 KPMF acquired three acres from the Township on the east side of their property and that was in anticipation of this Master Plan being able to have an additional three acres of undeveloped space so that if in fact they would be able to get lot coverage uniform between a lot combination to be able to have uniform lot coverage for the entire site as a total. Again, there are some unique circumstances going on with the fact that they can't easily combine the two lots.

Mr. Ashley stated that the last variance that came out had to do with the loading areas. Presently there are four existing loading areas on the east side of the building. There is no need for additional loading areas for the use. There is space and land available back there should there ever be a need to add additional loading areas. However, the intended use is not having a need from a practical standpoint to go in there.

Mr. Ashley said from a floor plan standpoint, the original building when it was designed was of a different generation and a different architectural requirement so as they have reoriented departments, they have changed adjacencies and increased usable square footage based on the needs of the folks that are in there. The staffing count will not change. One new element that has been brought into this is on the second floor there is a breakroom function that doesn't exist currently within the current footprint. Back on the first floor, the four vehicle bays and how those are used are in the current program. You may not notice them because they are parking spots that block the overhead doors. The frequency of vehicles going into those bays is very minimal. The requirement for those bays is unique so the OEM manufacturer will likely provide Orafol with a prototype vehicle. Their standards and requirements require them to keep them closed, secure, and out of sight therefore, they bring them in to test their product with them at OEM and bring their clients in to see it. The frequency of a vehicle coming in and out might be once every two weeks and is always done on a scheduled access with a client coming in to see that vehicle.

Mr. Ashley stated from a façade standpoint they have made an extensive upgrade from what is currently on the building. Again, showcasing the two-story facility, the red column is adjacent to the main entrance really drawing folks to the center focal point of the building. The materials in

nature are similar and complementary to the building that was added on for the KPMF project. They will say that they are slightly upgraded on this facility because this is the office headquarters location for it.

Mr. Ashley said he had sent over this afternoon a memo just so it could be part of their record. They have gone through all of the comments and responded to them point by point. From the OHM letter, there are some existing water main and sanitary sewer lines that don't presently have easements, they will provide those easements. As well as some calculations as well, there is a lot of content that he would be happy to go through point by point but didn't know if he needed to because their commitment with this letter is that they will address it and add it to their drawings and be able to provide those back to the Township.

Chairman Reynolds turned it over to their consultants for their review.

Planner Enos read through his review date stamped April 10, 2024.

Engineer Landis read through his review date stamped April 10, 2024.

Engineer Landis asked what the intended use of the overhead doors was on the south side of the building that will be fronting Kay Industrial Dr. He had a concern if that was going to generate a lot of traffic or if that is just occasional use. Mr. Ashley said that is a very minimal use. If they have a prototype vehicle coming from an OEM, they are required to keep it indoors and secured so that that is the access point to bring it into their prototype vehicle lab in which they will apply their product to it, bring their clients in, demo that product, and take it off. It is an automotive-based adhesion sticker and badge. They will do testing in there with the client present and then when they are done with that vehicle from a test use, it is a scheduled release, and the OEM is there to receive it and then take it off-site. Engineer Landis wanted to make sure that was not going to be a problem with traffic, and it doesn't sound like will be the case.

Engineer Landis asked if there had been any consideration by their client to install a signal or work with MDOT to contribute toward that signal.

Mr. Jim Butler PEA Group 1849 Pond Run, Auburn Hills, MI, presented.

Mr. Butler said they have submitted their traffic study to MDOT, and they are currently reviewing that. They came back with some initial comments, their traffic consultant has addressed those comments and has resubmitted them back to them. Engineer Landis said that if that comes back MDOT deems a signal warranted what is their commitment to that? Mr. Ashley said if they say that that is a requirement then they will take that back to their client and inform them that if they want to go forward, they will have to make that improvement. Mr. Butler said getting traffic signals approved through MDOT is a challenge.

Chairman Reynolds said there was a review from their Fire Marshal recommending approval with no comments at this time. WRC also has a review in their packet. He believed there was a Public Service review but in general a typical process and procedure for the application.

Chairman Reynolds turned it over to the Planning Commissioners for their initial thoughts on the application as it stands.

Vice-Chairman Gross said he noticed that there is parking on Kay Dr. almost like 20 or 24 spaces on Kay Dr., at least when he was out there. The aerial photograph that is in the plan shows parking, is that parking related to the current staffing levels? Mr. Ashley said it was a

combination of current staffing levels and there are some trades that are parking on the street right now with the adjacent building under construction to the south.

Vice-Chairman Gross asked about the new parking lot being installed on the frontage and along Lapeer. Mr. Ashley said part of the reason for adding more parking is right now it is a single row with spaces on either side of it and the current shape is that there is very minimal parking. Part of the reason for clustering additional parking towards M24 is to relieve and provide adequate parking so that there are no on-street parking and people have more parking up towards the office on site.

Vice-Chairman Gross asked if there was a sidewalk along Kay Dr. Mr. Ashley replied yes.

Vice-Chairman Gross said that the suggested waivers are things that they can consider under the zoning ordinance. Chairman Reynold replied correct; his initial thoughts on the case were that there were a number of these waivers that wouldn't go away but thought that see that there are a number of variances on the plan as submitted, personally, he would like to see if those are granted. Then they can further discuss some of these. He knew some of them wouldn't be gone but thought it might influence whether a variance is granted or not it might influence whether some of these waivers continue to exist or not.

Vice-Chairman Gross asked if the Planning Commission has the authority to grant some of these waivers versus the Zoning Board of Appeals. Planning & Zoning Director Girling replied that anything that is labeled as a variance the Planning Commission cannot touch, it has to go to the Zoning Board of Appeals. Anything that is in their suggested motions that say that they are waivers Planning Commissioner can grant now, they can wait until after the variances. They do have the authority on the waivers. Planner Enos said that those variances are specific to bulk regulations with setback and lot coverage. The waivers are primarily greenbelt and parking number and location.

Chairman Reynolds said in general he appreciated the investment in our community but thought that the variance component which is another layer on this could potentially influence how this plan moves forward. He thought that if there were an opportunity for the applicant to maybe address some of the comments and potentially reduce some of the waivers that were brought forth in the review, he thought it would be a win-win. Of course, not everyone is happy about the traffic study, but it would be interesting to know what MDOT says about that. Even if MDOT doesn't approve the signal at least they are aware because it has been a big point of contention.

Chairman Reynolds asked if there were additional thoughts from the applicant considering giving them the opportunity to go seek variances and then come back with them. Mr. Ashley said their goal would be to go work to seek the variances that have been requested, and in the interim be working on the plan review changes that have come out in the consultant memos, and work with staff in that time in between to minimize as many items that are on their list, and to be able to come back with variances in hand and a very clean set of drawings.

Moved by Chairman Reynolds, seconded by Commissioner Walker, that the Planning Commission **denies with postponement** site plan approval PC-24-15, Orafol Automotive Graphics Office Expansion Site Plan, located at 57 Kay Industrial Dr., (Sidwell #-09-35-400-046) for plans date stamped received March 27, 2024, due to the need for variances. If the variances are received the applicant must resubmit plans to be rereviewed and return to the Planning Commission and the application must be to resubmit the plans no more than 12 months from today.

Discussion on the motion:

Secretary St. Henry said he thought this was the process for this particular development. He thought it was a nice upgrade with the new ownership and he agreed that if they take care of these variances and come back with a cleaner site plan with a shorter list of waiver requests it will just be much smoother.

Chairman Reynolds asked for additional thoughts including that of some of the waivers that are sitting in front of them right now of support of opposition.

Vice-Chairman Gross said on the surface he thought the requested waivers that do not require the Zoning Board of Appeals appear to be justifiable in accordance with the Lapeer Overlay District. He thought that was a step in the right direction to get those considered as a good move.

Chairman Reynolds asked if there was any public comment on the motion. There was none.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker, yes; Reynolds yes;
Motion carried 4-0 (Cummins, Lovat & Urbanowski absent)

Planning & Zoning Director Girling apologized to the applicant, she did look through her emails and she saw that the email came in at 2:30 p.m. and she was in meetings, and that is why it didn't make it into their packet.

C. PC-23-51, Dutton Park West site plan, located immediately west of 4898 Bald Mountain Rd. (parcel #09-35-400-048).

Chairman Reynolds said that if the applicant is present, please step up to the podium. He added that they do have an additional PC case number immediately following this of similar interest and thought that it would be useful to explain the overall process of why they are here and what they are trying to do with this project.

Planning & Zoning Director Girling stated that she did give a memo, but it might be easier to explain than read.

Planning & Zoning Director Girling said that a while ago they had one project come in called Dutton Park and it was comprised of Dutton West and Dutton East both having a building. Dutton West was on a very large parcel only using a small portion. Time has passed, Dutton East has been constructed, and Dutton West has not, and they want to modify it. At the same time, they see having one project on hand at Dutton Park really makes it complicated. Part of what they are doing this evening is saying since they have to come back to Dutton West can they please separate the two projects for the record? Ultimately, if they get approval on this, they want to take the old approval and say forget it, they don't want it, it is going to complicate things. In order to do that, if the Planning Commission is so inclined to say yes, and they are throwing away the old plan, they have to look at Dutton East again because it wouldn't have a plan. Even though it is built, staff looked at it and made sure that the plan that they gave them exactly matched what was approved. She didn't want to say it was a slam dunk, there were a couple little minor tweaks. That is where looking at Dutton East, which is the second one, there will not be much discussion. Dutton West because they are changing it and wanting to split it from what they are calling a remnant parcel is a little more complicated. For simplicity for staff, they always want these two until they are fully approved to go together. That is why they put Dutton West first. If something happens and you are postponing or anything they didn't want

Dutton East first because that would be the one that they would just say yes so, they have one on file. They want them to go together. She didn't know whether it would make it easier for the applicant to discuss both together but that is the scenario on what they are trying to do here. It was months and months of conversation and very complex.

Chairman Reynolds said let's go ahead and proceed with Dutton West, they know are some cross-over items but with Planning & Zoning Director Girling's explanation that in general Dutton East kind of stands as it is and that they are clerically kind of addressing this or administratively splitting the previous site plan and approval. Let's go ahead and dig through Dutton West and then some of those cross-over items they can address.

Mr. Tom Beauchamp 4865 Broomfield Way Lake Orion, presented.

Mr. Beauchamp stated that a lot of this is self-induced, with original developers turning in something that was going to be difficult with everything not being developed at the same time and getting these turnovers. Dutton West was a 10,000 square foot two-story building and it is now a 5,000 square foot single-foot story building. Always in the same place, the same orientation, that stuff has changed but as far as the square foot of the footprint and the number of stories has changed over time.

Mr. Beauchamp said that with regard to Dutton West what has been submitted is showing a two-acre site of that lower bowl area that is parcel one of the Dutton Park projects. They are showing a 5,000 square foot single-story building modifications to the orientation of the building are the same, the parking lot is roughly the same parking spaces, having two means of entrance and egress for access for pedestrian safety, for traffic flow has changed a little bit over time but for the most part what they have initially submitted to what they have now other than, there is substantial changes. Still, they had the Dutton East at the top of the hill and Dutton West at the lower end. What they are trying to do is clean this up, Dutton East is going to be separate, and Dutton West will be separate. Dutton West would like to do a parcel split from the remnant of the lower bowl area as part of this and it would be contingent upon all of these approvals and reviews. This is currently in for review, they have received comments, and they have responded to a number of comments already. There are a few layers obviously to this, and their goal along with the Township and the consultants is to have a clear representation of the individual projects themselves and have documented history and record of what they are doing here. Part of one of the things they have agreed to with the Dutton West development is to complete the safety path from their property which is adjacent to Culvers all the way up to Dutton East. That would be the bike path/safety path that would be completed as part of this project for Dutton West independent of any further development of the lower bowl area. There is a component with regard to the trees that was again a self-inflicted issue that they created at the beginning of the job assuming they were developing the whole site at one time. It was all just going to be a financial thing that they were doing this at one swoop and then they are going to come in and build four more buildings. They had a conceptual site plan and plans to go and then things didn't go well. There is an agreement that they have submitted as part of this submission to address how they would hope to see this as an acceptable solution to the Township to make sure that this is documented, recorded, and covered for the future and that this is not lost in the paperwork, or it is something that is being approved and not accounted for. The Township has been very good in discussing these options and working with them on this, and he was hoping what they are presenting today is an acceptable solution for the Dutton West and Dutton East projects, and then the remnant portion whether that is going to be developed by the current ownership or if that is sold and developed by another group that they have everything documented to make sure that nothing is not being handled in the proper way.

Chairman Reynolds asked him to walk them through a little bit of the proposal from the tree high level what that discussion is or what the current thought is.

Mr. Beauchamp stated that they did a tree survey initially Nowak and Fraus, they have identified and color-coded trees that were remaining, and trees that they removed, but were going to be in the footprint of development. They got on the tree survey that there is a defined quantity of trees that are going to be required to be replaced. The intent is to put a line of credit to account for those trees because there is going to be further development down the line and there are going to be trees that will not have to be replaced that are going to be within the footprint of development that will then be taken off. In order to make sure that the Township is not at a disadvantage by agreeing to anything and that that line of credit is there accounting for 386 trees or whatever that count was, and there is money set aside for that. Then whatever is remaining would be the final monies provided to the Tree Fund or they have accounted for everything in the development of the property.

Chairman Reynolds stated that the letter that was submitted here this evening – general consensus of addressing; comments brought forth by their consultants or is there pushback on certain items and they can dig into that but just general thoughts.

Mr. Beauchamp said their general comments, for example the T-turn or the bullnose at the end of it why is the road not taken right to the edge of the property line, it is not, it doesn't matter it is not going anywhere. There is no reason if that is going to be a requirement he will change the drawings to move that 5 feet but didn't see the reason to do that. Why do they have two means of egress in and out of there, why do they not just have one? From a safety standpoint if one of those lanes is blocked can the fire department get back in there for an emergency? A lot of it is also for pedestrian traffic, how to route parking and how this would be used if they are going to have curbside or deliveries and different things. There is thought to it, it is not just because they want to spend more money on asphalt there are reasons for it. The number of parking spots using a Joyology up at Dutton East as an example for the number of parking spots that they have versus what they have here, again depending on the model and who is operating. 22 spots are not going to be enough for a retail facility, it is going to have to be more than that. Is that number 47, 42, is it 56, they are going with 47 as their count for this based on what they have seen from other developments that they have done. As a contractor for other clients, they have seen how these businesses operate and what would be not creating hazards for people parking and stacked in line to wait for parking spots. To do this they have adequate parking for people to get in and out and pedestrians to be able to go from their car safely to the building. For those that are not going there for curbside that are going to go inside to shop. There are a number of issues, they are valid questions and they do need to be addressed and they can address them one at a time. For general reasons they have done this a few times and he was hoping that in their response letter, they had addressed things accordingly.

Planner Enos read through his review date stamped April 10, 2024.

Engineer Landis read through his review date stamped April 5, 2024.

Chairman Reynolds said there was a review from the Fire Marshal, and there weren't any major comments although just a point of discussion for mitigating the methane gas landfill components in the future that they would like to be at bay. He thought it was someone related but not directly. WRC and then there was a Department of Public Services review.

Chairman Reynolds stated that overall, he doesn't have any major issues with the project as it has been submitted, he thought there were some minor loose ends that need to be addressed that were brought forth in their Planner's letter. In general, he thought that a lot of the waivers

being requested were fairly reasonable. Specifically, the ones with the Lapeer Overlay Design Standards, although this is in the Lapeer Overlay District he thought that the design of the building is nice it is set forth and meets the spirit and intent of the Lapeer Overlay District. They don't have these extremely elongated ambiguous facades that look like nothing, and they don't have windows or anything like that.

Chairman Reynolds thought his biggest discussion point was the Tree and Woodland Protection Agreement. In general, the trees were removed from the site now they are saying there is a justification by the current ordinance to create replacement trees within reason. Some of these might have been within a development area, a building envelope that would not be required to be replaced and here is an agreement that essentially makes sure that if not now that at some point those trees would go back. In general, he was in favor of having that agreement and leaving some flexibility. He thought that was where he would like to hear some comments from the Planning Commission.

Chairman Reynolds said a couple of comments that he would kick off, to him he knew it was a large opportunity of a parcel but also a challenging parcel on which could be developed or what could go there and the cost of which it would take to develop something there. Consideration of maybe a timeline or something like that on this is maybe one thought. The other component would be if there is a suggestion within this that there would be a line of credit. Correct him if he is wrong, that is an opportunity right now within that or they just say a contribution to Tree Fund.

Planning & Zoning Director Girling said that within the ordinance if they were developing this site and said they can't fit any trees there is nowhere they can put it, then there is the ability to contribute to the Tree Fund the value of the number of trees they can't. Again, looking at this site it sits vacant, one could put the trees back but again look at the site. Running underground irrigation water then the weeds that would come up on an undeveloped site, those trees wouldn't make it. That is where they thought of this agreement it has not been run past the Attorney yet because they wanted to see if they had any ideas, changes, or what they thought of it before they sent it for a legal review and ultimately it would be the Township Board would have to approve it. They do take letters of credit as a financial guarantee on projects. The only thing she would say on that is that a letter of credit does then involve their tracking. You can get one that says that it is not going to expire but all the language always says that they can give you 60-day notice and then they can. If this site becomes challenging and is out there for a long time, then they are talking about staff monitoring that letter of credit. She thought that the letter of credit cost more than the actual value. She asked if they had put any thought into escrow, money, and it sits there, and they would have to know whose name, and that way they have the money. Nobody forgets they have it because they have to balance on a monthly basis. If something came in here and the plan was looked at and they found that 20 of them were in a building envelope, then they look at that escrow and say the value of those 20 goes back. She thought that might work better than a letter of credit because then it doesn't get forgotten.

Chairman Reynolds said in past experience and joint boards talking about bonds is just how this becomes easier for the Township moving forward. He is ok with it having some creativity like if there was a timeline and then if it weren't it could be if there was a better opportunity. He knew at their next discussion item after the Dutton East case is talking about woodlands and maybe target areas in which they would replace trees. He would like to have some thoughts from the Planning Commission on where they would like to take this and if they are in support on top of the general PC case they have in front of them.

Planning & Zoning Director Girling said the biggest challenge is something will go here at some point and time. It would be easy to say just take the value of all of these and right now contribute to the tree fund. She understands what they are saying is something will go here and

maybe half of these would not have to be replaced. That is their goal, does it say that they have to do anything related to that. She understood that this piece of land could end up with four buildings on it and half the trees that they are showing, with the escrow money sitting there to pay for would end up not needed to be spent because they wouldn't have been trees that they had to replace.

Planner Enos said he wanted to make sure that the applicant understands that when they develop the rest of this property, they are going to have to meet the current tree ordinance at that time. That current tree ordinance is the one that they are going to be reviewing plans under and they will have to meet those requirements.

Vice-Chairman Gross said the tree issue he would feel comfortable with having the money placed in an escrow account as opposed to keeping track of a letter of credit or a bank.

Chairman Reynolds said he wasn't a huge fan of the letter of credit just from their past experiences. Even on the contribution to the tree fund. He thought there was some polish here on the agreement that he thought they were all dancing around the same idea that maybe at some point then it does kick over to just the contribution so it is not indefinitely hanging out there. The third option would have them put them on the site somewhere, put them as they would have required them anyway.

Chairman Reynolds said one of the thoughts that he had, was that there was way to put some of these trees out there now and put them along the safety path. Mr. Beauchamp said that is the ITC, they can't do it, and that is why the yellow exes are on the blues; they can't plant trees there. They were going to have to come out anyway.

Chairman Reynolds stated that the fact that there is going to be a creative replacement. Is there general support for that at this point, opposition, or thoughts from the Planning Commission?

Commissioner Walker said he was conflicted a bit. He thought there ought to be enough of a fund created, he would rather have more money in that fund than less money in that fund. They could get their money back if it worked out. This is the second go-around with this, he didn't want to be left holding the bag, and then all of a sudden, this thing falls through too and there are no trees.

Chairman Reynolds said since this has been creatively suggested and oriented by their staff and consultants, he thought hearing some of their concerns could be built into that agreement. The idea is that they would like it to be earnest money or something of that sort. The timeline is something that he is throwing out there where it can't sit out there for an indefinite amount of time. What he doesn't want to have happen is the site doesn't get developed for 10 years and they collected \$20 a tree and now a tree in 10 years costs \$200 a tree. He thought there might be some motivation there that they plant it on the site in a certain timeline and throw the money at if they were best evaluated in another location. He thought it was just a creative asterisk to contribute to their tree fund. Whether that be on this site or somewhere else that is how he would look at it. That is his line of thinking is a clock not a line of credit, it could be on this site, it could even be located off-site, or a combination of the two. Something that doesn't leave this indefinitely open. That at least would be a condition to at least empower some of their staff if they choose to further move this along.

Vice-Chairman Gross said that would be his recommendation is they look at a funding source that provides a corpus of funds that would be used and if they are not used within a certain period of time then it transfers over to the tree fund. Chairman Reynolds said per this

agreement that there is a trigger, they can't just say 100 years ago they had this agreement that they would plant the trees there and then it never happens.

Chairman Reynolds stated that there are waivers for the design standards, and thoughts this evening on proceeding on action items.

Vice-Chairman Gross said didn't they have this plan before them once before that they approved and granted these waivers.

Planning & Zoning Director Girling said remember this came in as one, they are going to eliminate that, so those waivers will no longer exist. They had these waivers but then they disregarded that other plan. Chairman Reynolds said they had waivers on Dutton West. Planning & Zoning Director Girling said they have to reaffirm them because when they throw away that plan those waivers are gone.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** Lapeer Overlay Design Standard Waiver for building orientation, front yard parking, façade colors as presented, and dumpster location for PC-23-51, Dutton Park West Site Plan, located on a vacant parcel west of 4898 Bald Mountain Rd., (Sidwell #09-35-400-048) for plans date stamped received March 27, 2024, upon the facts that: the standards of this section would prevent a reasonable use of the property; the existing site design including architecture, parking, driveways, etc. are placed in a manner which makes application of standards impractical; the limited area of the arrangement of existing features provide inadequate space to accommodate design improvements.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker yes; Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** an off-street parking space count waiver from Section 18.03, D, 1 the minimum requirement of one space per one thousand square feet of gross floor area or one space per employee for PC-23-51, Dutton Park West site plan, located on a vacant parcel west of 4898 Bald Mountain Rd., (Sidwell #09-35-400-048) for the plans date stamped March 27, 2024, based upon the applicant has provided evidence that indicates that another standard would be more reasonable because the level of current and future employment and or level of future traffic has been identified.

Roll call vote was as follows: Walker, yes; St. Henry, yes; Gross, yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commission Walker, that the Planning Commission **approve** a safety path location waiver requirement from being located in the road right-of-way for PC-23-51, Dutton Park West Site Plan, located on a vacant parcel west of 4898 Bald Mountain Rd. (Sidwell #09-35-400-048) for plans date stamped March 27, 2024, upon consideration for the following: the applicant has agreed to extend the safety path all the way to the east to the Dutton East existing safety path.

Roll call vote was as follows: St. Henry, yes; Walker, yes, Gross yes; Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commission Walker, that the Planning Commission **approve** a greenbelt width waiver from the required 20 feet on the south boundary line for PC-23-51, Dutton Park West site plan, located on a vacant parcel west of 4898 Bald

Mountain Rd. (Sidwell #09-35-400-048) for plans date stamped received March 27, 2024, upon consideration of the dimensions of the property.

Roll call vote was as follows: St. Henry, yes; Walker, yes, Gross yes; Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commissioner Walker that the Planning Commission **approve** the parapet height waiver from the minimum requirement of being tall enough to conceal rooftop mechanical equipment from public view for PC-23-51, Dutton Park West site Plan, located on a vacant parcel west of 4898 Bald Mountain Rd. (Sidwell #09-35-400-048) for plans date stamped received March 27, 2024, upon consideration of the following: that this represents a previously approved waiver on the subject property; the standards of the section would prevent reasonable use of the property.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker, yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commission Walker that the Planning Commission **approves** the parapet height waiver from the maximum one-third of height of the supporting wall for PC-23-51, Dutton Park West site plan, located on a vacant parcel west of 4898 Bald Mountain Rd., (Sidwell #09-35-400-048) for plans date stamped received March 27, 2024, upon consideration of the fact that: the standards of this section would prevent reasonable use of the site.

Roll call vote was as follows: Walker, yes; Gross, yes; St. Henry yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Chairman Reynolds that the Planning Commission grants site plan **approval** for PC-23-51, Dutton Park West site plan, located on a vacant parcel west of 4898 Bald Mountain Rd., (Sidwell #09-35-400-048) for plans date stamped received March 27, 2024, based on the fact that: the subject waivers have been acted upon; that there be a successful land division of west parcel from the larger parcel; that there be an approval of the proposed Tree and Woodland Protection agreement by the Board of Trustees; that the unresolved issues of the Planner's review letter and of the Township Engineer's review letter be resolved administratively.

Discussion on the motion:

Chairman Reynolds thought there were a number of comments but thought a lot of them were discussion or waiver points, is there anything specifically that Planner Enos would like them to strike from the motion because it was a general statement? Planner Enos said he appreciated him being very detailed and knowing the applicant can address those with the waivers.

Planning & Zoning Director Girling wanted to point out the third bullet point in the suggested motion that on all conditions of the approval being met with the exclusion of this particular condition, the applicant has to submit a formal withdrawal of all previously approved site plans related to Dutton Park.

Chairman Reynolds thought adding that they would like to move away from the line of credit. They have suggested conditions for the Tree and Woodland Protection agreement. He thought the intention was there was an escrow or an amount versus a line of credit. There would be a timeline of reasonable sort as to where those trees

would have to be planted on site or agreed to in another location no different than the Tree Fund or a combination of.

Vice-Chairman Gross amended the motion, Chairman Reynolds re-supported that this is conditioned upon the applicant submitting a formal withdrawal of the previously approved site plan related to Dutton Park; for the Tree and Woodland Protection agreement that the intention was there was an escrow or an amount versus a line of credit; that there would be a timeline of a reasonable sort to where those trees would have to be planted on site or agreed to in another location no different than the Tree Fund or a combination of.

Discussion on the motion:

Mr. Beauchamp said they want to do this right so whatever they come up. Chairman Reynolds said they are essentially empowering their staff to meet the open items on the plan. They are also empowering their staff with the discussions they had here in regard to the tree items, that they can come up with the final agreement because it has not been reviewed legally, and they cannot sign this, the Board of Trustees does. Mr. Beauchamp stated they were in agreement, and they would do what they had to do.

Mr. Shaun Houck with Henry Yandt Construction 1615 South Telegraph Bloomfield Hills, presented.

Mr. Houck said this tree agreement is technically not going to be a part of Dutton West that they are separating, Dutton West is now its own entity. They don't have a tree problem with Dutton West. Planning & Zoning Director Girling said it will be an agreement between the two parties that is a condition of them saying they are fine with Dutton West because between Dutton West and Dutton East, those trees should have been replaced because they came out, they are allowing them to do a division, get two separate site plans, and it leaves a remnant and nowhere land. It's whoever is the party to it is going to be the one that is going to give the money and there will be an agreement at some point and time if something is not built on the remnant that money will be taken in its entirety because they hadn't shown that a building envelope would make that number go down. When something is built on that, and they can show that the building envelope has made their total go down then whoever is a party to that agreement would get the rest of that money back.

Mr. Houck said every other condition is met they want to proceed, and they are still working through a tree agreement. He asked if this tree agreement would hold this up. Chairman Reynolds replied technically yes because previously it was looked at holistically. They are nicely dividing it but they can't say sorry this is not my problem anymore. As long as there is that condition set forth here and that agreement is set forth, he didn't think they were far off from what that is. He thought it was a creative contribution to their Tree Fund which is allowed in their Tree Ordinance. They are allowing that to occur knowing that there is some flexibility and what that might be. There has to be that agreement there because it is a condition because before they looked at this together and as a whole.

Planner Enos said he agreed. They don't want to require them to put every single tree required in the green belt all along Dutton, but they could because it is one project. He thought with the agreement and the way they are looking at it, the Township gets what they want, they plant trees as they develop the site, and they are all cool.

Planning & Zoning Director Girling asked what Mr. Houck's concern was, and do they think the agreement was going to slow it down because she didn't see that. Mr. Houck replied that was his initial concern. Planning & Zoning Director Girling said they have to go back and amend these plans for the things that are missing, and she thought they would already be in conversations with the attorney. Unless they don't agree with what it says and they hit an impasse with that, they have a bigger problem anyway. Mr. Houck said he didn't know the timeframe for an attorney to review it, they will get their plans done within three days.

Chairman Reynolds said therefore it motivates them to get this done. They are not going to get bait-and-switch from where they have run from the third piece. He knew that was not the intent here but with their understanding, this is a very creative and not typical component. He would say to get it done so it isn't a concern, and it isn't holding anything up.

Commissioner Walker said that the Planning Commission has done them a big favor, therefore, if they want to nitpick that favor that is up to them. He didn't think it was a good idea. They did something he didn't think they had ever done before. They are coming back, the project fell apart, and they went out of their way to do that.

Mr. Houck said with Planning & Zoning Director Girling and her team to get them here over the last few months, Tiffany, in particular, has been fantastic, it has been a really good experience.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

D. PC-24-14, Dutton Park East site plan, located at 4898 Bald Mountain Rd. (parcel #09-35-477-003).

Chairman Reynolds stated since this is a split this has been reviewed the plans were submitted as they see fit so essentially, they are clerically putting items back on record so there is something there and there is an approved plan with the same motions but with a clean separation between the two projects.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** the Lapeer Overlay Design Standard waiver for building orientation, connectivity, front yard parking, façade colors as presented, and dumpster location for PC-24-14, Dutton East site plan, located at 4898 Bald Mountain Rd., based upon the following findings of fact: that this project has followed the previously approved plan and has been constructed.

Roll call vote was as follows: Gross, yes; Walker, yes; St. Henry yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** a landscape open space tree count waiver on all boundaries for PC-24-14, Dutton East site plan, located at 4898 Bald Mountain Rd., (Sidwell #09-35-477-003) for plans date stamped received March 27, 2024, based on the applicant did demonstrate the landscaping is in keeping with the intent of the ordinance.

Roll call vote was as follows: St. Henry, yes; Gross, yes; Walker, yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **approve** an interior parking lot island width waiver for PC-24-14, Dutton East site plan, located at 4898 Bald Mountain Rd. (Sidwell #09-35-477-003) for plans date stamped received March 27, 2024. This approval is granted because the applicant did demonstrate the following: that the parking lot consists of only one aisle; the area surrounding the parking lot is heavily landscaped as demonstrated with the final construction.

Roll call vote was as follows: St. Henry, yes; Gross, yes; Walker, yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission **grants** site plan approval for PC-24-14, Dutton East site plan, located at 4898 Bald Mountain Rd. (Sidwell #09-35-477-003) for plans date stamped received March 27, 2024, based on the following findings of facts: that it is consistent with the previously approved joint site plan and has completed its construction.

Discussion on the motion:

Planning & Zoning Director Girling said again within the motion upon all conditions of the approval being met, with the exclusion of this condition, that the applicant to submit a formal withdrawal of all previously approved site plans related to Dutton Park.

Vice-Chairman Gross said also that a revised legal agreement be provided for the subject property.

Vice-Chairman Gross amended the motion, Commissioner Walker re-supported that upon all conditions of the approval being met, with the exclusion of this condition, an applicant to submit formal withdrawal of all previously approved site plans related to Dutton Park; that the revised legal agreement be provided for the subject property.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross, yes, Reynolds, yes.
Motion carried 4-0 (Cummins, Urbanowski & Lovat absent)

E. PC-24-10, Township Initiated Text Amendment – Tree Preservation

Planner Enos stated that they have made a lot of changes. They were going to do a wholesale amendment and make it look different. What they really wanted to do was take the existing language and massage that and improve that. Planner Sally Elmiger works with him and is a principal with the firm she is their environmental expert, she actually owns a tree farm, and her husband works it full-time, and they work together on updating the language. They spent a lot of time trying to think about how they could be protected legally. They did add a lot of language on why trees and woodlands more specifically are important in regard to the declaration and purpose, the definitions, they added a lot of language in regard to why those things are important. They took out the invasive tree, he knew that Liaison Urbanowski talked about that quite frequently. They did expand on the invasive tree requirements and the ability to remove them.

Planner Enos said when they are reviewing these plans sometimes planners don't agree when we are discussing, Planning & Zoning Director Girling, Planner Elmiger, and himself. In this particular case, they wanted to get their opinion. Currently, they are looking at protected trees as 4" in diameter or larger. Planner Elmiger had mentioned that is untypical and suggested 6 – 8". His opinion is to keep the 4" because what he has heard from this Planning Commission is that they don't have a ton of trees and woodlands left, and people want to be here there is no

reason they can't keep it at 4" or greater as a protected tree. They got 6-8" in the language but wanted to talk to them about keeping it at 4". There was some other language in regard to landmarked trees. The biggest issue in this draft language has to do with where they will replant trees. Whether those are protected trees, they don't want to take out any landmark trees. They added a lot of language on landmark trees and listed those in terms of the DBH 24", 36", that if they find those on a plan, they need to work around them, that is not their problem. If they have a 36" tree, and it is a landmark tree, they have to figure out a way to work around it, that is what this language does.

Planner Enos stated that another problem that they have had over the past few years is not counting those trees that are taken out of the building envelope. When they think of building-envelope in Orion at least the way they have done in the past is the building plus 15 feet out. Also, stormwater, roads, parking, and a variety of other infrastructure they considered as the building envelope. Now they are changing that to what your mind would think is the building itself. If it is the building itself and 15 feet out those don't need to be replaced but anywhere else, whether that is parking, stormwater, if they are removing protected trees, those do need to be replaced. He thought that was a big deal in regard to what they were going to require in the past. They have seen a ton of trees taken out of parking lots and roadways, storm drainage, and all of those different areas that they really couldn't say anything about because their ordinance already considered the building envelope. They are making it clear here that the building envelope is only the building and 15 feet out. Those are the main points of this. What they wanted to get from them if they had any thoughts about it because they do want to get it up to the Board of Trustees. Planning & Zoning Director Girling, Planner Elmiger, himself, and Planning & Zoning Specialist Tiffany Sanders want to have a Zoom meeting and clarify a few of these other things and then perhaps if they can on the May 1st meeting, if they are comfortable with this language bumping it up to the Board of Trustees.

Chairman Reynolds said he knew this has been a pretty important section to update not only because they had a thought about maybe a different vision, post Master Plan but it tends to be contradicting or the ability to be interpreted in a couple of different ways. He knew as an architect who has done work in the Township, he has had his own questions let alone being a Planning Commissioner and how the consultant or someone else reviews it.

Chairman Reynolds thought the first topic there were a number of comments, and he will go through those but wanted to discuss the idea of changing the development area to a building envelope or potentially stricter than that. The thought would be case and point this building, this development area was 2.5 acres of this 47-acre building and everything other than the two or three landmark trees one of which was in that corridor, and another was somewhere out front didn't have to count towards tree replacement. The Township in general didn't have this thought process of let's challenge the tree ordinance to every bit coming in with a reasonable mindset and taking a look at this parcel and how much has changed that is the current framework. He thought that was too loose. Two and a half acres is the building, the parking lot, and the back, everything they affected. That would likely come into half an acre or an acre if they just said the building footprint plus something. He was definitely in favor of that, and he would even strongly consider something more if they were in agreement with that. He didn't know if that was just based on size or what, but he has done projects in Rochester Hills, and it is like sorry you are adding on to the building but there is a tree there that you are taking out. He thought there might be a balance there but right now the only item that they define as let's give a quality to replace back is if it is a landmark tree, which to him is too loose. He is even questioning if the development building footprint is still too loose for where their goals are really for this Township and where they are at from a development standpoint. Knowing that they are looking at these things, that is one discussion point that he thought the Planner's need some thoughts on. They are making it tougher, is it tough enough is the question.

Secretary St. Henry asked if he had some initial thoughts on how you tighten it up even more. Chairman Reynolds replied they are saying where they put a building that is your exemption. The difference would be saying they don't get any exemption. He didn't care where they put their building, he didn't care what their building was is going to meet lot coverage but figure out your trees. If you are taking out a tree no matter where it is, you have to replace it you have to figure it out. They are giving the exemption right now they are tightening up on the roads factor but regarding the building footprint they are giving them a little flex because they want to see the building happen.

Planner Enos said there is nothing really preventing them from doing that. Some would say why they did that initially, well they wanted to incentivize development in Orion Township to some extent. They sure don't need to do that anymore, do they? To take the building envelope out or even say you can only count 50% of the trees in the building envelope or however they do that he didn't think they would balk at it because they are protecting all of those trees, and they are requiring a replacement of all of those trees. Sometimes what he has seen is the developer doesn't have enough room on their property, so they add towards the overall into their Tree Fund and make it work that way.

Secretary St. Henry asked what the standard in some of our adjacent communities was. Planner Enos said in regard to the tree size it is 6-8". Again, he hasn't compared it to some of the adjacent communities he is recommending 4" or larger. The building envelope is more of a standard for the building envelope they don't count the roads, the streets, and the parking lots. He was leaning towards what the Chairman was talking about, taking it right out. They could allow a waiver if there was a reason they couldn't do that. They start out here and allow for some flexibility, if necessary, on the envelope.

Planning & Zoning Director Girling said they are saying if it is their alternative if they can't fit it all in is to contribute to the Tree Fund. If they had a site that they wouldn't fit, then why would someone else have to contribute and somebody not with the waiver? She wondered if it is, it was to the tree fund or not.

Chairman Reynolds said he would like to know the general consensus of what the best practice is if 6" is the number then to him is fair. If they choose to be a little more aggressive at 4" then so be it but he knew like Rochester Hills ordinances are pretty tough at least their replacement component is tough. He wanted to explore that envelope discussion. He never thought of the idea of maybe 50%. He also likes the idea of the waiver. Maybe it is the ability to waive up to 50% within the envelope, and it is a case by case. This is our ordinance to take it or leave it but gives them flexibility.

Vice-Chairman Gross stated it was tough to anticipate where a building envelope is going to be. He thought it may not be difficult for some but for others, it will be difficult to determine where the building envelope is going to be or to try to work around the site, which is a challenge sometimes. He would be in favor of saying it is the entire site and so be it. If they do that, he thought they would go to 6-8". Chairman Reynolds said to lower it if it is a larger area of evaluation but of more substantial trees.

Chairman Reynolds said he thought they were all dancing around that idea that it needs to get tougher what is it, is it a lower number with some waiver ability?

Chairman Reynolds stated that they spoke to on page 15, was the idea that this should give them the parameters to avoid taking down that tree, and the best practices of tree stewardship. He didn't know how much leverage they really had with that other than it was the intent of the

ordinance. He felt they had to back it with the ability of waivers or the size. They speak to some of these things that they intend with this ordinance of what they are trying to do but what are their repercussions when they go sorry, but the grading is crazy and that is where I want to put the building. They have seen it before with tree clearing of vacant property. He felt there needed to be that leverage and it is a sidebar topic, but it still is connected to this of if they are really going to come in and say this is our important piece. He had a project in Rochester Hills that they moved over 3 feet because there were a lot less trees to replace.

Planning & Zoning Director Girling stated that looking at what we have, they want to change it because they have a lot of inconsistencies. What she always had envisioned how it was supposed to work is you have a tree survey, and you have the proposed plan laid over the top. Looking at what it currently says, the Planning Commission is supposed to look at it and say you have a cluster of trees move your building 20 feet, so you are not messing with that cluster of trees. You have an alternate plan that they could do so don't put it right here because you have to take these out where if they moved it 20 feet you wouldn't. They are saying no matter where you are you are going to replace it then there is really nothing to make them not cut that tree that is a beautiful existing tree because they are going to have to replace it anyway and how long will it take to get that tree to be mature where before they are giving them a little of a break to move it out of that cluster they are able to keep something that is existing and large.

Chairman Reynolds thought that was the spirit or intent of some of the ability to waive some of those requirements, that they demonstrated "x, y" or there is a hardship brought forth by the site, a waiver that actually has some validity to it.

Vice-Chairman Gross said the Planner Enos indicated earlier; you are dealing with sites that require infrastructure to be placed in there. They may as well say the entire site and then let's work backwards. Chairman Reynolds said he was in favor of it heading in that direction. He thought to him, if someone has demonstrated that they really have tried to preserve this cluster of trees then that would be grounds for them saying they will give them this or give them back 50% that is in the envelope. He didn't think they wanted to reinvent the wheel here but thought they were leaning towards a much stricter woodlands or tree ordinance than what they have right now. He added circling back to that comment of preserving that it is also about the intent to maintain the tree canopy on the site and the character of the site. Therefore, another reason why they are not just coming in and saying sorry we can't because we didn't try hard enough, they are going to contribute to the tree fund that, that is a piece. They found a finding of fact that due to the difficult grading of the site.

Vice-Chairman Gross stated that it could be topo, it could be wetlands, it could be bogs. Chairman Reynolds said natural features that there is a strong intent and therefore they will accept money in lieu of versus this, sorry we want this huge building and not my problem.

Planner Enos said one of the things they have done in here is they want to make this as strict as legally as they can. One of the things that they have in here is they talk about alternative mitigations. If planting the replacement trees on the site is not feasible or desirable alternative mitigation measures related to environmental stewardship, preservation, restoration, and so many measures could include but not be limited to - invasive species, removal of streambank, restoration, assessment, mapping, or surveys of the conditions of the wetlands, water features, or replacement of trees in the Township. Rather than just saying they have a big bag of money, take it and do whatever you want, one of the options could be these.

Chairman Reynolds said it gives them some flexibility and he thought they could even elaborate on all the stuff Parks and Rec has done, beautification projects, or whatever it is. Within their rights or the legal ability, there are some things that they have done, some really great things.

Chairman Reynolds stated that they need to create that framework and the spirit of it. They have this language here but no different than his comments on the Master Plan of a PUD, they said this is a creative zoning tool, and this isn't just you're out. The spirit of this ordinance is to maintain our natural tree canopy of mature trees or whatever it is, therefore, all of these things reinforce that and yes, they have an understanding that developing a project, and doing these things are going to potentially make that difficult or hard, and they have some avenues around it, but it doesn't let them off the hook.

Secretary St. Henry said when they get there then they will hopefully minimize the comments that they receive and hear every month about how they allow clearcutting. He agreed they should be stricter than they have ever been at this point in the game. If there are special circumstances, then they have some flexibility with it but it better be really good circumstances.

Planning & Zoning Director Girling stated that it is not going to stop them from clearcutting they are going to pay, they are going to have to replace or if it is an extreme situation where they can't replace, they are going to have to pay in lieu of but it is not stopping them from clearcutting. They are going to pay. Secretary St. Henry said it is going to be harder for them and they are going to have to think about it a little bit more because they have tightened everything up, and it is going to cost them.

Planner Enos said the language because they tightened it up is going to make them as a Commission if they have landmark trees on this language is pretty strict in that regard, they need to find other options besides removing this tree.

Secretary St. Henry said if there is a landmark tree on a piece of property, there are no other options for those trees to stay. Chairman Reynolds said if he wanted to throw that out there that is why they are discussing this.

Chairman Reynolds stated he would not have been able to put this building (Township Hall) where it is if that was the case, but they did orient the building to have minimal impact on landmark trees. Therefore, when they replaced it, it had less of an impact on their nature, those trees they find critical. They are not as extreme as that statement.

Planner Enos said that the language does say that in general there is a whole section of landmark trees that should not be removed for development, site design should consider any landmark tree as an important design element located outside of that area, minimize clearing, use retaining walls, all of those different things, that is in the new language.

Chairman Reynolds asked what action they can take when someone doesn't do that. It is the spirit, that was his one caveat to a couple of those comments that it is the spirit and the intent. Therefore, hey you have demonstrated that you have worked around those so therefore they can grant a waiver, and if they haven't then sorry. There has to be something there versus it's pretty. They have seen a lot of variations just in their PUD ordinance of some of that spirit like it is a recessed garage.

Engineer Landis said if they just say to the maximum extent possible then it gives them the discretion to say no, I don't think you have met it or try again. There are going to be industrial sites, in particular, it is going to be impossible not to impact landmark trees, a big building has to have a choice.

Commissioner Walker said he didn't want to be that fellow accused of not being grateful to them when they did him the big favor. He was so proud of you people and the turning they have

made on this tree stuff, and wanted to say they came around to his way of thinking and was happy that the idea has permeated through this group, and he thought it was wonderful. He couldn't tell them the number of times since they clearcut that mess on M24 where friends have come to him and asked what happened to all of those trees. There were no landmark trees in there and there may have not been any 4" trees in there but what they did was they took the dozer, and they just went through, it is all gone. It is startling just to see the difference between those scrub trees to the nothing that is there now. He thought it was a step in the right direction. He would go as strong as possible on this. He asked if they could legislate fines or things of that nature if they destroy a landmark tree. He didn't like the idea of just giving money, go find a landmark tree in Traverse City and bring it down here and replace it with the one they took out. Replacement rather than money.

Secretary St. Henry said there are a number of locations around this Township over the last 25 years where they have had very similar clearings, and it is startling. For the most part, at least a couple of instances there were landmark trees that were just blown out, and we were shocked when that happened. The next phase of a neighborhood goes in, or a brand-new neighborhood goes in, it is shocking. At this point in the game, he agreed with what they have talked about today in terms of tightening this all the way and not making it any easier. He understood to have some sort of out for a landmark tree for a really smart development that makes sense. They need to tighten this ordinance up at this point in the game, 20 years ago maybe not so much, but now he thought it was important.

Chairman Reynolds said they need to go through this ordinance and come up with scenarios of which they are tightening this up and making it bulletproof. What else is this ordinance missing, that is not in it right now? They need to give that comment, if they don't have it here this evening it needs to be before they submit it to the Board of Trustees. That is their issue is that they have had ordinances in the past and then they get into this thing well we didn't address that. He thought they really buttoned down a few. As a Planning Commission, this is an ordinance they really need to dig through and mark up hard. If they don't think it addressing it, then give Planner Enos and staff comments.

Planning & Zoning Director Girling said she asked Planning & Zoning Specialist Sanders because there is no way to read this section and say what am I doing, flipping back, what do I do if I am this size, so she asked her to create a flowchart. If there is a single-family home lot that is already built what are my choices? If I am a developer with a site plan what are my choices? It is basically a flowchart to help them see the different routes. She thought that would help at least for the very high level of what their choices are and then they get into the developer not clear-cutting all those trees. As they read it, and they sit down and read it you will be confused. She thought that would help them in reviewing this.

Planner Enos said he will do some digging even some more strict language that is out there or his thoughts on that too. He won't insert them into the draft, but he will give them to them to say this is what other communities have done too.

Chairman Reynolds said what he would like to do is give Planner Enos some of those comments.

Secretary St. Henry said if they tighten this thing up to where it is a stricter place than anywhere in Oakland County, what are the consequences of that? What are the consequences if their tree ordinance is overbearing, what is that going to mean, does it mean that development stops in a lot of places in their community? Is that a bad thing, he wasn't sure if it was or not. Does that mean that builders are walking away the development doesn't happen? At this point in the game, he thought they should tighten this up. This is a desirable place to build homes and

businesses. Let's not make it any easier, if they want to come here these are the rules, you figure it out. If they can't figure it out, then go someplace else.

Planning & Zoning Director Girling said to realize with all of these things there is a review by the consultant. Really based on what they are saying they should be looking at that tree survey and the plan laid over the top and literally the Planning Commission members as they are reviewing the packet should be paying strict attention to that tree survey of what is that tree, what is the size, are there other alternatives. There is some additional responsibility to the Planning Commission, they can say there is a cluster over here and there is this but if they are passionate about trees then there is the added responsibility to look specifically at that page and say why can't you do this, or why can't you do that.

Chairman Reynolds said a couple of mark-ups through the current draft. Page one he didn't have much. Page two the definitions, he liked the fact that they are adding definitions in the building envelope. Just one of his comments that he had was just speaking to overhangs or covered areas. Make sure that is defined. This building as an example is the building envelope and even the Building Code looks at that differently than lot coverage. He didn't know if it was just a matter of saying a roof plan or something like that. Page 4 tree removal permit is required. He was wondering if five acres wasn't too much. He thought it needed to be something closer to two if not even less than that. He owns less than two acres in Orion Township. It is not the biggest parcel by him, but it is by far not the smallest parcel in this Township. To him, this idea of a kind of 100 DBH in a year is another avenue to take. Is that like a couple of years or something like that? Why he points that scenario out is he was thinking ok if someone bought a piece of property and slowly kind of take, and maybe he is just looking at the amount wrong that that could only be like three large trees but avoiding some of these like taking these away without them noticing, versus hey here is my intent to clear this part of the parcel.

Planner Enos said their largest residential lot ordinance requirement is 2.5 acres. Chairman Reynolds said there are not that many one-acre parcels left in Orion. He was just saying that at least there is a framework for them to speak to that.

Chairman Reynolds said nominal activity there was a note of that topic and he thought he would be ok with even saying they could remove a little bit more within a two-year period than they could within a one, but every season I have slowly chipped away, and then look I have a huge open area. Not that isn't property rights, but he thought there was a balance there. That is at the bottom of page 4.

Chairman Reynolds stated that with the comment of decreasing the residential lot size on page 6, an administrative idea under F1 going down to c, is there a point to maybe where between 2 or 1.5 to 5 to where a plan is not necessarily required but it could be reviewed by Township or code or something like that to say they have documented what is going on. This goes back to the idea of putting a small fence up on my property and needed a survey and now my \$1,000 fence has become a \$10,000 item. He was saying maybe there was some flexibility there, it is not a huge 5-acre parcel but there is some intermediate step for an administrative procedure.

Chairman Reynolds said on the same page 6, F, 1, c, vii, cost estimate how that played into and maybe that is just something they table and discuss further. A cost estimate for any proposed size is because it is for the replacement or what. It states a cost estimate for any proposed tree replacement program, with a detailed explanation. He asked what the purpose of that was. Does that play into him really replacing the tree versus paying in lieu of it?

Chairman Reynolds stated item d same page very bottom, the fact that an application would need 10 copies.

Planning & Zoning Director Girling said the current ordinance talks about a tree removal permit. They have never required a tree removal permit if they are coming in for a site plan. This goes back to addressing it as a separate application and an actual permit, even if they are coming in for a site plan. It says it can be done at the same time but what are the thoughts, with stricter rules, if they approve your site plan and you're showing your tree removal and they are saying how many and they are saying contribute in lieu of, that there is not this separate tree removal application and a separate approval it is part of the site plan process. If they are coming in with a site plan it doesn't have to be a different application and a different permit.

Chairman Reynolds said he didn't think people realize that, and that is how their ordinance currently is interpreted. Planning & Zoning Director Girling said this one still has it, it even talks about the tree removal or permit expiring in so many days. If they are coming in for a site plan, they have the site plan as a whole, she didn't think they wanted to go into or that part can expire here. If they get their site plan approval a part of it is talking about trees, but there is not a separate permit. Chairman Reynold said he agreed with her it is a replacement for a site plan. Planner Enos thought that was a good idea.

Chairman Reynold said on page 7 item ii. He thought that was the same question for larger sites of 10 acres or more. He thought they needed to right-size their Township and make sure that that number makes sense. Does it need to be two, does it need to be five, does it need to be one? Maybe it is a smaller acreage with the same tree count. To him, he needs a couple of case studies to realize that that fits them well.

Planning & Zoning Director Girling said on the same page, #2 Administrative Review of Tree Removal that Constitutes "Minor" Site Plan Amendment. Earlier on it talked about staff being able to do it, her concern on that is with all these things they are coming up and talking about waivers she can't give waivers. She understood the idea of a "Minor" but if there is anything that they are not going to meet she can't give a waiver. If they go back to page 6, F at the top it talks about administrative review where just staff does it. She had a concern that they were going to have some waivers. Commissioner Walker thought they should strike that out, he thought it shouldn't be administrative review, he thought it should come before the Board. The word "Minor" is too vague, what is "Minor" I don't know what that is. Planning & Zoning Director Girling said it was defined earlier what "Minor" was. Chairman Reynolds thought they needed to say if it is the reasonable framework where they are saying they can tear down some trees on their site, that is fine, go get a permit for it. Beyond that, it is something they need to talk about because they have had some instances in the past where it was like, I went and got a tree removal permit and now they are looking at a leveled site with no site plan on the site. He thought that was the issue that they were trying to resolve. He thought what Commissioner Walker was getting after, that no, someone can't just say here is the intent.

Engineer Landis asked if there would be some discretion during construction. If you couldn't save a tree, for whatever reason, you wouldn't want them to come back to PC.

Planning & Zoning Director Girling said she thought that with the flowchart that is really going to help. It will then have I am a homeowner, and I got my home and now I want to do something to put on an addition and she thought that was the idea that that could be a minor not involving them. If they get too strict on this, she doesn't think that would give her the ability because she is going to have to say no. She thought as they get further into this, they will see that.

Chairman Reynolds stated that Engineer Landis is bringing up a different scenario. If something were to come that is a reasonable mindset that staff says that there is no way to avoid this, I

don't even need to be a discussion therefore, it is replaced one to one or whatever the comment is, there is a clear direction to it.

Chairman Reynolds said on page 13 item 5, tree removal without permission. If the protected tree is removed without... is this any tree that the ordinance regulates? He didn't want to jump off the cliff here but anything that goes beyond the threshold isn't just about their landmark trees, it is about anything that they are saying can't be removed. He is nitpicking words but thought it was important not to just highlight landmarks. He thought that is what they are doing in a lot of ways.

Chairman Reynolds stated further kind of narrowing in this idea of 100 DBH is that the total collectively between the trees removed within a period. The other one is a commitment to the trees for a period. He thought they had the performance guarantee idea but thought there was something there that needed to be added in. Planner Enos said he thought there was something in there but couldn't remember where it was at. Chairman Reynolds said it was just a note that he had on his review versus the actual ordinance itself.

Planner Enos said they want to be able to regulate it, they need to understand it, and as it was said they have the ability to do this now, they should do this.

Chairman Reynolds said the current ordinance leads you down a lot of rabbit holes that raise more questions than answers. He thought a couple of these are major components that are making it stricter but even if they kept the same parameters and rewrote the ordinance it would be a lot clearer to understand. They are kind of tackling two things which they should be. He thought to a point of a couple of those, I didn't get a chance to have a third reading and read the current ordinance but wanted to make sure they cover those and don't lose anything.

Planner Enos said they didn't strike a lot from the current ordinance but added a lot.

Planning & Zoning Director Girling stated that she and Planner Enos need to talk, and he got their comments. She thought that this was such an about-face on what they were doing that it was not normal to schedule a public hearing and then send it to the Board. She thought it was the Board saying change direction and get their input before they schedule any public hearings.

Chairman Reynolds said he didn't have a problem bringing it forth to them as a draft to review and also either at that meeting determine that they are going to potentially advertise or at least forward to the Board for their comments, at the same time or just after they review it. He thought that there was enough there to say what you are concerned with.

Planner Enos said what they could bring to them as soon as possible, absorb their comments, bring them a cleaned-up copy but show them the redline additions, does that help? Chairman Reynolds said except the fact that a red line version is going to be a lot of red. To Planning & Zoning Director Girling's point of a flowchart, however they want to organize it but a couple of key components of the area of which they are talking, trees that are protected, some of those highlight sections. To him, that is the important piece here not every little word, it is the approach.

Secretary St. Henry suggested when they go through and edit this, when they are rewriting parts of this just write it and let them know this is the next iteration, they will read it. If they like it then they can go with it.

Planning & Zoning Director Girling said what has to happen here at the Township for advertising they are thinking they are going to need it to the point where they are going to say, strike

entirely article blah section blah, and replace with this because the track changes will be a mess. There is litigation related to trees, she thought there was a Canton case this they are going to want to be reviewed heavily by their attorney. Again, to have a public hearing if they are going to come back and say they don't think the Master Plan supports this enough, she wants to do that before they are advertising.

8. UNFINISHED BUSINESS

None.

9. PUBLIC COMMENTS

None.

10. COMMUNICATIONS

A. Notice of Intent to Update the Master Plan – Oakland Twp., MI

Discussion only.

11. PLANNERS REPORTS

None.

12. COMMITTEE REPORTS

None.

13. PUBLIC HEARINGS

5-1-24 at 7:05 p.m., PC-24-16, 1115 S. Lapeer Rd. Rezone, the request is to rezone 1115 S. Lapeer Rd. (parcel #09-14-226-004), from Office and Professional (OP) to General Business (GB).

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 9:42 p.m. **Motion carried.**

Respectfully submitted,

Debra Walton
PC/ZBA Clerk
Charter Township of Orion

May 1, 2024

Planning Commission Approval Date