The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, August 4, 2021, at 7:00pm at the Orion Township Community Center, 1335 Joslyn Rd., Lake Orion, Michigan 48360

PLANNING COMMISSION MEMBERS PRESENT:
Scott Reynolds, Chairman
Don Gross, Vice-Chairman
Joe St. Henry, Secretary
Jessica Gingell, Commissioner

Don Walker, PC Rep to ZBA
Kim Urbanowski, BOT Rep to PC
Derek Brackon, Commissioner

PLANNING COMMISSION MEMBERS ABSENT:
None.

1. OPEN MEETING
Chairman Reynolds opened the meeting at 7:00 pm.

2. ROLL CALL
As noted

CONSULTANTS PRESENT:
Rodney Arroyo, (Township Planner) of Giffels Webster
Eric Pietsch, (Township Planner) of Giffels Webster (Via GoToMeeting)
Mark Landis (Township Engineer) of Orchard, Hiltz, and McCliment, Inc.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:
Bennett Donaldson
Steve Schaar

3. MINUTES
A. 07-21-21, Planning Commission Workshop Meeting Minutes
B. 07-21-21, Planning Commission Regular Meeting Minutes
C. 07-21-21, PC-2021-55, Lava Mountain Location Rezone Request Public Hearing Minutes

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

4. AGENDA REVIEW AND APPROVAL
Moved by Secretary St. Henry, seconded by Trustee Urbanowski, to approve the agenda as presented. Motion carried

5. BRIEF PUBLIC COMMENT – NON-AGENDA ITEMS ONLY
None

6. CONSENT AGENDA
None

7. NEW BUSINESS

A. PC-2021-59, NTBS Site Plan Modification, located at 4601 Liberty Drive S., (parcel 09-34-300-016) and unaddressed parcel 09-34-100-016 (a parcel north of 4601 Liberty Drive S.)

Moved by Vice-Chairman Gross, seconded by Commissioner Gingell, that the Planning Commission table item 7A for later in the agenda. (Discussion moved under 8A)
Roll call vote was as follows: Walker, yes; Brackon, yes; St. Henry, yes; Gross, yes; Urbanowski, yes; Gingell, yes; Reynolds, yes. Motion carried 7-0

8. UNFINISHED BUSINESS
PC-2021-56, Esys Consolidation Project Wetland & Site Plan, located at new unaddressed parcel 09-33-426-055 (west of 1465 Brown Rd.)

Mr. Bennett Donaldson 37610 Hills Tech Dr., Farmington Hills, MI, presented.

Mr. Donaldson stated that he was the developer for the project with JB Donaldson Co.

Mr. Donaldson said he thought that they had addressed most of the issues that were brought up in the previous Planning Commission meeting. He said the slopes, front yard slopes, paving details, and parking, he thought all were addressed to meet the Planning Departments’ requirements.

Planner Arroyo read through his 2nd site plan review date-stamped July 29, 2021.

Engineer Landis read through his wetland review date-stamped August 3, 2021.

Engineer Lands read through his 2nd site plan review date-stamped August 4, 2021.

Chairman Reynolds stated that they had other reviews from other departments. The Fire Marshal has approved the recommended approval with requirements, some hydrant location changes. There were no comments from the Public Service review.

Vice-Chairman Gross stated that at the meeting there were three or four items that were listed as the reason for postponing any action. He thanked both Engineer Landis and the contractor/developer for their expeditious response, recognizing that this was going to be a fast-paced project. He added that the things that they were concerned about, in addition to the wetlands, were the slope considerations, the parking arrangements and the number of parking spaces, the setback from the wetland area, and the pavement cross-section standards, were the items that they had initially had some concerns with. They had previous discussions about the trash compactor versus a dumpster, and he thought that they had come to a conclusion that the compactor was preferred over an outdoor dumpster. He said that the developer had also indicated that the irrigation in the front yard would be noted on the site plan and it would be incorporated. He was pleased with the quick turnaround that took place, and it appeared that they addressed all of those issues.

Chairman Reynolds agreed with Vice-Chairman Gross. He thought that a couple of the items could be administratively addressed. He was in support of the trash compactor they had that discussion last time. He said he would be in support of the traffic improvements occurring but allowing them to be deferred, he thought it made sense to do it when it is going to fit together. He asked the applicant if they have any issue with that essentially implementing what was recommended by the traffic impact study but allowing it to be deferred with the rest of the improvements on Brown Rd?

Mr. Donaldson replied regarding the traffic study, they can show them on the plans, they have been talking to the County about it, their plan is 2023 to redo Brown Rd. so everyone agreed that it would make sense to do those improvements at that time. He added that they have been talking to the Township about creating an escrow or something to ensure that those improvements do get made, and they are just going to document that. He said that on the plans
he thought that they would have a note on there that this work is going to be deferred. Engineer Landis replied that he finds that acceptable.

Commissioner Walker said that he thought everything was covered, and they did a great job.

Chairman Reynolds thanked the team members, OHM, Planning & Zoning Director Girling, Giffles Webster for turning around quickly the review. He knew that the applicant worked some late hours trying to get this turned around. Mr. Donaldson said without everyone’s help it wouldn’t have happened.

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission approve the wetland permit for PC-2021-56, for the property located at 1427 Brown Rd. (parcel 09-34-300-002) and vacant parcel west of 1427 Brown Rd. (09-33-426-039) for plans date stamped received 7/26/21 based on the following finds of facts: that the wetland area on the site is roughly 32-acres, it has 3-impact zones of which the impact zones are minimal, being less than 1/10 of an acre each; the 25-wetland buffer has been documented on the site plan; the wetland application that .13-acres of the wetland mitigation are proposed for the site in response to the permanent impacts of the wetland; the applicant is proposing to purchase mitigation bank credits in place of the remaining wetland in a conservation easement; based upon that and the OHM review of August 3, 2021, he recommends the approval of the wetland permit.

Discussion on the motion:

Commissioner said he would support that if the motion maker includes the three items in the OHM review letter on page 5, giving their opinion with regard to their proposed improvements. He read them, “In our opinion, the proposed improvements are unlikely to pollute, impair, or destroy the exiting wetland; in their opinion”; “the proposed land use is consistent with the zoning of the property and the proposed methods of construction are the least impactful to the wetland and nature features of the site”; “it is our opinion the requirements of the Wetlands Protection Ordinance are being met”.

Vice-Chairman Gross amended his motion, Commissioner Walker re-supported, to include the three items in the OHM review letter on page 5.

Roll call vote was as follows: St. Henry, yes; Urbanowski, yes; Brackon, yes; Walker, yes; Gross, yes; Gingell, yes; Reynolds, yes. Motion carried 7-0

Moved by Vice-Chairman Gross, seconded by Commissioner Gingell, that the Planning Commission grants a trash enclosure requirement waiver for PC-2021-56, Esys Consolidation Project Site Plan, for plans date stamped received 7/26/21, base on the finding that the trash removal is being placed within a trash compactor versus a trash enclosure, and it will benefit the property and the surrounding properties as well.

Roll call vote was as follows: Urbanowski, yes; Gross, yes; St. Henry, yes; Walker, yes; Bracken, yes; Gingell, yes; Reynolds, yes. Motion carried 7-0

Moved by Vice-Chairman Gross, seconded by Commissioner Walker, that the Planning Commission grants site plan approval for PC-2021-56, Esys Consolidation Project Site Plan, located at 1427 Brown Rd. (parcel 09-34-300-002) and vacant parcel west of 1427 Brown Rd. (09-33-426-039) for plans date stamped received 7/26/21 based on the following findings of fact: the issues that were previously addressed by the Township Engineer have been adequately resolved relative to the slope considerations, retaining walls being provided, the
parking areas being identified appropriately, this also includes 8 EV charging stations; the wetland setback is in excess of 25-ft., and new pavement section standards have been appropriately satisfied; this project with all of those considerations does comply with the Zoning Ordinance requirements; there is a rendered elevation and he would request that be included as part of the approval, and thanked the Engineer, Planners, and the developer for their due-diligence in this. This approval is based on the following condition: that the developer place an escrow fund for the future road improvements to be conducted by the Road Commission for Oakland County in 2023 which represents the road improvements necessary to service this project.

Discussion on the motion:

Chairman Reynolds said that they addressed the traffic concerns but thought that the engineering plan was being designed in accordance, so the three conditions per OHM’s review, plus they need to include the Fire Marshal’s conditions. If they include the three conditions at the bottom of August 3rd, he did in the motion refer to number one, but he thought that two and three are important. He thought that the Fire Marshal’s comments from his review of August 3, 2021, about relocating a hydrant were important.

Vice-Chairman Gross asked if the fire hydrant revision was placed on the revised plans? Chairman Reynolds replied no.

Vice-Chairman Gross amended his motion, Commissioner Walker re-supported, to include within the motion the Fire Marshal’s requirement for fire hydrant locations to be revised accordingly based upon his letter of August 3, 2021. That the engineering plans be designed in accordance with Ordinance #78 Stormwater Management Soil Erosion, and Sedimentation Control Ordinance #139, and the Township Engineering Standards submitted to the Township for review and approval prior to construction. A detailed cost estimate for the improvements shall be submitted with the plans signed and sealed by the design engineer. There were no comments from the Public Service Department. Also, that the plans be revised to incorporate the requirement for off-site improvements to be completed and added to the plan. Escrow for the required turn lane and right turn lane taper to be completed at a later date via an escrow; the engineering plans be submitted for item #3 on OHM’s review letter dated August 3rd and agreeing to meet the Fire Marshal’s requirements per his letter on August 3rd.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Urbanowski, yes; Walker, yes; Gingell, yes; Brackon, yes; Reynolds, yes. **Motion carried 7-0**

**7. NEW BUSINESS**

A. PC-2021-59, NTBS Site Plan Modification, located at 4601 Liberty Drive S., (parcel 09-34-300-016) and unaddressed parcel 09-34-100-016 (a parcel north of 4601 Liberty Drive S.)

(Moved below 8A due to the applicant being late)

Mr. Steve Schaar director of operations for NTBS Properties, a new member of their team for the last 2 months.

Mr. Schaar said he was there to present the site plan revisions.

Mr. Schaar stated that they have noticed that there were quite a few items that they need to gain alignment and then ensure corrections for the improvements made on the site plan as they are moving forward with the temporary CEO and proceeding with those items through
inspections with Fire Marshal Jeff Williams and BFS over the last couple of weeks. As they look at the overall site plan, they are going to see a word document that spells out each item that they found dating back to May 2019, for items that do not reflect what is currently in their possession for their 4601 Liberty Dr. location. He added as they look at it, they will show them the significant improvements to the landscaping plan for what they saw in May of 2019. A lot of those items were additional coverage or greenery to the overall landscape for items that were then added for support of the cannabis cultivation facility in terms of, the mechanical facilities on their east wall. On the north side of the wall, there is going to be two make-up air units, as well as, a concrete path that they will be presenting to the group that reflects a break area for their team members, and a freshly seeded and sodded landscape for the green area that reflects on that drawing. On the west side, down at 6’oclock, they are going to see a concrete pad there for CO2 gas, that CO2 gas is essentially part of the feeding supply for their plants and growing, there was a concrete pad that was listed there. On the east side of the facility the parking lot space, everything stripped, they did want to draw their attention to the SE corner where there is a dumpster location that has been moved to better service the facilities to come in and empty their dumpsters. Overall, the breakout behind these details is reflective of feedback from services that were either coming to the site and or, feedback through the commission over the last 90 days with requested improvements. The most significate item that they would be working through is the generator. He wanted to inform the commission on learning, that they were on an easement, there are two items that they want to make sure that they are aligned with, with this group in just full transparency, is they have talked with DTE, they have a verbal approval for the current site location where the generator sits today with DTE just based on feedback they have on their account as well as being their future customer. They do know that there may be some things that they need to address now, specific to how they want to address that with this commission moving forward.

Planner Arroyo read through his review date stamped August 4, 2021.

Engineer Landis stated that they didn’t do a formal review as most of the comments were planning-related. He said that they did make note that the generator was smack dab over the center of the sanitary sewer and within the Township easement, and the proposed light poles are just inside of the easement, as well, they are asking that both of those be relocated outside of the easement.

Chairman Reynolds said that they also had reviews from the Fire Marshal, there were no additional comments, they recommended approval. The Public Works Service Director Jeff Stout echoed comments from OHM, the plans show a generator on the east side of the building the generator is directly above the sewer main and in the easement. The generator location must be moved to another location as it cannot be above the main or in the easement.

Chairman Reynolds said that they have some items that were missing on trees, landscaping, the dumpster, the generator, and lighting.

Mr. Schaar said he apologized for the conceptual and the site plan malignment between those two items, it is the transition from their previous engineer to what they are doing currently. Eric Sawswhit (sp?) has the drawings, they can just add that in a separate auto CAD layer. He can ensure that is done extremely fast it won’t take long to reflect what is currently out there on a site plan drawing. He added that the lights, he will dig into the cut-sheets and find out what exactly they are missing there. He asked who the person that he needed to ensure alignment with? Chairman Reynolds said this would all be at site plan approval, per the ordinance, there are the general provisions in which fixtures and lighting requirements need to meet. He thought that if he went through specifically the review letter from Giffels Webster they outline some of the sections as it speaks to landscaping, lighting in a similar manner, fully shielded downward
Chairman Reynolds asked if there had been any exploration, light poles being in an easement is one thing but a generator, has there been any exploration of that fitting somewhere else or where that might go outside of the easement? Mr. Schaar said that the intent since they have the other green space, would be proposing what would be on the NE corner, so they would have to redo what is on that NE corner where they have the other power supply coming in. So, those are all underground electric items that were set up from where they receive their supply, they would move that more adjacent to the facility. He thought that the location for where it was at, he didn’t know where they came from, they want to correct it and engage building officials, as well as, the Fire Department for where they would place that. They are engaged with DTE, they are coming out and they are going to have a site review with them and then they would close out that item with whomever they need to from a Township standpoint. He thought it was a $60-80,000 move, so this is a very serious line, it provides all of their life safety supports, so they would have to rent other items while they run the facility to connect in, those are things that they can accomplish. It would be at least 30-60 days to get the detail review necessary to complete that.

Chairman Reynolds said their concerns are not with DTE there are with zoning requirements and obviously public easements and sewer easements and general requirements that they have. He asked if there has been any forward thought on the lighting in the sense of photometric? Mr. Schaar replied yes; if they are missing illumines, they can make those changes very quickly.

Commissioner Brackon said that the dumpster issue is it just has to get moved to the rear of the building. He asked if that was acceptable? Mr. Schaar said if they are looking at the SW corner of their site which is right where the Fire Department connects, that is where the Fire Marshal asked them to move it, so they moved that Fire Department connection for a hose if they ever needed to was right on that corner. If they look at that they bring it down right at a 45-degree angle on the west side and then if they cut it right down the middle then they have another portion of it that is on the south side of it. As they are putting that dumpster there, when they say move it, as they look at the terrain and the overall site, he asked if they are looking for them to move it further north on the site plan? Planner Arroyo replied yes. Mr. Schaar asked if he drew a vertical line straight down on the SW corner if they don’t violate that plan, whatever that latitude/longitude is and it is to the other side of it there would not be an issue? Chairman Reynolds said it needs to be in the rear yard, so, it is not acceptable in the side yard either. He added that the front yard is established by what is the road frontage. The issue here is it is in the front yard which is not per the ordinance requirements, it can’t even be in a side yard it needs to be in the rear. Mr. Schaar questioned if it has to beyond the end of the building? Planner Arroyo replied correct.

Chairman Reynolds said that there is the opportunity to seek a variance per our ordinance requirements that is where they ask dumpster to be located. Secretary St. Henry said they don’t
want them out front as people are driving by and seeing it, they want them back behind the building.

Chairman Reynolds thought that there seemed to be a lot of things in play here especially when they are talking about a very large generator, a dumpster enclosure, lighting, it seems like they have to see where some of this stuff falls in his perspective.

Trustee Urbanowski said that the concrete patio has to be moved off of this sanitary sewer space, right. Mr. Schaar said that would be part of the demolition and relocation. Trustee Urbanowski replied that they weren’t sure where it is going to go. Mr. Schaar said that they want to do it right so he didn’t want to speak of where it is moving but if he is looking at it now, he is envisioning that it is going to be at a safe distance for the fire route closer to the building. Having it as far away as it is from the building, he didn’t know why it was placed there just from that perspective. They will dig in with another engineering firm to gain alignment and meet all ordinances in the relocation. Trustee Urbanowski stated that she had no doubt but it was hard to say yes to a site plan when they don’t know where it is going to go. Mr. Schaar said it made sense for it to move almost 10-degrees north and due west to be within the location of the building where all of the other utilities and municipal items are. He walked it out and it would fit there. He added that as they make that move, he wanted to make sure that they are 100% clear of the easement on that corner of the generator and the pad that would be poured for it. They still see it, what would then be on the east side of the building, after a cursory review.

Chairman Reynolds felt a postponement was appropriate because there is a lot of things that play here that they need to see some resolutions to or at least thought on where they need to head. He said that there are ordinance requirements on each of these, he deferred them to Giffels Webster’s review, specific to, he thought the major concerns where the items located within the easements and overtop of sewer items and mains, landscaping – they are missing some detailed information that is required by ordinance, documentation that speaks to screening that additional mechanical equipment, the dumpster – if there is not a solution to that at least a commitment to that that there would be an opportunity for them to move forward to deny so they could seek a variance if there wasn’t a solution, they would prefer it meets ordinance requirements, trees, dumpster, generator, and lighting. He thought that there was a hand full of items, cut-sheets, lumens at property lines, things like that that they typically see here in review.

Mr. Schaar asked about the commit that Chairman Reynolds mentioned, with regards to a variance specific to those items? Chairman Reynolds replied that they did have a right to seek a variance if they denied them their dumpster location, they do have the right to go to the ZBA to seek a variance in order to find that acceptable. In that case, they do have the right to go seek a variance but if they were denied that variance it would still have to meet ordinance requirements.

Planning & Zoning Director Girling said that if the applicant doesn’t think they are able to move it and they want to keep it where it is at and go for that variance, it takes a month to get on an agenda. So, if they know concretely tonight that they are going to want to go for that variance then the Planning Commission should deny the dumpster so they have the ability in the meantime while they are fixing the plans for the other things to get that month started. If they are not sure they just lose that month. Mr. Schaar said he was looking at the landscape of the lot and where everything is built, but if they were standing where the dumpster was and they were looking at the rest of the lot they are going to see the entire slope go at a 30-40 degree away from that. If they were to say that they are going to move a dumpster, there is no truck that can drive on a 30-degree slope, that is where there are some challenges to the overall site plan. Chairman Reynolds said that they are asking them to come back with the revisions if that
was going to be an item that either way they were going to come back with, they would have a motion tonight to deny them that dumpster location which gives them the right to go for an appeal which is a month-long process. If that is the location that they have explored but again per the ordinance requirements they ask those dumpsters to be in the rear yard for all properties. They do have that right with undue hardship to seek a variance that would allow a different opportunity. Mr. Schaar said if they were to ask him where is the back of the building, he would say on the west side, the way the building is designed, the way that the material flows, there are no doors on the back of their building which is the west side. He added that the north wall is not the back of the building it is more of a side, but the back of the building has no entry into the building. That is where there may have been some confusion on the back. Chairman Reynolds said some of this is technically per ordinance versus where the most major thoroughfare is adjacent in the property. He said if he is understanding this correctly, they have a desire to postpone but there was discussion that that is where the dumpster enclosure might need to remain.

Chairman Reynolds said they are looking for postponement on the site plan to resolve the open issues except for meeting the requirement of the dumpster enclosure.

Planning & Zoning Director Girling thought it would be a motion to deny the location of the dumpster.

Moved by Trustee Urbanowski, seconded by Commissioner Gingell, that the Planning Commission denies the dumpster location for PC-2021-59, NTBS located at 4601 Liberty Dr. (parcel #09-34-300-016) and unaddressed parcel 09-34-100-016 for plans date stamped received 7/14/2021.

**Roll call vote was as follows:** Walker, yes; St. Henry, yes; Gross, yes; Gingell, yes; Brackon, yes; Urbanowski, yes; Reynolds, yes. **Motion carried 7-0**

Commissioner Walker asked if the petitioner wants to postpone their action on his request for some time in the future. Mr. Schaar replied yes; the primary item is the generator, the other items he felt could be easily resolved, in terms of, what it would take to get the details for the miss, it will not be repeated again. Commissioner Walker said he just wanted to make sure that they understand what they are requesting and then they will vote on the request. So, his request for other than the denial that they gave him, they are requesting them to postpone action on the remainder of their petition to a future date, is that correct? Mr. Schaar replied yes.

Moved by Commissioner Walker, seconded by Commission Brackon, that the Planning Commission **postpones** site plan approval for PC-2021-59, NTBS Site Plan Modification, located at 4601 Liberty Drive (parcel #09-34-300-016) and unaddressed parcel 09-34-100-016 (a parcel north of 4601 Liberty Drive) for plans date stamped received 7/14/21. This denial is based on the following reasons: it is the petitioner’s request that they postpone this based upon a number of items that he has heard from tonight, primarily from the Planner, but also from the Engineer, and questions from the Commission to a future date.

**Roll call vote was as follows:** St. Henry, yes; Gingell, yes; Brackon, yes; Urbanowski, yes; Walker, yes; Gross, yes; Reynolds, yes. **Motion carried 7-0**

**9. PUBLIC COMMENTS**
None.

**10. COMMUNICATIONS**
None.
11. PLANNERS REPORTS/EDUCATION
Planning & Zoning Director Girling said knowing that the next meeting they have the 6 o’clock and then they will have a light agenda, she asked Planner Arroyo if this was a meeting that they might want tables? Because there was a one-time saying, depending on what they are talking about it might be easier if they were around tables and pointing at areas, she asked Planner Arroyo to let her know.

12. COMMITTEE REPORTS
None.

13. FUTURE PUBLIC HEARINGS
None.

14. CHAIRMAN’S COMMENTS
Chairman Reynolds thanked the expeditious reviews tonight. He really appreciated the direction that Giffels Webster’s reviews were clear and easy to read especially when there is a lot of things in play, it is helpful. He added that he looks forward and encouraged everyone to continue to have people come out to their Master Plan discussions even though it is a Workshop it is still open to all.

15. COMMISSIONERS’ COMMENTS
Secretary St. Henry said that he hoped over the next few months that they do get more input. They had a joint meeting where they talked a little about the Master Plan with the BOT and other folks, he didn’t get a clear sense of where Supervisor Barnett and his team were where they wanted to see the Township go. Supervisor Barnett mentioned something about not being development crazy but besides that, they got very little feedback. He wanted more vision and thought from the BOT and where they see this Township headed over the next five years so they are not developing this with the Planner in a vacuum.

16. ADJOURNMENT
Moved by Trustee Urbanowski, seconded by Commissioner Gingell to adjourn the meeting at 8:08 p.m. Motion carried.

Respectfully submitted,

Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion Planning Commission Approve Date