

CHARTER TOWNSHIP OF ORION PLANNING COMMISSION
******* MINUTES *******
REGULAR MEETING, WEDNESDAY, OCTOBER 5, 2022

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, October 5, 2022, at 7:00 p.m. at the Orion Township Municipality Complex Board Room, 2323 Joslyn Road, Lake Orion, Michigan 48360.

PLANNING COMMISSION MEMBERS PRESENT:

Don Walker, PC Rep to ZBA	Derek Brackon, Commissioner
Don Gross, Vice Chairman	Joe St. Henry, Secretary
Kim Urbanowski, BOT Rep to PC	Jessica Gingell, Commissioner

PLANNING COMMISSION MEMBERS ABSENT:

Scott Reynolds, Chairman

1. OPEN MEETING

Acting Chairman Gross opened the meeting at 7:00 p.m.

2. ROLL CALL

As noted above.

CONSULTANTS PRESENT:

Mark Landis (Township Engineer) of Orchard, Hiltz, and McCliment, Inc.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:

None.

3. MINUTES

A. 9-7-22, Planning Commission Regular Meeting Minutes

Moved by Commissioner Gingell, seconded by Commissioner Walker to **approve the minutes** as presented. **Motion carried**

4. AGENDA REVIEW AND APPROVAL

Moved by Trustee Urbanowski, seconded by Commissioner Gingell, 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-2019-06, Silverbell Pointe, amendment to the final PUD plan, located on 4 vacant parcels south of Silverbell Rd. on the east side of Joslyn Rd. (Sidwell #'s 09-33-201-001, 09-33-128-001, 09-28-379-001, & 09-28-451-001).

Acting Chairman Gross said since this is new business it is a reflection of an amendment to a previously approved PUD which goes back a couple of years. The Planning Commission reviewed it, and the Township Board approved the PUD in 2021. This is a proposed amendment to that plan. He asked if the applicant would like to make a presentation.

Mr. John Thompson with the PEA group presented.

Mr. Thompson stated that he was representing Franklin Ridge Homes. Unfortunately, Mr. Steuer could not attend. They came in 2019 and went through several versions of their plan, eventually having preliminary PUD approval and then the final PUD approval. They have since been working on engineering drawings. That little causeway between Mud Lake and Judah Lake on Joslyn has about every single agency you can think of within that intersection or that causeway area. They have had to work with EGLE, MDOT Rail, CN Rail, ITC, RCOC, and every other acronym that they could think of to get their approvals.

Mr. Thompson said as they ventured through those approvals, they found they had some difficulties. Some of the items that the RCOC wanted, Township Engineer didn't want, and MDOT didn't like the way that was going. They have just been back and forth with probably six different versions of the approach.

Mr. Thompson stated that the plan they have today is essentially the same plan that was previously approved. He showed the Board the originally overall site plan. There are 46 lots on 28 acres, 42 acres of preserved wetland and lake area, and a 4-acre donation to the Township for a future park. As far as the site itself goes, when they had it approved, they had a boulevard entrance, they had a left-hand center turn lane that was going to feed that new approach, and they had an emergency vehicle access that was adjacent to the pond. That was for providing the second point of access to the subdivision. They were unable to get EVA access. The CN Rail said that if they wanted to put in a new crossing, they had to remove two other ones. They worked with the Supervisor, County, and State to see if there was anything else that they could close a road, and everyone said no, you are not closing an intersection that has a railroad track across it. They eventually had to stop that and pursue other avenues. Their biggest issue is because the railroad track is so close to the entrance, how do they get that geometry to work?

Mr. Thompson said they came back in with an alternative plan that they resubmitted recently. From the subdivision perspective, it is the exact same plan. The EVA is gone, and the approach has a pork chop on it which means on the boulevard entrance it flares out to prevent left-hand turns. That was a condition of RCOC, they said if they can't get enough stacking at the railroad tracks, because the lefthand center lane turn was \$750,000 worth of improvements through CN Rail because of all the equipment that they had to move, and the project just couldn't take that type of cost. So, they went back RCOC to and got their approval they started getting the MDOT approvals, and they resubmitted back to the Township and the Township said that they don't want to have a restricted turn, they wanted them to have full access turn.

Mr. Thompson showed the Board what they did. Their original plan they could see the stripe out for the left-hand center turn lane, that is what they were originally proposing. What they see tonight in the current plans is what they call a pork chop or a half pork chop and showed them how the boulevard instead of having just a round corner now has a small little bump out, it is slight but the purpose of that is to help restrict, help visually impede people who would be wanting to turn left despite the fact that it would be signed as no left. That was the proposal that they see tonight.

Mr. Thompson stated that based on the reviews from the Township consultants and Planning Supervisor, and a recommendation that they want unrestricted access they changed gears again and are looking at the option of a bypass lane. Their original left-hand center lane was all on the east side of the existing road, happens to be that the road itself is literally on the west side of the right-of-way, so building on that west side was never an option. Based on conversations they have had with the RCOC and the Township Engineer they think there is potential as the piece of property that is there that they would have to cross is ITC's property. What they would like to do is pursue a highway easement from ITC, CN has already indicated

that they could expand into their property. This would allow them an option that he thought would be cost-effective or at least absorb the cost to do this improvement, and it would give them full unrestricted access.

Mr. Thompson said what he is asking tonight if they are willing to vote, is that they would get conditional approval on the amended final PUD with the understanding that they still need to get the bypass approved, RCOC permit, MDOT permit, and everybody else's permitted approval and of course, the Township Engineers approval, if they would be willing to vote on having that as a condition of an administrative approval, for review.

Acting Chairman Gross asked if there were any questions from the Planning Commissioners. There was none.

Engineer Landis noted that the letter that was in front of them was of course the review of the originally submitted plan which had restricted access. They are not in favor of that because it introduces difficulties for enforcement. They have spoken with the Fire Marshal it increases their response time, also creates safety concerns, and having residents that are traveling south or deliveries having to go past their entrance and then circle back and come back is very inconvenient. They were not in favor as the applicant had indicated for that restricted access.

Engineer Landis said that the emergency vehicle access that was at the north end of the site has been removed and the applicant has added a note to the plans that they will suppress all of the units. That was his understanding that the original requirement for that EVA was of the Fire Marshal since the plan now includes the suppression that that EVA is no longer needed.

Engineer Landis stated that in regard to the plan that was just presented, they haven't seen it yet, but they would find that acceptable in concept. It would not be a dedicated center left turn lane which obviously would be better and safer instead they are going to have southbound traffic basically stopped to turn left but they would have that bypass lane on the right-hand side to get around that person that is turning left. He noted that it is not a huge subdivision so the amount of left-hand turns is probably on the low side. In their opinion, he thought it would be acceptable. Obviously, it would be subject to RCOC approval, and then their review as well.

Trustee Urbanowski said they would still need to submit these new plans with the bypass, and it would have to go through engineering, fire, MDOT, and RCOC. She asked if it still needed to get CN approval as well. Engineer Landis replied that he believed that there would be some work done in their right-of-way, so that was his understanding, yes. Trustee Urbanowski said and also ITC, so they have a lot of people that need to say yes.

Trustee Urbanowski asked Engineer Landis if he thought it was acceptable to do a bypass. Engineer Landis replied in lieu of the center left turn lane, yes. He said it is a very challenging location, there is a lot of grade change, so there is going to be a need for culvert extensions, guardrails, etc.

Trustee Urbanowski asked how many units are in this again. Mr. Thompson replied 46. Trustee Urbanowski asked how far south from the elementary school is this. Acting Chairman Gross replied, a quarter to a half mile.

Acting Chairman Gross asked if the Fire Department reviewed this plan that was presented tonight yet. Engineer Landis replied not to his knowledge. Engineer Landis asked for clarification on which plan. Acting Chairman Gross said the one that was presented here tonight. Engineer Landis said the new plan with the bypass lane. Trustee Urbanowski replied, no. Acting Chairman Gross said although it appears that it satisfies their concerns. Engineer

Landis stated that his understanding was yes it would be because they have taken care of the suppression of the units. In regard to the Fire Marshall's denial of the original plan that was presented that was because the left-hand turns were prohibited into the site. This would give them full access, so he would not foresee any reason why he would object.

Trustee Urbanowski said that 46 units are not that much, if they are comfortable with it in terms of engineering, the units will be suppressed. They knew it was a challenging site but as long as they get all of these approvals, which will be a lot.

Secretary St. Henry asked if the rail line is used currently. Mr. Thompson said it is currently paved over at Silverbell. He thought the last time that this rail was used was for a traveling carnival that came to town that was 20-something years ago. Planning & Zoning Director Girling said that there was definitely discussion with the expansion of GM of this running again. Secretary St. Henry said he read that from multiple sources, so that is still a possibility. Planning & Zoning Director Girling said it was still a possibility that is what she would label it.

Secretary St. Henry asked why the left-hand turn lane was rejected. Everybody agreed that that would work it was just a money issue. Mr. Thompson replied that from the Township to the County to the State the geometry work for a left-hand turn. It was the fact that ITC has a ton of equipment that is all on that side of the road and it was literally $\frac{3}{4}$ of a million dollars just for ITC to do the improved track that they have to do for special tracks when they cross roadways. Plus, their huge equipment cabinets and their other signalization, so by the time they got done with their other improvements that had to go in that intersection it was close to one million dollars. ITC is now saying with the bypass it would be around \$55,000, 10% of the cost to just shift to the other side of the road.

Acting Chairman Gross stated that it appears that this is a solution to a difficult site and still accomplishes what they as a Commission wants. They expressed from the very beginning that there be continued access to the site for all movements, left turns in left turn out, right turns in, and right turns out, this accomplishes that. Then with the note of the units being fire suppressed, he made the assumption that that satisfies the Fire Departments' concern as well. He added that they have a number of options before them, they can postpone any action on this plan until they receive final acceptance of all parties, or they can recommend to the Township Board that the plan be amended as suggested this evening with various conditions such as final review by the Engineer, Fire Department, and the obtaining of the necessary permits from the various agencies. Planning & Zoning Director Girling wanted to clarify that this does not go to the Board of Trustees. She added that this is considered minor, so it does not, they are the deciding Board. Acting Chairman Gross asked even though they approved the original plan, the amendments can be done by the Planning Commission. Planning & Zoning Director Girling replied, correct.

Secretary St. Henry asked what the rationale of getting their conditional approval before they get any of the other reviews. Mr. Thompsons replied, primarily time and money. They have to go out and do a topo survey, they have to redo the design, they have to get a wetland delineation, so they have a ton of more work to do in order to get in front of the agencies and to make sure that this works. The idea is if they had their approval to move forward then the owner feels comfortable with granting the time and money that it costs to do it.

Trustee Urbanowski asked if the plans that are date stamped received on September 14th are with the pork chop. So, do they still have to submit a whole new drawing for this? Planning & Zoning Director Girling replied that the one that is here tonight, the favorable one, is the first that anyone has seen it. It has not been submitted to anyone at the Township with the bypass lane. Trustee Urbanowski stated that they couldn't approve the plans that are in front of them.

Planning & Zoning Director Girling said a motion would be to deny the plans date stamped September 14th however conditionally approve the one presented tonight with the bypass with the condition that it is resubmitted and rereviewed to the satisfaction of the Township Engineer, Township Fire Department, and all other approving entities. She added that if one of those doesn't, then it is not approved, and they have to come back with something else.

Secretary St. Henry asked Township Engineer Landis if he felt based on his experience and review of what is being discussed tonight that these other agencies will approve this. Do you see any in there that could be a red flag to any of those agencies? Engineer Landis replied that that is a difficult question to answer. He said to be honest he doesn't know. All he did know is that they saw correspondence with the applicant and RCOC saying that without full access they were going to prohibit left turns into the site. He added that creating this bypass lane that would seem to satisfy that requirement. They haven't had any discussions with RCOC relative to that, he didn't know if the applicant had. He assumed that if they hadn't heard anything negative otherwise, he didn't feel they would be before them tonight asking for such approval. Mr. Thompson said the previous plan they were at 90% approvals, they already had an RCOC permit, they were on their second review for final engineering with the Township, they formally had their DSTR meeting with MDOT Rail to go through the last steps with that, and then CN was in the process of starting their design plan for final approval. He didn't see any red flags to get another approval or to get all the agencies for their approval. Various agencies have different requirements and different things they want to see so, it is a matter of negotiating back and forth to come up with a happy medium between them. They floated the bypass in front of the Township, RCOC, and CN and everybody was in agreement with that.

Secretary St. Henry asked if he had any concerns that GM fires up the rail system again, and how will that impact this development. Mr. Thompson replied he didn't think so, they know that they have a fire route from Kinmount that should a rail get stopped in the middle of Joslyn through this intersection they have fire access that they have identified through Kinmount if north is blocked, they have access from the south. They have conducted a traffic study, the traffic study said that the a.m. p.m. peak hours maximum on the stacking would be four cars. They have 100-ft. to the rail so they have room to stack four cars in the left-hand turn, so he didn't see any downfalls in the bypass option should that rail become active again.

Planning & Zoning Director Girling said she was not giving them a motion just a sample motion. She asked them to keep in mind that the plans that they received in the packet dated September 14th also eliminated the emergency vehicle access and added the note suppression. If was a conditional approval and they were going to be resubmitting with this bypass lane that plan should also have the elimination of the road and the note on the suppression. In addition, based on something the applicant said about needing to look at the wetlands when he looks at perhaps it is going to impact something, and he might have to come back for a wetland permit. It should be noted that if something is found in looking at how they are configuring this that impacts the wetland that they might have to come back for that as a separate application.

Moved by Trustee Urbanowski, seconded by Commissioner Walker, that the Planning Commission denies the amendment to the previously presented and conditionally approved final PUD plan for PC-2019-06, Silverbell Pointe located on 4 vacant parcels south of Silverbell Rd. on the east side of Joslyn (Sidwell's 09-33-201-001, 09-33-128-001, 09-28-379-001, & 09-28-451-001) for the plans date stamped received September 14, 2022, because that was not approved. We would conditional approve the concept of the bypass that was presented tonight conditioned upon: to submit and rereview to OHM and the Fire Department and then also approvals from RCOC, MDOT, CN, and ITC; as well as the changes that occurred in terms of the emergency vehicle assess removal, that road removal needs to be on the new plans as well, and then indicate that the units will be suppressed in leu of that emergency vehicle access road;

also conditional approval based upon the wetland survey that will be done, and if they need to come back for a wetland permit then they would have to come back for that.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Urbanowski, yes; Walker, yes; Gingell, yes; Brackon, yes. **Motion carried 6-0 (Reynolds absent)**

B. Discussion on possible text amendments

Planning & Zoning Director Girling stated that when she has free time, she tries to work on text amendments. She put her mind to what is on her list, for instance, running two concepts past them. It has been proposed in the ordinance it does say that a ZBA variance is good for one year to pull a building permit. That is not State regulation that is their ordinance. It has been suggested that perhaps the ordinance be modified to say that the first year it can be extended by staff versus having to apply to the ZBA and go back. So, they would basically get after two years they would have to back to the ZBA. She added similarly to the site plans that they see. They see many of them, she knows if they had a change in the text that would affect the site plan. So, would they be open to the concept of not only the ZBA variance being extended for the first year by staff but a site plan approval one year by staff then after that it would have to come to PC or ZBA?

Trustee Urbanowski said they have seen a lot of extensions because of a lot of issues in the last two years and she didn't think that they denied any of them and they have all been understandable. She was ok with the idea of that.

Planning & Zoning Director Girling asked if anyone was strongly opposed. Obviously, they have to have a public hearing, and it goes to the Township Board, but is there anybody that is opposed to that concept? There was not.

Planning & Zoning Director Girling stated that she did a quote from the planner to work on their PUD section and tree preservation. Obviously, he can't work on two at the same time, is there one that they would like to have him tackle sooner than the other, both need a lot of work.

Trustee Urbanowski said just last week Trustee Dalrymple and Sam Timko and herself went to St. Louis for the American in Bloom Symposium and they were connected with a lot of really good experts in terms of trees, ordinances, and language, and things like that that would benefit them, she thought and could pull from some of their expertise because now there are experts and that is what they are supposed to use them for. That being said she thought that there were some other things that they want to talk about in terms of trees. She thought that could come later in her opinion, and she thought the PUD would take precedence because they are seeing a lot of that lately.

Secretary St. Henry said one of the two projects they want to work on is updating the PUD section. Planning & Zoning Director Girling said that the PUD section does read poorly. If they read it from start to finish, she herself says, how do I educate somebody on what this says besides what she has interpreted it to be, it does not read well. It looks like it has been put together in different steps and maybe parts were missed when they fixed another part, and it is pretty rough. Considering the number of PUDs, they get it is definitely something that they need to work on the language, in addition to the fact that they have within the Master Plan to discuss PUDs, looking at that and how they look at them. PUDs are allowed via the Zoning Enabling Act so it is something that is there it is just the language that they have drafted that is a little bit choppy.

Secretary St. Henry asked if it was possible to make 1A priority and the other 1B priority. Planning & Zoning Director Girling replied it could be. Both of those are a priority but both of those are elaborate enough that they are going to be paying the Planner to do, and he is not going to work on both at the same time. They could finish up one and immediately go to the other. She figured if it takes some time, and they get busy and they got two or three cases the last thing they want to do is talk about a text amendment. It doesn't mean that the Planner can't start it knowing it could be a couple of months before they get to the point that they are ready to forward it to the Board of Trustees. She asked which one do they want to work on first.

Commissioner Walker said it seemed to him now that everything from now on for the rest of their lives is going to be a PUD because all buildable sections and pieces are gone. So, it has to be fine-tuned, and when they fine-tune things, they end up giving so much away to get the fine-tuning. Planning & Zoning Director Girling said that they do end up with some wonderful benefits. If they look at the pros and cons of something that was a straight rezone and they were successful, all of the extra buffering and community benefits would not be there. Commissioner Walker said that is historically speaking he is talking about proactively speaking. Acting Chairman Gross stated maybe they don't need to be giving away so much stuff with some of the new revisions. Commissioner Walker stated that he is not demanding abstinence from this but thought they should tighten that down, for sure.

Commissioner Walker said not to forget about the trees either. Secretary St. Henry said they are both important so he didn't see why the Planner cannot work on both of them at the same time quite frankly. Planning & Zoning Director Girling replied that she hasn't asked she just knew up to this point she barely has time to breathe. With the number of cases that come in and they see it but then there are resubmittals and sometimes there are three or four resubmittals after they see them. That means for them to see it three or four times and they got a stack of them it doesn't necessarily give the time. Even for her to look over it and give her critical, and what she thinks of what they are proposing. Secretary St. Henry thought that they should set a rough timeframe to have both of those sections updated. If the Planner agrees to it and it happens whether that is three months, six months, or whatever they agree to let's get it done and do it the right way. If it is as bad as you say it is and they just went through the whole Master Plan process. Planning & Zoning Director Girling said it reads poorly; it doesn't mean it doesn't work. She understood there are those that don't like it. She added that she will start with PUD, and she will ask the Planner if he can work on both at the same time.

Planning & Zoning Director Girling stated that she is working on fences from a directive from the Planning Commission. Performance Guarantee is here for a public hearing at the next Planning Commission meeting. She has some ideas from the Planner on solar. She asked if any of them have any sections that they can think of that they see when they are looking at a review or anything that she should be directing any effort to.

8. UNFINISHED BUSINESS

None.

9. PUBLIC COMMENTS

None.

10. COMMUNICATIONS

None.

11. PLANNERS REPORTS

None.

12. COMMITTEE REPORTS

None.

13. PUBLIC HEARINGS

Planning & Zoning Director Girling stated that they do have a public hearing at their next Planning Commission meeting they have a public hearing on the Text Amendment for Performance Guarantees at 7:05 p.m.

14. CHAIRMAN'S COMMENTS

None.

15. COMMISSIONERS' COMMENTS

Commission Walker said regarding the library, he thanked all of them for the hard work that they put into the book sale a week and a half ago. They made about \$7,000 for their little library is a big deal. They couldn't do it without all of the public buying the books and all the volunteers that come in their free time to do it.

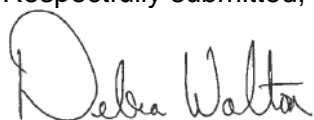
Trustee Urbanowski stated that she wanted to follow up with what she started talking about with America in Bloom. Some of the presentations that she saw while she was there that she thought this Commission would be interested in reading, in terms of landscaping and trees. She said she will pull something together they are trying to pull from the report around 40 pages and is all good information. The Township received a grant from CN to do the gateway landscaping on Joslyn and Brown Rd. where the big tower is there across from Meijer as they are coming into the Township, there are plantings on both sides. There is going to be a ribbon cutting tomorrow, some of the representatives from American in Bloom will be coming up here from Ohio. They will be doing a ribbon cutting to open that gateway at 3 p.m. and everyone is invited to come to that. You can park at Lake Orion Roofing or at the Mattress Firm. The big thing that happened for the Township is that they won, there are seven sections to the report, and the community vitality section they won that section. It is hard for a first-time participant to do that. They were really impressed with their volunteerism and the things that they do for their citizens, the way they feed people, and the way they have the inclusive ballpark. It was really rewarding to hear some of the things because they all read the report and they know what is going on. They were impressed with them.

Planning & Zoning Director Girling stated that they have been busy with submissions, resubmissions, and specifically GM, they have been very busy. She just wanted to thank OHM they have been working very hard. They always take our calls they always answer our questions. They are a wonderful resource and they have really been doing anything and everything related to GM and getting the plans done quickly.

16. ADJOURNMENT

Moved by Trustee Urbanowski, seconded by Commissioner Gingell, to adjourn the meeting at 7:45 p.m. **Motion carried.**

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

October 19, 2022

Planning Commission Approval Date