



## Planning Commission Regular Meeting Minutes, Wednesday, October 17, 2012

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The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, October 17, 2012 at 7:00 p.m. at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

**PLANNING COMMISSION MEMBERS PRESENT:** Doug Zande, Chairman; Carol Thurber, Vice-Chairwoman; Dick Christie, Secretary; John Steimel, Commissioner, TB Rep. to PC; Don Walker, Commissioner, PC Rep. to ZBA; Chris Barnett, Commissioner

**PLANNING COMMISSION MEMBER ABSENT:** Justin Dunaskiss, Commissioner

**CONSULTANTS PRESENT:** Don Wortman (Township Planner) of Carlisle/Wortman Associates, Inc.; Jim Stevens, (Township Engineer) of Orchard, Hiltz & McCliment, Inc.; Dan Kelly, (Township Attorney) of Giarmarco, Mullins, & Horton, P.C.; Beth McGuire, Township Zoning/Planning Administrator

**OTHERS PRESENT:** Richard Batt, Michael Cicchini, Jeffrey Bowden, Phoebe Schutz

### 1. OPEN MEETING

Chairman Zande called the regular meeting to order at 7:00 p.m.

### 2. ROLL CALL

Commissioner Dunaskiss was absent.

### 3. MINUTES

Moved by Secretary Christie, supported by Commissioner Barnett to approve the September 19, 2012 regular meeting minutes as presented. **Motion carried 6-0** (Dunaskiss was absent).

### 4. AGENDA REVIEW AND APPROVAL

Chairman Zande overviewed correspondence received from Mrs. Beth McGuire, Zoning/Planning Administrator, dated October 17, 2012, which informed members that there are no agenda items for the November 7, 2012 regular meeting\*.

Mrs. McGuire noted that it is also now confirmed that there are no agenda items for the November 21, 2012 regular meeting either and that members may wish to amend the motion to include that as well.

Moved by Secretary Christie, supported by Commissioner Barnett to approve the agenda as amended to include the November 21, 2012 regular meeting cancellation in agenda item 8,C. **Motion carried 6-0** (Dunaskiss was absent).

### 5. BRIEF PUBLIC COMMENT - NON-AGENDA ITEMS ONLY

No comments were given.

### 6. CONSENT AGENDA

None.

## 7. NEW BUSINESS

### A. 2013 Planning Commission Regular Meeting Dates Resolution

Moved by Secretary Christie, supported by Vice-Chairwoman Thurber to adopt the 2013 Planning Commission Regular Meeting Dates Resolution as presented. Roll call vote was as follows: Walker, yes; Barnett, yes; Christie, yes; Steimel, yes; Thurber, yes; Zande, yes. **Motion carried 6-0** (Dunaskiss was absent).

## 8. UNFINISHED BUSINESS

### A. PC-2004-23(2012), Village Square Planned Unit Development (PUD) Amendment, Final PUD Plan and Agreement, 3590 S. Baldwin Road

Mr. Richard Batt, of Redwood Management Company, presented an overview of this ongoing proposed project. They have submitted a revised PUD Agreement, which is still being adjusted to take into account the consequences to some of the litigation of the property. They are seeking members' recommendation to the Township Board of Trustees.

Mr. R. Donald Wortman, (Township Planner) of Carlisle/Wortman Associates, Inc., overviewed their Final PUD Amendment review correspondence, dated September 28, 2012\*. Based upon the removal of the drive-thru restaurant pads and additional revisions, we find the proposed final PUD amendment to generally be in conformance with the Orion Charter Township Zoning Ordinance. We recommend that the following items be addressed by the Planning Commission prior to making a recommendation of approval to the Township Board: 1)The Planning Commission should acknowledge the zoning ordinance deviations noted on page six of this report and listed on Sheet four of the drawings. The deviations include garage protrusions, building materials, setbacks, etc.: 2)The Planning Commission should consider the number of signs and setback deviation as part of their PUD sign review in accordance with Sign Ordinance No. 138; and, 3)The Township Attorney will review the draft PUD agreement, which may include landscape maintenance standards for the west property line.

Mr. Jim Stevens, (Township Engineer) of Orchard, Hiltz, & McCliment, Inc., overviewed their Final PUD Review correspondence, dated October 5, 2012\*. In our opinion, the final PUD plan as submitted is in substantial compliance with the Township's ordinances and engineering standards. However, the applicant should address the comments indicated in this letter prior to detailed engineering submittal. The applicant should note that the Township may require performance bonds, fees, and/or escrows for the pre-construction meeting and necessary inspections.

Mr. Dan Kelly, (Township Attorney) of Giarmarco, Mullins, & Horton, P.C., overviewed their review correspondence, dated October 10, 2012\*, and noted that typically the Planning Commission is given a proposed copy of the PUD Agreement and in this case there isn't one, but in this case he believes it is acceptable due to the ongoing litigation. However, he does recommend that if members recommend approval that it be conditioned upon that amended PUD Agreement being provided.

Chairman Zande inquired whether Mr. Batt had any concerns or questions regarding the consultants' review letters.

Mr. Batt replied, no.

Secretary Christie overviewed email correspondence received from Chris and Jennifer Carpenter, of 3697 Hidden Forest Drive, dated October 16, 2012\*. They noted that their home is directly behind the

subject site and requested the following of members: 1)a tall, thick, and natural barrier that would keep their children safe; 2)consider the placement of exterior lighting to avoid light pollution; and, 3)use low-noise air conditioning units.

Secretary Christie overviewed email correspondence received from Jaclyn Misuraca-Brooks, of 3695 Hidden Forest Drive, dated October 16, 2012\*. She noted that their home is located behind the subject site to the northwest. She has strong concerns regarding the barrier between their neighborhood and the proposed apartments. As a mother of two, she is concerned about her children's safety and requested that members consider a tall, thick, natural barrier that would prevent individuals from either side to cross into or have a direct view of each other's yards.

Mr. Michael Cicchini, of 3713 Rolling Hills Court, commented that his biggest concern is to have adequate screening using 10' to 12' tall evergreen trees and for it to be very dense.

Mr. Batt noted that their landscape architect has moved the trees as close together as he felt was practical to where the trees would survive and they have increased the size of the trees so they will grow into a nice buffer. They also have talked about the possibility of having sound shields for the air conditioning units. Chairman Zande informed Mr. Cicchini that the ordinances will cover those concerns and the applicant must comply with them.

Vice-Chairwoman Thurber noted that she is satisfied with the outdoor lighting that it is in compliance with the ordinances.

Commissioner Steimel noted that he is in favor of the location of the signs. He then inquired of Attorney Kelly regarding the PUD Agreement.

Attorney Kelly noted that they have not been provided the amended PUD Agreement. Their understanding is that they will receive a relatively small document of one or two pages that just lists the changes to the existing PUD Agreement, so that everything that is in the current agreement will continue on into the future and the amendment will list what the changes are.

Commissioner Steimel noted his concern to be sure there is language in the agreement about maintenance of the private roads.

Mr. Batt noted that it is in the agreement.

Commissioner Steimel noted that when this case comes before the Township Board of Trustees, he would hope that they would be provided with a complete copy of the PUD Agreement including this amendment before taking action on this case.

Mr. Batt commented that the reason they haven't provided the PUD Agreement yet is that he has been working in resolving the litigation and he wanted the parties to agree before he brought it to Attorney Kelly.

Commissioner Steimel noted that he will be expecting that PUD Agreement at the Township Board level before action is taken. He also wants the wording to be very clear in the PUD Agreement, especially regarding the landscaping buffers, as well as on the plans. He also noted that the landscaping

needs to be made of hearty plantings that will thrive in this area as well as being able to survive with the salt that is used in the winter.

Mr. Batt noted that he will take care of that.

Planner Wortman noted that he is comfortable with their landscaping choices.

Attorney Kelly, Planner Wortman, and members discussed procedures for the two commercial sites in the PUD when they are actually built.

Attorney Kelly noted that when a business comes for each of those sites, it would be done through a regular site plan process, that it may require a special land use for the drive-thru's, and that it would still require a public hearing as being part of the PUD.

Commissioner Barnett noted that it sounds like the concerns are about the landscaping, buffer, and the long-term maintenance of it.

Mr. Batt noted that he has no objection with including language to address those concerns into the PUD Agreement.

Attorney Kelly suggested including that in the motion.

Moved by Secretary Christie, supported by Commissioner Steimel regarding case PC-2004-23(2012), Village Square Planned Unit Development (PUD) Third Amendment to the Final PUD Plan, 3590 S. Baldwin Road, **to recommend approval to the Township Board of Trustees** including the deviations that are listed on Sheet four of the drawings and to allow two ground signs rather than one, with the proposed setback of eight feet rather than twenty feet from the right-of-way shown on Sheet three and LI-1, referencing plans date stamped received by the Township on September 17, 2012, Sidwells #09-29-301-083 and #09-29-301-006. This recommendation is subject to the following conditions: 1)that the Planning Commission has the understanding that the PUD Agreement will continue to be negotiated and revised by the Township Board of Trustees in conjunction with resolution of the pending litigation; 2)that the petitioner agrees to putting 22 trees along the west property line, while over sixty evergreen trees are proposed in conjunction with a three-foot tall berm and the proposed trees to be planted include a variety of Norway Spruce, Austrian Pine, Eastern White Pine, and Colorado Blue Spruce. The trees are proposed to be planted on fifteen-foot centers, which will provide a dense buffer. The trees are specified at a minimum of ten feet high, which exceeds the Township's landscape ordinance requirements of Section 27.05, which requires a minimum of five-foot high trees; 3)that the Township Attorney will add additional verbiage along with the petitioner regarding the long-term maintenance of the proposed berm.

Attorney Kelly suggested adding the following: 4)that the petitioner must provide color exhibits of the PUD with drawings of the façade of the buildings when appearing before the Township Board; 5)provisions regarding the maintenance of the road; and, 6)that additionally the recommendation upon the change of ownership there will be some triggering events to maintain the PUD Agreement and the obligations owed to the Township.

Members agreed.

Commissioner Steimel suggested taking the words "PUD Agreement" out of the motion since members have not received a PUD Agreement and they are only agreeing to the amendment of the Final PUD Plan.

Members agreed.

Roll call vote was as follows: Barnett, yes; Christie, yes; Steimel, yes; Thurber, yes; Walker, yes; Zande, yes. **Motion carried 6-0** (Dunaskiss was absent).

**B. PC-2012-09, Text Amendment to Zoning Ordinance No. 78, Minor Planned Unit Development**  
Commissioner Steimel commented that the Township Board sent this back to the Planning Commission for review of the following: 1)G,1, Include the Township Supervisor and a Planning Commission member at the Pre-Application Conference; 2)E,5, Include the Township Supervisor in the decision-making process to determine if a Minor PUD may be submitted. Staff should not be responsible for making the decision; 3)Section 30.03,J, Set criteria for which a Minor PUD will be judged; and, 4)Set a joint public hearing to afford the Board of Trustees an opportunity to hear comments and presentations in order to make a reasoned judgment.

Members reviewed the proposed text amendment as prepared by Mr. R. Donald Wortman, Township Planner, of Carlisle/Wortman Associates, Inc.\*

Attorney Kelly also noted what the Township Board had requested.

Commissioner Barnett agreed.

Moved by Commissioner Barnett, supported by Secretary Christie regarding case PC-2012-09, Text Amendment to Zoning Ordinance No. 78, Minor Planned Unit Development, to **recommend adoption to the Township Board of Trustees**, with the addition of defining Township representatives that may include any member of the Township Board of Trustees, Planning Commission, or Building Department.

Mrs. Beth McGuire, Zoning/Planning Administrator, commented that it would be difficult to schedule meetings without the representatives being more specific. She needs to know specifically who should be notified for the meetings.

Commissioner Steimel suggested that the Township Supervisor, one member of the Planning Commission (preferably the Board representative), and either the Building Official or the Zoning/Planning Administrator. Also, that those three should sign off.

Attorney Kelly noted that his point is that they just need to identify who is eligible to make the decision. All you're agreeing to is to sign off on whether it's a minor or major PUD, based on the review of the documents.

Commissioner Barnett then noted that he would amend his motion to state that the Township representatives that may be in attendance would be a member of the Planning Commission, a member of the Planning/Zoning/Building Department, and the Township Supervisor.  
Secretary Christie amended his support.

Planner Wortman noted that the purpose of the committee would be to determine whether an applicant meets the eligibility criteria to apply for a Minor PUD.

Roll call vote was as follows: Christie, yes; Steimel, yes; Thurber, yes; Walker, yes; Barnett, yes; Zande, yes. **Motion carried 6-0** (Dunaskiss was absent).

Moved by Commissioner Steimel, supported by Secretary Christie regarding case PC-2012-09, Text Amendment to Zoning Ordinance No. 78, Minor Planned Unit Development, that in addition to what we just talked about is that as part of this we would also say that the public hearing for the Minor PUD would be changed to say that it is a joint public hearing between the Planning Commission and the Board of Trustees. Roll call vote was as follows: Christie, yes; Steimel, yes; Thurber, no; Walker, no; Barnett, no; Zande, yes. **Motion failed 3-3** (Dunaskiss was absent).

### **C. Consider Cancelling the November 7, 2012 and November 21, 2012 Planning Commission Regular Meetings**

Moved by Commissioner Barnett, supported by Commissioner Steimel to cancel the November 7, 2012 and November 21, 2012 regular meetings due to the lack of agenda items. Roll call vote was as follows: Steimel, yes; Thurber, yes; Walker, yes; Barnett, yes; Christie, yes; Zande, yes. **Motion carried 6-0** (Dunaskiss was absent).

### **9. PUBLIC COMMENTS**

None.

### **10. COMMUNICATIONS**

Chairman Zande overviewed correspondence, dated October 8, 2012, received from Ms. Elaine Leven, Planning Coordinator, of the Charter Township of Oakland, noting that they will be updating their Master Plan with the consideration of the Goodison Sub Area Plan and invited Orion Township to participate.

### **11. COMMITTEE REPORTS**

None.

### **12. UPCOMING PUBLIC HEARINGS**

None scheduled at this time.

### **13. CHAIRMAN'S COMMENTS**

Chairman Zande thanked Vice-Chairwoman Thurber for chairing the last meeting during his absence.

### **14. COMMISSIONERS' COMMENTS**

Commissioner Barnett commented that this is his last Planning Commission meeting since he will be taking the Township Supervisor position after the November election.

Members congratulated Commissioner Barnett and wished him the best of luck in his new role.

Vice-Chairwoman Thurber wished all a Happy Thanksgiving.

Commissioner Steimel welcomed Mr. Jim Stevens, of OHM, back as engineering consultant.

**15. ADJOURNMENT**

Moved by Commissioner Steimel, supported by Vice-Chairwoman Thurber to adjourn at 8:19 p.m.

**Motion carried 6-0** (Dunaskiss was absent).

\* on file