

# CHARTER TOWNSHIP OF ORION PLANNING COMMISSION

\*\*\*\*\* MINUTES \*\*\*\*\*

## REGULAR MEETING, WEDNESDAY, APRIL 5, 2017

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, April 5, 2017 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

### PLANNING COMMISSION MEMBERS PRESENT:

Don Gross, Vice Chairman  
Joe St. Henry, Secretary  
John Steimel, BOT Rep. to PC

Don Walker, PC Rep. to ZBA  
Neal Porter, Commissioner  
Rob Zielinski, Commissioner

### PLANNING COMMISSION MEMBERS ABSENT:

Justin Dunaskiss, Chairman

### CONSULTANTS PRESENT:

Doug Lewan (Township Planner) of Carlisle/Wortman Associates, Inc.  
Jim Stevens (Township Engineer) of OHM  
Tammy Girling, Township Planning & Zoning Director

### OTHERS PRESENT:

Collin Graw  
Kimberly Parisek  
Joseph Webb  
Lynn Harrison

### 1. OPEN MEETING

Vice Chairman Gross opened the meeting at 7:00pm.

### 2. ROLL CALL

### 3. MINUTES

A. 3-15-17, Planning Commission Regular Meeting Minutes

B. 3-15-17, PC-2017-05, Silver Spruce Plaza, PUD Joint Public Hearing Minutes

Moved by Trustee Steimel, seconded by Commissioner Walker to approve the 3-15-17 Planning Commission Regular Meeting Minutes and the 3-15-17, PC-2017-05, Silver Spruce Plaza, PUD Joint Public Hearing Minutes as presented. **Motion carried unanimously.**

### 4. AGENDA REVIEW AND APPROVAL

Moved by Commissioner Porter, seconded by Secretary St. Henry to approve the agenda as presented. **Motion carried unanimously.**

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

None heard

### 6. CONSENT AGENDA

None

### 7. NEW BUSINESS

A. PC-2017-07, Orion Commerce Center Building No. 2 – Additional Trailer Staging Wetland Permit and Site Plan, located at 325 West Silverbell Rd. (parcel #09-35-100-020).

Collin Graw with Ashley Capital, the applicant, presented. Mr. Graw explained they have a need for more trailer parking and staging due to recent congestion at the facility. When the

facility was originally built, the economy wasn't very good and the facility wasn't full. Now it is a different market and they have outgrown the facility. He had pictures in his presentation of that congestion.

Mr. Graw commented they have already amended and received approval to amend the easement to modify the wetlands. In his presentation, he noted the dark areas depict the areas where they plan to expand the existing parking lot - out to the easement setback in order to provide for the extra trailer staging. He then showed a slide of their landscape plans.

Vice Chairman Gross asked Planner Lewan to go over the Planner's review dated March 30, 2017.

Planner Lewan commented that as noted by the applicant, this is a relatively straight forward proposal. The applicant is requesting to add more truck trailer storage into some areas that would require an amendment to their wetland easement and wetland permits from both the State (MDEQ) and Orion Township.

Planner Lewan further noted there are no buildings being proposed.

Planner Lewan explained there were two parts to this review - one for the site plan and one for the wetlands.

Regarding the site plan:

- They had no major concerns with the site's arrangement and circulation.
- Pertaining to natural resources. The proposal will require MDEQ and Township wetland permits. He asked the applicant to update the Commissioners where they are at with acquiring the MDEQ permit.
- Regarding parking and loading – the new truck parking and storage area will be setback 20 ft. to the edge of the reduced wetland area after everything is done. According to Ordinance, a setback like this is required to be 25 ft.. As a result, the Planning Commission may reduce or waive this requirement upon the applicant demonstrating that at least 1 of the 4 criteria on page 3 of the review can be met. He asked the applicant to describe how they are proposing to meet 1 or more of that criteria. Planner Lewan noted they are only taking about a 1/3 acre of wetland from the site and believed they would be mitigating a little over a 1/2 an acre. When development impacts a wetland, it is usually replaced at 1 1/2 times the amount impacted. The applicant intends to purchase wetland credits that will account for more wetland than they will impact. He asked the applicant to speak to the wetland credit process and where they are at with it.
- Planner Lewan noted that landscaping has been addressed satisfactorily. He noted however that there is a Township requirement for interior parking lot landscaping which is derived from a specific calculation. With the new pavement the applicant is proposing, 13 additional trees would be required. Planner Lewan said though that there has been discussion with the applicant that the spaces for trailer storage shouldn't be calculated the same as parking spaces. Because the expansion is strictly for truck trailer storage and there is no need for them to create visual interest or to try and break up the expanse of pavement, he believed this waiver request had merit but should be discussed by the Planning Commission.

- There were no issues with lighting.

Regarding the Planner's wetland permit review. There were 3 items on page 5 of the review that have to be met and Planner Lewan believed the applicant has done so. He explained that when a wetland is involved with a site plan, it is reviewed as part of the site plan approval process by the Planning Commission; they can approve the wetland permit as part of the site plan approval. Planner Lewan went over those items as they pertain to the proposal.

Vice Chairman Gross asked for Engineer Stevens to go over their review dated March 29, 2017 for the site plan and March 30, 2017 for the site plan – wetland review.

Regarding water main and sanitary sewer. There will be no additional impact to the water main or sanitary sewer - no additional use or extensions.

Engineer Stevens explained the site's storm water management system was originally designed and constructed to handle additional impervious surface, therefore there were no proposed changes to the storm sewer system.

In conclusion, Engineer Stevens said the plans submitted were in substantial compliance. He did note one minor item – water main was recently extended along the southeast corner of the property and that will need to be shown on the plans so any impact can be mitigated (it is basically on the southern side of the wetland boundary).

Regarding the Engineer's wetland review. The applicant is proposing to impact approximately .34 acres of wetland; relatively that is a minor impact in wetland terms. However the wetland is of pretty good quality so the applicant, as part of the MDEQ permit, is proposing to mitigate at a 1 1/2 to 1 ratio with mitigation credits as Planner Lewan stated. He noted that ratio is common but it is up to the Township to decide if that is sufficient.

Engineer Stevens also asked that the applicant make sure that the wetland lines shown on the permit application as well as those on the site plan are consistent and clear.

Vice Chairman Gross asked for comments or concerns from the Commissioners.

Trustee Steimel asked if there will be any Phragmite control? Engineer Stevens responded there is a note on the site plan indicating the applicant has agreed they will treat the evasive species that are within the conservation area.

Trustee Steimel commented he also had a concern about the storm water and if the current system could handle the addition; Engineer Stevens did clarify in his review that it could. Trustee Steimel also clarified with Engineer Stevens that nothing would be coming from the south end. Mr. Graw responded there would not. The northern portion of the south area would not have much of an effect on the actual wetlands area and there aren't any Phragmites in that area. They will have to regrade it there a little - where the berm goes into the east end. Trustee Steimel than noted the tree buffer between the property and the people to the east.

Joe Webb, Ashley Capital Civil Engineer, commented on their landscape plans. He explained they are trying to mimic what was previously done across the trailer staging area so they will actually ended up having to put more trees in then required. It was noted they about the mobile home park to the south which is about 50 ft. to that boundary.

Commissioner Porter said he did see the note on the plans about the Phragmites and asked if that was for construction or perpetuity? Mr. Graw responded that was something that can be discussed. Ms. Kimberly Parisek, property manager for the facility, added they have contacted the company the Township uses for Phragmite removal and they will come out and look at them. They recommend treating them in July or August. Ms. Parisek commented that when treating Phragmites, it is a multi-year process. She noted that they have many other properties where they go back year after year to treat the Phragmites. Commissioner Porter said he would like to see that in a perpetuity agreement in the event that Ashley Capital sells the property; that it will still be taken care of.

Mr. Webb informed the Commissioners that the conservation easement is not technically owned by Ashley Capital, it is owned by Waste Management. Planner Lewan then commented that the applicant's willingness to treat the Phragmites would meet one of the criteria for allowing a wetland to be filled. Though it might not be on the applicant's property, they would be improving an ecological item within the Township.

Mr. Graw then addressed Planner Lewan's comments from the Planner's review. Regarding where they were at with the wetland permit process – in 2007 they started by getting the easement approved and they verified that easement was still good early in 2016. They started the MDEQ permit process by hiring a consultant, ASTI, to formulate their submittal. That same MDEQ permit was submitted to the Township for its wetland approval process. A comment was made that the credits obtained by the applicant should be within the same watershed, the Clinton River Watershed. Mr. Graw said he has reached out to a wetland mitigation bank located within that watershed and are prepared to purchase the credits necessary. They would be affecting .34 acres of wetland for the proposed expansion so therefore is prepared to purchase .51 acres to satisfy the 1 1/2 to 1 ratio requirement.

Mr. Webb responded to the wetland setback requirement. He explained there are two separate setbacks - a 20 ft. setback to the property line which is also the conservation easement and a 25 ft. setback to the wetland boundary. He noted the cross section information provided by ASTI in the application actually shows a 25 ft. setback from the back of curb and they will do everything they can to limit the amount of wetlands they have to disturb. If they can limit it to 20 ft., they would not actually be disturbing the extra 5 ft. they submitted the DEQ permit for.

Mr. Graw then explained that as far as the credit purchase goes, they started that process about 2 weeks ago. Technically MDEQ has 3 weeks to review a request so they should be hearing back any time now. In order to actually purchase the credits, they need to have that response from MDEQ.

Mr. Webb addressed the new water main concern and locating it on the plans. He noted he did receive partial as built from OHM but they didn't have dimensional ties. Once he gets that information, there won't be an issue putting that on the plans. Regarding storm water quality. The grading they are proposing for the additional staging - none of that new surface water will actually be going into the wetlands. It will be directed towards a storm sewer closer to the building which is then directed to the detention basin in the northwest corner of the site.

Regarding landscaping for the interior parking lot. Mr. Webb said he located the original landscape plans from 2005 in which they only provided interior parking lot landscaping for the car parking spaces and that it was noted on the plans as such. They are proposing the same thing here.

Commissioner Walker asked how the wetland mitigation and wetland credits work? Mr. Graw and Planner Lewan explained the process.

Moved by Trustee Steimel, seconded by Commissioner Walker, that the Planning Commission **grant** a wetland parking lot setback waiver of 5 feet for PC-2017-07, based on the following findings of fact: the 5 foot variation will help preserve less filling in of an existing wetland, the applicant has also demonstrated that storm water from the added area will be pushed away from the wetlands so that added buffer will not be necessary to help with that; further, that the Planning Commission **grants** a waiver for the interior parking lot landscape which is a continuation of work that was done on the previous site plan whereas the Township was only concerned about the interior landscape areas of vehicle parking and not with the truck traffic or truck parking areas.

Roll call vote was as follows: Steimel, yes; Walker, yes; Zielinski, yes; Porter, yes; Gross, yes; St. Henry, yes. **Motion carried 6-0** (Dunaskiss absent).

Moved by Trustee Steimel, seconded by Commissioner Walker, that the Planning Commission **approve** the wetland permit for PC-2017-07, Orion Commerce Center, for plans date stamped received 2/22/17, the approval is based on the following findings of fact: there is only approximately .34 acres of wetlands being filled, the applicant plans on mitigating that fill by purchasing from a wetlands bank, there will not be a dire problem with the existing wetlands because of this and the applicant has agreed to take care of the Phragmites in that area, it would actually improve the existing wetlands to some extent.

Roll call vote was as follows: Zielinski, yes; Porter, yes; Walker, yes; St. Henry, yes; Steimel, yes; Gross, yes. **Motion carried 6-0** (Dunaskiss absent).

Moved by Secretary St. Henry, seconded by Trustee Steimel, that the Planning Commission **grant** site plan approval for PC-2017-07, Orion Commerce Center site plan for plans date stamped received 2/22/17, this approval is based on the following conditions: that the Planning Commission approved the requested waivers and that the water main that was just installed be shown on the plans per the Township Engineer's request.

Secretary St. Henry amended the motion, Trustee Steimel re-supported, to also include the site plan approval is contingent upon a wetland permit being obtained from the MDEQ.

Roll call vote was as follows: St. Henry, yes; Steimel, yes; Porter, yes; Zielinski, yes; Gross, yes; Walker, yes. **Motion carried 6-0** (Dunaskiss absent).

#### B. Discussion of possible text amendment related to Zoning Ordinance #78, Section 30.03, Planned Unit Development.

Planning & Zoning Director Girling presented. She explained that applicants who read the Township Ordinance as it pertains to the PUD process, often have questions regarding the Plan Submittal section. They are confused about the fact that it talks about submitting 3 plans and what the difference is between them. Because there may be some time available during this meeting, she brought the subject to the Commissioners for discussion. She would like to get input from the Commissioners and with their consent, mark up the PUD section but not necessarily send it all the way through the text amendment process until there is something else to go along with it.

Planning & Zoning Director Girling informed the Commissioners that although she included the whole PUD section with her memo, she wanted them to particularly concentrate on the highlighted "Plan Submittal" portion. She asked them to look at it from the perspective of a developer; that maybe there is a way to word it better so that it is more understandable - what does the Township want upon plan submittal?

It was Trustee Steimel's opinion that only two plans need to be required and didn't believe it should have ever been three. He said that one of the plans should be and maybe titled as such, "Density Plan Based On The Existing Zoning At The Time Of Application".

Planning & Zoning Director Girling responded she struggles with the chart provided on page 30-23, Section 30.03 (c) – is it provided to summarize what each of the zoning districts' minimum lot size is per Ordinance? It appears that the "Zoning Ordinance" column and the "Density Plan Minimum" column contain the exact same information.

Planning & Zoning Director Girling said it is her intent that after the Commissioners have this discussion, she would like to red-line the PUD section and bring the three columns in Section 30.23(c) down to two. Is it the intent that the density plan must reflect the same lot sizes as the current zoning?

Commissioner Porter commented that definitely there only needs to be two plans submitted, not three. He had no idea what the third plan would be and agreed it is very confusing as it is. Commissioner Porter then said it is clear in Section 27.15 (d)(1) there are only two plans needed which are referred to as "parallel plans". The other thing Commissioner Porter was not aware of was the Ordinance reads "that the Township Board shall make the determination that a parallel plan is acceptable", he therefore believed it was not the responsibility of the Planning Commission to make that determination.

Trustee Steimel expressed concern that some developers try to present plans based on the Future Land Use map and not on current zoning, that is not correct. If a developer wants more density than allowed, they need to meet "density credit" criteria. A PUD is not so much used so that a developer can get more lots, but that they make them smaller and cluster them - that is what is encouraged.

Planning & Zoning Director Girling referred to her memo dated March 30, 2017 that noted if the Commissioners feel a text amendment is warranted, she would then like them to review the entire section to make sure no other modifications are needed.

Vice Chairman Gross asked for clarification of what the Township's PUD ordinance is intended to do. It was his opinion that the PUD was designed for large scale, mixed use developments; not single lot type developments that someone wants to do something with that is contrary to the Ordinance. He noted there is no minimum size for a PUD and he did not believe that a small site with a single use should be developed as a PUD. He asked for help with what the philosophy was when the PUD was created. Commissioner Porter felt that one of the intents of the Township's PUD was not to allow more lots on a parcel than what it is zoned for but to allow a developer to cluster smaller lots and provide more open space.

Vice Chairman Gross said he was confused by the Silverbell Plaza PUD request. The proposal was basically all retail and office with no residential – why was it presented as a Planned Unit Development? Trustee Steimel said in this case, it was a way for the property owner to shift some of the retail around and get it further away from the residential area. He agreed, however, that a lot of people are coming in with PUDs that basically appear to be just a rezoning, the PUD doesn't present anything that meets criteria for increasing density. Trustee Steimel added, though, that PUD submittals allow the Planning Commission to have more flexibility with a plan such as with setbacks.

Trustee Steimel commented that a good use of a PUD was The Preserve at Baldwin submittal where the developer didn't want to change the number of lots they could have, rather they

wanted to make the lots smaller and cluster them in one area to preserve more of the natural area.

Planner Lewan explained that the Township's PUD ordinance does put a lot of the burden on the Planning Commission and the Township Board – it doesn't limit the size of a PUD acreage wise. The Ordinance does have some pretty strict criteria and it's up to the Township and its consultants to enforce that criteria is met.

Planner Lewan noted there are different ways to regulate PUDs depending on what the community wants. There could be a minimum acreage standard or that they only be used for residential developments; however he didn't recommend either of those. He did say however that the Township's PUD ordinance allows for good flexibility, particularly for non-conforming situations - to allow for development on certain kinds of lots.

Planner Lewan explained the Silver Spruce Plaza request was odd – it didn't quite fit the Master Plan, it had three different zoning districts and the gas station was non-conforming. It was thought that a PUD would be the best way to go with it as long as it met all the criteria; it would be the better way to go rather than a straight rezoning. He personally didn't believe making the standards more strict would be a good idea – having flexibility is a good thing.

Planning & Zoning Director Girling added that another factor for developing Silverbell Spruce as a PUD was because that was how it was originally developed. It was an old PUD that could not be amended because it in no way would meet current PUD criteria.

Planning & Zoning Director Girling commented that our PUD does have some specific regulations. She noted on page 30-22, Permitted Uses or Combination of Uses, it talks about allowing single-family detached, attached residential dwellings, commercial uses, industrial uses and mixed-use projects. For PUDs that propose to mix residential and commercial or multiple-family components, referring to Section 30.03 (E), the multifamily component has to have 10 acres and the commercial component has to have 10 acres - so there are some restriction on size.

Vice Chairman Gross then clarified the consensus was that we really only need to require 2 plans.

Engineer Stevens recalled there may have been a weird circumstance where 3 plans were submitted and why it may have been part of the Ordinance. He gave the example that if someone had a property with a split zoning such as multi-family and commercial and wanted to develop it just as a multi-family PUD - they would have needed a plan adhering to the current split zoning, a plan showing just multifamily to meet the zoning requirement of multifamily, and the PUD plan as multifamily with tweaks.

Planning & Zoning Director Girling then clarified that the Commissioners were ok with her red-lining the PUD section of the Ordinance based on this conversation. She asked if they saw anything else in that section that needed tweaking, minor things, to let her know. She would then represent it. It was the consensus of the Commissioners for her to move forward with that.

Commissioner Porter noted that in some areas the Ordinance is contradicting, especially on which body determines density – in one place it says the Township Board, in another it's the Planning Commission. Planning & Zoning Director Girling answered that within the PUD section it talks about the Planning Commission being a recommending board. She would look for those references and change it to read something like "the Township Board would make the determination after a recommendation by the Planning Commission".

Regarding the three columns in section 30.03(4)(c) – Planner Lewan commented that having the three columns makes sense in a way. Developers wouldn't have to go back through the individual districts to find density. However it was suggested that if one column was removed, it could be the column listed as "Density Plan Minimum Lot Size". Trustee Steimel said however, to make sure the note at the bottom of the charts stays, "All other zoning districts – as recommended by the Planning Commission and approved by the Township Board".

Secretary St. Henry discussed that from what he hears from the public and on social media, PUDs are misunderstood in the community. Some think it is only a mechanism to allow large residential property developments and that things are done "behind closed doors". He believed it would make sense for the Planning Commission to look at how PUDs have become so misunderstood over the last several years. He said he knows that things are not done "behind closed doors" but feels the Township needs to come up with a more streamlined approach or is clearer on communications when developers want to develop something as a PUD – more direction for everybody. He reiterated there is a lot of misinformation out there about PUDs.

Planner Lewan responded that where he sees the biggest problem is with residential PUDs. Usually commercial, industrial or true mixed-use PUDs aren't that controversial. He finds that developers see the opportunity for a density bonus and take that to a level that no one expected.

He noted that one way to calm that down would be to put a maximum percentage on the density bonus, he has done that in several other ordinances. He suggested a 25% maximum density bonus for residential development. There would then be no question about how many more homes someone could get. Also, this kind of restriction would generally be more in keeping with the Master Plan and the Zoning Ordinance. Secretary St. Henry commented that if we had had that maximum, in the one case he is thinking of, it would have eliminated a lot of aggravation.

Commissioner Porter said that maybe the density bonus should be removed from the Ordinance completely - the Planning Commission needs to police this and get it back where it should be.

Planner Lewan responded that adding a density bonus maximum would be simple and something the Planning Commission should think about.

Planning & Zoning Director Girling reminded the Commissioners that she added this to the agenda as a discussion item and hasn't gone to the Board for any approval for expenditures. What she is proposing can be done by office staff without any expenditure. If when they start looking and more major things are found, then it would require her to get approval from the Board.

## **8. UNFINISHED BUSINESS**

None

## **9. PUBLIC COMMENTS**

None

## **10. COMMUNICATIONS**

Lake Orion Community Schools Newsletter

Information from Trustee Flood regarding Ordinance No.73 Solid Waste & Recyclable Materials Collection Regulation.

## **11. COMMITTEE REPORTS**

Site Walk Committee Report for PC-2017-07, Orion Commerce Center Building No. 2.

**12. PUBLIC HEARING**

None

**13. CHAIRMAN'S COMMENTS**

None

**15. COMMISSIONERS' COMMENTS**

None

**16. ADJOURNMENT**

Moved by Commissioner Porter, seconded by Trustee Steimel, to adjourn the meeting at 8:14pm. **Motion carried unanimously.**

Respectfully submitted,



Lynn Harrison  
PC/ZBA Recording Secretary  
Charter Township of Orion

May 3, 2017  
\_\_\_\_\_  
Planning Commission Approval Date