

**CHARTER TOWNSHIP OF ORION PLANNING COMMISSION**  
**\*\*\*\*\* MINUTES \*\*\*\*\***  
**REGULAR MEETING, WEDNESDAY, JUNE 5, 2019**

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, June 5, 2019 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

**PLANNING COMMISSION MEMBERS PRESENT:**

Justin Dunaskiss, Chairman	Don Gross, Vice Chairman
Joe St. Henry, Secretary	Don Walker, PC Rep to ZBA
John Steimel, BOT Rep to PC	Scott Reynolds, Commissioner

**PLANNING COMMISSION MEMBERS ABSENT:**

Todd Garris, Commissioner with notice

**1. OPEN MEETING**

Chairman Dunaskiss opened the meeting at 7:00pm

**2. ROLL CALL**

As noted

**CONSULTANTS PRESENT:**

Doug Lewan, (Township Planner) of Carlisle/Wortman Associates, Inc.  
James Stevens, of Orchard, Hiltz, and McCliment, Inc., Township Engineer  
Tammy Girling, Township Planning & Zoning Director

**OTHERS PRESENT:**

Debra Walton	Andy Milia
J. Milia	Ryan Coopersmith
Colleen Lawson	Eugene McNabb
David Steuer	John Thompson

**3. MINUTES**

5-15-19, Planning Commission Regular Meeting Minutes

Moved by Trustee Steimel, seconded by Secretary St. Henry, to **approve** the minutes as presented. **Motion carried**

**4. AGENDA REVIEW AND APPROVAL**

Moved by Trustee Steimel, seconded by Commissioner Reynolds, to **approve** the agenda as presented. **Motion carried**

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

None

**6. CONSENT AGENDA**

None

**7. NEW BUSINESS**

None

**8. UNFINISHED BUSINESS**

PC-2019-06, Silverbell Pointe PUD Concept 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).

Chairman Dunaskiss asked the applicant to give an overview for their resubmittal.

Mr. Andy Milia on behalf of Franklin Property Corporation, the Development Consultant for Franklin Ridge. Mr. Steuer is the applicant was present along with John Thompson their Civil Engineer from PEA and Ryan Coopersmith from their office. They appreciate the opportunity to present in front of them again, they previously presented a few months ago at a public hearing, they presented the first time, their concept. They gained a lot of feedback, both from the Board and the neighboring property owners, they listened carefully, they took a lot of notes, the Board provided a lot of feedback. They have resubmitted a plan which incorporates a lot of the changes and suggestions that were made. It doesn't include everything, because there are some things that are not feasible. He thinks they will be pleased with a lot of the things that they have done.

Mr. Milia walked them through a PowerPoint presentation which highlighted the changes. Some of the key-points that they took away from the last meeting were the wetland and other natural features, density of the development, traffic and safety issues, lake access and use, some of the engineering issues and public benefits. Some of the things to note they originally had a cul-de-sac where they have eliminated all those lots and in the upland area put into conservation as well. They also had all the lots extending out and into the lake, so they have pulled all the lots back, incorporating all the area into a conservation easement and eliminated some of the lots. He showed them a previous plan and a new plan. They have eliminated 5 lots and added 1 lot for a net loss of 4 lots. The plan has less lots, more open space, more conservation area and less intrusion into wetland and lake area. The original parallel plan, the lots went all the way out to basically the property line, in the gray area is how lots could be developed under the current zoning. In the previous submission they had shown a plan that included the blue area and now they are showing a plan that the green, the blue and the grey are now into a conservation area. The total property is 74 acres, the total wetland and lake area is 46 acres, the number of home sites have been reduced the acreage has been added to the common area. There is a total of 53 acres preserved that is an increase of 24 acres from the previous plan. There is only .6 acre that will be filled per the DEQ permit. All other areas will be protected, all the common wetland areas will be protected and be proposed to be in the conservation easement. Some language is discussed regarding lake access and usage and that language would be incorporated into a master deed when they get to the final approval stage. A lot of the lake owners wanted to limit the use of these property owners on the lake and whatever governmental powers the Township has on that they abide by the same laws. He proceeded to show them in the green area where they would be proposing to fill in the two areas, the rest is upland. The rest of the area would be preserved, and they have pulled away from Mud Lake and the four lots in the north area. The reduction in the four lots, their interpretation of the zoning is they are permitted up to, under the Master Plan three units per upland acre which is 67 units, they are not seeking a density bonus if that interpretation is deemed appropriate. The gross acreage on the property is .7 units per acre on an upland basis, they are looking at 1.8 units per acre whereas the Master Plan permits 3 units per acre. The setbacks have been depicted, the open space is being increased from 15% to 20% and they are doing it as a cluster development to preserve most of the wetland area. On both plans 67 units are permitted, they have reduced it from 54 to 50. The overall density on a ratio basis is down, the open space area has gone up and they preserved the natural wetland area and it has gone up significantly. Per the engineer's letter in March, they have revised it to include a boulevard all the way to the first intersection. Any plan that they have will comply with the Oakland County review and their standards out on Joslyn Rd. One of the things raised was the emergency access, which is not the responsibility of the development, it hasn't been maintained so they have proposed to fix that up, improve it with cutting back the trees and regrading as an additional public benefit. It is important to note when residents come in and they have history on the lake or to a piece of property it is understandable that they feel

ownership to that property, but they in fact don't own the property they might own their portion and people have a tendency to want to prevent future land owners from using that. This property was purchased with the intent of providing future homeowners with use on the lake. What they are seeking is for the homeowners in this neighborhood to have the same lake privileges that other homeowners on the same lake have. This property consists of 50% of the frontage and approximately 62% of the total lake, the lake is an important use for this property, and they look for the same rights as the other property owners have on it. Any docks or access areas through a wetland area around the lake would go through the DEQ permitting process, just as anyone else would and that would also be in the Master Deed and bylaws. Anyone buying a home would be subject to those rights and can't claim that they didn't know about it, it would be very clearly spelled out. Some of the residents raised some issues about fertilizer, if the Board wants to adopt those policies, they would be open to that, it would be subject to the same policies that everyone else has. Some questions were raised about peoples wells and would there be a draw-down on the well, this property would be serviced by sanitary sewer and water and so therefore there would be no draw-down on the well, the Township Engineer reviewed it and confirmed that there is capacity for both of those. They would incorporate a forebay sedimentation system into the stormwater detention pond and everything will be treated. Stormwater would be retained on site, treated, and then discharged at an agricultural rate onto other properties. If there was flooding on the property, the development on the property as a result of the stormwater design will lessen that and make discharge onto other properties even better. They are going to have a preservation of 53 acres of wetland which would not be done on a currently zoned plan because most of that property would be then incorporated into an individual's lot. They talked about the tree clearing, grading on Jamm Rd. which is not part of this, but they would do it as a public benefit and it is a reduction of public services because there are 17 fewer homes that are being proposed than under the current Master Plan.

Planner Lewan went through his review, date stamped May 21, 2019.

Engineer Stevens went through his review, date stamped May 13, 2019.

Commissioner Reynolds stated that the overall the project has taken a step in the right direction and he appreciate the reduction in density that is proposed here over the last plan and there is clearing some recognition of some of the comments and concerns that were brought up the last time around. They did do a Site Walk of the property and it was after some heavy rain and they did get a chance to see the property and saw Mud Lake and they saw it from a lot of different ways they walked up the uplands on foot and walked the railway. The Site Walk committee is familiar and some of the other Planning Commissioners are too. He felt that overall the proposal of limiting it to these two areas is a great use to the site based on what they could see, he didn't raise any major concerns of some of these regions of where it is being proposed of encroaching too heavily on wetlands.

Chairman Dunaskiss said that he concurs with sticking to the area that is upland, he does struggle with the PUD eligibility versus to being a Straight Site Plan and for meeting the criteria versus just coming through with a Straight Site Plan per density or have it rezoned if they want any more units as well. The community benefit as well as several other factures on there.

Commissioner Gross commented that he still has a problem with justifying the increase in density, the density criteria of additional of number of units almost double of what the underling (SR) zoning would permit. He appreciates the fact that the applicant did reduce the number of units by four but that doesn't go along with what his idea of what the increase density should be on the site.

Chairman Dunaskiss noted that looking at the residential layout analysis the density criteria he is still struggling to get past the 30's with regards to the overall number of units. Looking at the Master Plan the analysis with what they are looking for with the setbacks and the criteria he thinks it just needs to be more of a Straight Site Plan or be more online with those type of number of units and to see where the more overall benefit is and look if it is more appropriate PUD under that context.

Commissioner Walker stated that he appreciates that the petitioner has come back and has done a lot of work, cleaned up the report and the presentation, much more to his satisfaction. His concern is still the density, he feels that it is a great idea that they are leaving the wetlands alone, but even if a builder came in under the regular zoning, they wouldn't allow them to go through and trapes through that and build stuff in that wetland. He is having trouble finding a benefit to grant the PUD, and the benefit to the Township. What is the Township getting from this?

Mr. Milia replied some of the things that they need to look at with the PUD, whether it is for this community or any community it is designed for creativity and flexibility to allow particularly for the preservation of natural features, wetlands and trees being the predominate natural feature. When they buy a property and they look at the property and they look at a community the Master Plan is very important. A lot of times the Master Plan is more of a driving force than the actual zoning. He has developed 35 subdivisions of that 34 of them had to be rezoned and they were rezoned to a Master Plan and there is a reason, a lot of times they go from an agricultural zoning to a Master Plan, a lot of times they go from an estate type zoning to a Master Plan, so the Master Plan to them is very important. One of the things that was considered when acquiring this property is the Master Plan does allow for three units to an acre. They understand that there are different interpretations in the Master Plan, but they would really like to emphasize that. The other is the purpose of developing this under a PUD, is under the Conventional Zoning, the property could be developed from those roads all the way to the property lines, and although someone couldn't build in the wetland, someone could certainly cut down trees in that wetland, so someone could expand their backyard all the way to the lake. You can't rip up the stumps in a wetland you can't build in a wetland, but you can do a lot of things in a wetland that people don't realize. The part of the reason to do a PUD is to cluster, to bring it on down to protect approximately 50 acres of wetland area and a conservation easement that is someone is not going to build in but they are not going to cut the trees down if it was in their property. A homeowner buying here is giving up a lot by having a small lot, they are not getting a big back yard because they are protecting it. They are not being able to cut down trees and enhance their view, they are protecting it. He thinks that it is important for them to look at it in this light, look at a PUD as a tool to really help preserve the natural features which was one of the very underlining themes expressed in the last meeting. There are a lot of benefits in doing that.

Commissioner St. Henry said that he concurs with the applicant that the preservation of the wetlands is vital and with those restrictions in place as part of the PUD that would minimize the chances of a homeowner tearing up the property and they wouldn't know about it unless there were complaints. From a PUD eligibility standpoint, he thinks that they do meet the criteria from that perspective. Someone else could go in there and maximize, when they had the cul-de-sac in there before and so forth. He does give them credit for coming back with a more viable plan. He is not convinced that larger lots and less house, it is probably bigger houses, would sell. That is up for debate of course and that is not up to them to wrestle with, but he does see the value of the PUD in this case when it comes to minimizing the impact on the wetlands.

Chairman Dunaskiss noted that a Straight Site Plan comparing apples to apples again he doesn't see a recognizable community benefit, wetlands are the wetlands and the site is the site

whatever way they develop it the Site Plan or a PUD they are still going to have to get the permits to build a lot line to go through; he respects and appreciates the lot line stopping there and that is a good that helps in the development but still he doesn't see the recognizable community benefit as part of the overall plan. He is not comfortable with the density overall with the impact that it is going to create in this area and the median area, plus with the underline Master Plan the underline zoning provides for. Looking at guaranteed open space, no one is going to build a house in a lake or the lowlands they are going to have X amount of open space no matter what someone tries to bring in there. If there is a recognizable community benefit and the density was in line and they are hitting those criteria's, with the PUD he sees the makings here but, in his opinion, there is still some recipe changes to be done to hit those benchmarks.

Trustee Steimel said the whole idea of doing a PUD and shrinking it down, that is what they said to pull it together, what they are trying to do is develop less of the space to help preserve a lot of the natural features. The idea of they can put this number of units per acre based on the current zoning and that is usually the easy way. With an (SE) they could put 20 homes on here but they didn't want them out in the wetlands, it is still 20 homes, that is the easy way in their minds because in their minds they are not increasing the density and the idea it was zoned that light was because there was a lot of stuff to work around. They have shrunk them, but they haven't changed the number of units and he is struggling with what they are really trying to accomplish and how much of the land gets develops and what impact does that have. Somehow subconsciously they relate that to the number of units they put on there. Here they are asking them to not only to shrink it down but allow a larger number of units than what the current zoning is. He is not really sure if the current zoning preserves it, although in reality it is currently zoned pretty light in recognition of the fact that it is pretty hard to develop in that area, they would be destroying a lot of stuff if they did so that is why he thinks the zoning has stayed. They have looked at it a couple of times and said they don't think that they could reduce that density. From a PUD standpoint did they really meet that, it makes the decision easy if they compare. He would say what they have done is, it is almost like you must look at it, how much square footage of stuff would they have, he is struggling with exactly what that is. It is more pulled in, and is kind of what he would have expected in something like this and the question is the number, to him the benefit is they pulled back a lot, is this many homes going to impact all that surrounding stuff enough that it is not a big benefit. What criteria we should use straight out or the 1-3? Because he meets the 1-3, they are like 1.8 units. If they use the 1-3 criteria and they know that they did that for flexibility but are they really meeting the intent of what they were trying to do there? They always hope that someone will make the decision easy for you but unfortunately that rarely happens.

Secretary St. Henry stated that whether you have an easily developed piece of property or you have a challenging piece of the property to develop, usually up here, it comes down to density.

Mr. Milia noted that when you look at the reduction of density of this property it is at significant cost. When you loose 4 net lots at a value of about \$500,000 against the cost to develop that of \$100,000 that is a net loss of \$400,000 that no one is getting the benefit of. They did that to reduce density at the request of this body. When you bring the lots in, they are lowering the value of these homes and the desirability to provide more wetlands at the request of the Township and for the greater benefit of the Township. These homeowners would be much more benefited by having a bigger lot, whether they can build on it or not isn't as important whether they have a ½ acre or an acre becomes much more important to them. That is a significant public benefit, putting all this land into a conservation easement. To not have all the homeowners cut the trees down and have a view of the lake is a detriment to them but it is a benefit to the public and the other property owners on the lake. They have made a lot of sacrifices for the benefit of the community for the benefit of the property owners to the detriment of this property. The PUD tool, although it is easier to apply just to an open field and it makes it

an easier decision is really an effective tool for this kind of development because they are able to preserve the trees and the views of the neighboring property owners, so they will not have to look at the houses. Whether they permit 67 houses or 60 houses now only 50 houses this is an enclave that is not really affecting the other property owners because they have shrunk it down to scale. They ask them to look at it in this light and not just look at it as a number based on the underlining zoning. The underlining zoning is still subject to the Master Plan interpretation.

Commissioner Reynolds said that he doesn't mind the number of units here he thinks it is consistent with some of the neighboring properties and he agrees that it is a challenging site. The amount of open area and the things that are being preserved he thinks is a benefit to the development of this property. There are some of those wetland areas, where with that previous cul-de-sac that was proposed that are being preserved that could easily be developed. Some of the terms are being open to some of the discussion points that have been brought up in the public hearing and things at the Planning Commission level of the concern of Mud Lake and the stormwater detention, even though some of those things are basic requirements that they have some of them are not, so he thinks it is a tool that in the PUD could work to their benefit to a challenging property like this instead of treating it as a Straight Zone parcel. He is focusing more on what is being developed and what is being maintained as conservation area and he thinks that there is a considerable amount of area and thinks that there is more conservation that is going to be proposed here than what could potentially happen in a Straight Zone situation.

Moved by Vice Chairman Gross, seconded by Commissioner Walker, that the Planning Commission forwards a recommendation to the Township Board to deny PC-2019-06, Silverbell Pointe Planned Unit Development Concept and Eligibility plan, located on the identified parcels for the plans dated received, April 26, 2019. This recommendation to deny is based on the following findings of facts: 1) the request proposes to change the current zoning designation to a more-dense zoning classification from (SE) to (SR) plus request a density bonus on top of that to create an overall density of 1.8 zoning units per acre; 2) a motion for denial is that this does not have a recognizable community benefit over a traditional site development meeting ordinance requirements; 3) the proposed revisions, although it has been recognized as a reduction in the number of units still is in conflict with the overall intent of the Master Plan.

#### Discussion on the Motion:

Trustee Steimel noted that they are asking for a density increase they have kind of made that decision that it should be by the underlining zoning, so they are asking for a density increase. Then there is not enough benefit for the Township for granting that density bonus. They are going to get some homes but how does the surrounding community benefit by giving extra bonus. They set down some of the things that qualify for a density bonus and the other things that they might lean on is that there is more preservation. He thinks it is kind of iffy about the access road, the Fire Department likes it the neighbors don't.

Mr. Milan replied that they think that traffic and safety is an important issue and that is a huge public benefit.

Trustee Steimel asked if they are using that too, because the Fire Chef talked about that if they don't have dual access?

Mr. Milia replied that it is not dual access to the site, that was part of the purpose of extending the boulevard, it is access along Joslyn Rd. for the entire benefit of the community not just this development.

Engineer Stevens noted the train is not necessarily active today but since it is not removed if the train was active and it stops, they could not get in and out unless they had that emergency access on Jamm Rd. which would allow them to get to Kinmount Rd. to get to that development. If they didn't have that they would be blocked off because the train would cross twice.

Trustee Steimel answered that he understands that but are they trying to do two things through, they say it is emergency access to this area, especially this one. There is a high likelihood that the main access would be blocked so that is why they want the other one; but then in addition are they trying to use that so take care of the sprinkler thing?

Engineer Stevens replied no.

Trustee Steimel said ok so they are not proposing that.

Mr. Milia stated that the train is one issue which is general road blockage in general it is important, so it is an existing traffic safety hazard that the community has right now that they are helping to solve.

Mr. Milia said that Chairman Dunaskiss had mentioned the density in the low 30's, if that is the case then there is not much to talk about but if he is talking about a couple of units and this Board could get behind that he would like to discuss that further, but if he is talking about 10-20 units then they have nothing to talk about. He is just opening that up to discussion.

Chairman Dunaskiss responded that it is all relative to the recognizable community benefit and what the overall impact, he is not hard in stone that it is 32.5 or whatever the number is, but the give and take he doesn't see the give all for the community benefit other than just coming in with a Straight Site Plan. It isn't that he doesn't like the plan or what is being brought forth he just doesn't think it meets the criteria for eligibility for several criteria's not just one or two. He thinks he is close, and they are getting there he just sees it as a Straight Site Plan or there must be a bigger recognizable community benefit coupled with looking at the density impact and some things to offset it.

Mr. Milia asked if they had 50 lots or they had 40 lots, if they took 10 lots out of it, what other benefits does he see for doing that?

Chairman Dunaskiss replied there is pedestrian access and crossing on Joslyn, maybe there is something that could be done for the greater benefit over off Silverbell. Some other benefit to give to the community that would benefit all of Orion Twp., that is going to be recognizable for at least some impact in this area. All the improvements are just benefitting the folks of this site and they are increasing density among other things with no real trade off or improvement other that is going to service the homesites here.

Mr. Milia questioned if they were to provide a couple of acres on the site to the community for potential parking in the event for a future Rails-to-Trails project? What he is struggling with is taking out 10 lots for the sake of meeting an underling zoning that they are basing on a Master Plan, doesn't seem to make sense to him. Asking for additional public benefits that makes sense, but that comes with a trade-off to strip away

any feasibility of the site by reducing the density and then wanting public benefits on top of that makes it not feasible. He wasn't sure if it was the appropriate form to even have that discussion and see if they could come to an agreement on that. They would very much like to move on to the Board with a positive recommendation. They have worked collaboratively for several years, and very formally with their staff for the past year and he would like to make this work in a positive way, but if they think they are 10-20 units apart then there is nothing to discuss. If they think that they are a couple of units apart and some public benefits that they can recommend to the Township Board, they are happy to do that.

Secretary St. Henry asked Planner Lewan, the conservation easements that they are proposing in this revised plan, how does that stack up in his professional opinion to similar project that he has worked on before? Is this significant conservation easement, will that make a difference in protecting those wetlands?

Planner Lewan answered that if they look at the whole site and look at the area of developments, so if they take out the density for a minute and just think about that spot of development, whether it is 50, 40 or 20 units if they pack 20 units on that same spot it would have the same impacts. They would still clear the property they would put a ring road in, so in one sense the discussion of density doesn't really affect natural features. They have found an area that works that is an upland and they are going to develop that upland area whether it is 50, 40, 30 units whatever it happens to be. There is a significant part of this property that they are proposing to maintain and a preservation area. He is not a wetland expert but that would seem to have a positive effect on the features like the animals and the lake.

Mr. Milia noted that if it were developed under the conventional zoning, they wouldn't take the 50 lots reduce 10 you would do the same ring pattern, but you wouldn't just make the lots a little bit wider and protect all of this. To make it a little more feasible or marketable they would take the lots and extend them all the way to the lake and give that property owner, ownership of it and allow them to clear those trees all the way to the lake to enhance that view. That would be more detrimental to the neighbors that don't want to look at those homes. They are fighting a number for the sake of arguing an arithmetic and a number. There is a definite benefit in providing 50 acres of preserved conserved area and taking it out of a homeowner's hands and putting into a conservation easement, governed by a master deed and bylaw. That is a very significant benefit. Someone else trying to develop this they might try to do 35-38 homes and put them all the way to the lake and try to sell them as \$250,000 lake front homes and all the neighbors would be complaining. They think that this is a very sensitive plan to all the neighbors and to the community at large and if it is a couple lots to eliminate and donate that to the Township for future use, they would look at something like that, but just to accept a mass reduction in lots isn't feasible for them.

Trustee Steimel stated as part of this development they are going to make sure that they can protect those wetlands for the future. One way is they are not going to build in there, and they set that as a conservation easement. Our current wetlands are under attack by invasive species in this case phragmites and if they put that in conservation easement, it is hard to fight that in that area and he was wondering as part of one of the benefits is that part of the documents would be that the homeowner association when they do it would still be responsible for working to help to keep out the phragmites. The whole idea is we are trying to do something to help preserve those wetlands.



Mr. Milia replied that he raised an excellent point, what they have done in other communities is they not only have a conservation easement on what and what can not be done there but they also have a maintenance plan that is monitored by a wetland consultant that is approved by the DEQ and it is paid for and maintained by the homeowners association. He thinks it is a very smart and reasonable request not to just preserve but to treat the phragmites to treat other invasive species. That is something they could live with and would encourage as well that this be governed by the DEQ and by the wetland consultants to have input into that conservation document. He thinks it is a good suggestion and thinks it would be another public benefit.

Commissioner Reynolds said just looking here through the PUD development provisions and procedures and recognizable benefits, one of the pieces is high quality architectural design improvements, public safety, welfare, better water supply, sewage so on and so forth. One of the benefits is provision of transitional areas between adjacent residential uses and one of the items under a PUD the last paragraph under item "G", looking under the zoning ordinance "Preservation of natural features shall be deemed potentially the greatest benefit to the community". He thinks that this is one of these tools that this plan right now is doing and he thinks that is one of the tools of why maybe PUD is an important piece to this project and why they need to consider PUD as the best way to go with this parcel just because of the natural features that are important to everyone here and present. Density, you could go in a couple of different ways, but the applicant is in the range that they are talking, big picture. Whether they are going to argue a couple units, he can understand where a lot of this size and a unit of this size makes sense for the area and the fact that having X number of units allows for the preservation of how many acres they are preserving on this parcel. He doesn't think that it is not a PUD development, there might be some question on density, but he thinks that preserving as much natural features as they are is a recognizable benefit.

Chairman Dunaskiss replied one of the criteria's, one of the many.

Commissioner St. Henry noted that he is not as concerned about the density as he is about preserving the wetlands. When they are looking at anything up there it is a compromise. Always being aware of trying to preserve as much of the character of the area versus landowner rights and development. That piece of property, it is a hard piece of property, but if this doesn't work with this developer there could be someone else in there and they could do a Straight Plan rezone and they could possibly impact the wetlands much more than this plan provides. The PUD does give them some protection and some leeway and optimizing as much as possible within the idea of a compromise of those wetlands.

Mr. Milia stated that the PUD and the density do go hand and hand so to preserve that much acreage and to make these lots tighter and not give these property owners the benefit all the way to the lake, they need to give this kind of density just to make it feasible. They are not looking for 50-60-foot lots and trying to squeeze lots in they are producing market rate lots they are just constrained because they are giving up 50 of the 74 acres, they do go hand and hand in this case, it is not like they are taking a farm field and taking a 100-ft. zoning and taking bringing it down to 60-ft. zoning and asking for more lots.

Chairman Dunaskiss stated that is also his primary concern, they look at the density and lay-out impact they are asking for more than underlining zoning, he thinks that what would be more in-line and appropriate is a Straight Site plan with the underlining zoning.

He understands that they could extend the lots into the wetlands, but DEQ and other regulating bodies have those anyone who comes across has issues with the wetland on the site.

Mr. Eugene McNabb 2981 Judah said that it doesn't matter to him which way they go. When you were 10 or 12 years old and your dad said don't go in that wetland there isn't one of them that wouldn't go in that wetland; he raised two boys.

**Roll call vote was as follows:** Walker, yes; Reynolds, no; St. Henry, no Steimel, no; Gross, yes; Dunaskiss, yes. **Motion carried 3-3**

Engineer Stevens commented with regards to some of the discussion of the Planning Commission has had tonight, one idea based on what the applicant said, if you look at units 5, 6, 7, 8 those are units that require three tenths of an acre of wetland fill adjacent to the main drainage course right out to Judah Lake. Maybe as a compromise the applicant can look at revising that area to further reduce the wetland impacts, and it also tweaks density down. It was just an idea as he was looking at the design of the site and the impact that it may have on the natural features; that is an option the Board or the Planning Commission would want to consider if that makes it more palatable.

Vice Chairman Gross asked which lots was he talking about?

Engineer Stevens replied if they look at the map the bright green on the south side, those are units 5, 6, 7, 8.

Mr. Milia questioned if there was a 7<sup>th</sup> member that was not here tonight?

Chairman Dunaskiss answered correct.

Planning and Zoning Director Girling stated that the bylaws say if there is a motion and it fails to pass because they don't have the 4 necessary votes that they should postpone the case until they have the necessary number to pass it. Unless they feel that there is anything that could sway one member one way or the other that is what the bylaws calls for.

Mr. Milia noted as a follow up to that, if there is some continued discussion could there be a new Motion, based on some additional discussion?

Chairman Dunaskiss replied yes, the matter is still before them.

Mr. Milia said that he thinks that Engineer Stevens suggestion is a good one, if they eliminated two lots in that area and it eliminates the density it makes some of the lots wider in that area and eliminates the need some of that impact, that could be a consideration; or if it is tabled for another discussion.

Chairman Dunaskiss asked Engineer Stevens if he knew on the Rails-to-Trails, he knows it is still an active rail still but is it on the hit list?

Engineer Stevens responded that he has not heard of anything.

Mr. Milia questioned if they were to table it, they are likely not to have additional members for the next meeting?

Planning and Zoning Director Girling replied that the next meeting they will be down one member.

Moved by Commissioner Reynolds seconded by Commissioner Walker, that the Planning Commission **postpone** action on PC-2019-06, Silverbell Pointe Planned Unit Development Concept and Eligibility Plan located on the 4 vacant parcels south of Silverbell Rd. on the east side of Joslyn Rd. (Sidwell #09-33-201-001, 09-33-128-001, 09-28-379-001 & 0928-45-001) for plans date stamped received April 26, 2019; for the following reasons: that they could not reach a vote tonight.

Discussion on Motion:

Commissioner Walker asked the petitioner when they come back if they could have a little more concessions, maybe they could get something that would pass that way.

Trustee Steimel said that they are really making a recommendation, so it is not like they are making a final decision. He has never run into this and it was said that the decision was a split decision, there was not definitive pass or fail and that is what they tell the Township Board, because they don't always go with what they recommend anyway.

Planning & Zoning Director Girling asked so to send it without an official recommendation based on the split decision?

Trustee Steimel replied that is what he was thinking.

Commissioner Walker questioned if that is ok with the petitioner?

Mr. Milia replied that would be fine. It would be communicated to the Board that it was a 3-3 vote versus a 4-2 either way, so they would make their decision based on that.

Trustee Steimel said they could; and maybe their decision is, they still have the option to send it back.

Mr. Milia replied sure.

Trustee Steimel noted they do want to get a consensus out of the Planning, they want a recommendation, but it keeps the process going for right now.

Commissioner Reynolds retracted his Motion, and Commissioner Walker retracted his support for the Motion.

Mr. Milia asked so they would be sending it on with a 3-3 vote, no recommendations?

Commissioner Reynolds said there is no Motion yet but that is what the discussion is.

Mr. Milia said that they think that is acceptable.

Trustee Steimel stated that this body can't currently come to a consensus one way or the other. Sometimes some of these things when they make a Motion and the Motion was denied that didn't fail; they are going to look at the vote.

Mr. Milia replied that he understands, and they will look at the same issues.

Commissioner Reynolds noted that they haven't been in this situation before.

Trustee Steimel said no they haven't been in that situation before, and it is a little hard to understand, but it is a recommending body and the recommendation was that they pass it on and say look the Planning Commission recommendation is it is a split decision it was a 3-3 they couldn't come to a definitive deny or accept.

Mr. Milia said that they were comfortable with that and would appreciate that.

Planner Lewan stated that he agreed with Trustee Steimel and he didn't know if they even needed another Motion, they made a Motion it just goes.

Planning & Zoning Director Girling said that they only reason she would lean towards that is because the bylaws say if they don't have an enough for a quorum they should postpone. If they have a Motion that is going to pass and if the Motion is such that you choose to do it without.

Moved by Commissioner Reynolds, seconded by Secretary St. Henry that the Planning Commission forwards **no recommendation** to the Township Board for PC-2019-06, Silverbell Pointe Planned Unit Development Concept and Eligibility plan, for the previously mentioned 4 vacant parcels south of Silverbell Rd. and east of Joslyn Rd.; because no majority vote could be reached at the Planning Commission level and they are forwarding it on to the Board.

Discussion on Motion:

Trustee Steimel asked do we remember to process this is a recommendation, this is a concept approval too. It's kind of on the edge of getting final approval from this body because this is the next step is the final PUD approval. They will still get to deliberate some more. He also recommended to the petitioner to take into consideration some of the things that they talked about, the Engineers suggestion. The idea of truly preserving the wetland for future, lets get some wording in here and this is what comes with the agreement, and when people are buying this, they realize that is what they are doing.

Mr. Milia replied understood.

**Roll call vote was as follows:** Reynolds, yes; Gross, yes; Walker, yes; Steimel, yes; St. Henry, yes; Dunaskiss, no. **Motion carried 5-1**

PC-2019-18, Breckenridge Townhomes Site Plan, located at 313 Brown Rd. (parcel 09-32-400-023), 4905 Estes (parcel 09-32-400-059), unaddressed land (parcels 09-32-400-024, 09-32-400-058, 09-32-400-021 & 09-32-400-022) and a portion of unaddressed land (part of parcel 09-32-400-055 & 09-32-400-057).

Mr. Chris Plumb with Pulte Homes of Michigan, presented.

Mr. Plumb said he wanted to provide a quick update; he believes that he was in front of the commission about a month ago, early May, a lot of good discussion there were some blocking and tackling items that they were digging into with the help of the Township consultants and they just wanted to provide a brief update on some of the changes that were made based on their feedback and talk about any of the finer details they would like after they go through a very brief presentation.

Mr. Plumb stated that he thought they spent the most time talking about guest parking, accessing viability and off set parking, and they were able to incorporate 20 additional spots that are highlighted in light orangish yellow (displayed on map), there are 10 and 10. That would provide some ample guest parking addition to the 2 spots in the garage, 2 spots in the driveway it would be for gathering and for events. One of the other open items they talked about was the cross section for Jordan Rd. so the paving would be continuous from Baldwin to their site entrance to the east. It would effectively extend what Baldwin Square installed as part of their development. One of the comments too was evaluating pedestrian or bike access to tie into the Master Plan for the pocket park and Baldwin Rd. improvements, that is something they are going to look at during engineering. There is grade there that is going to be a little more challenging than the road connection for different requirements for sidewalks, but they are hoping to connect that if possible. Outside of that he knew that Planner Lewan had some comments in the report, maybe he can address those more in detail and engineering wise, they have a lot of discussion about grading and other things. That might be the most efficient route if there are open items, that they wanted to discuss.

Planner Lewan read through his review dated May 29, 2019.

Engineer Stevens read through his review dated May 31, 2019.

Mr. Plumb said that he thought the consultants overview of their reviews were spot on, and as Planner Lewan said that any kind of lighting changes or tree choices they are happy to make those changes on the fly.

Chairman Dunaskiss noted that if they look at the safety path with the grading issues is it feasible, do they think with the grading they can have some connectivity on the other side of the project?

Engineer Stevens answered that there is a lot of options to do, it might not be a connection potentially on that north side, maybe they need to run it on the south side and do a mid-block crossing. He thought that maybe there was a utility pole right there, which could be very difficult based upon how much is on it. He does think it is feasible, it might not be in the exact fashion that it is conceptionally shown on that site plan. Until they get into the details, they could always put that in as a condition and if they have issues, they could stop back and talk to them about it.

Trustee Steimel said he understands the concept they are going to contribute to the larger traffic study versus that, the mechanism they should put in place now is that a set dollar amount right now. He is looking at it as it is a conditional of the site plan approval, but they need that mechanism in here, what are we doing.

Engineer Stevens replied that he would recommend that is part of the Motion, it is a participation satisfactory to the Township with regards to the traffic study. For whatever reason, and they have certainly worked with the applicant before, so he doesn't think it would be an issue, but if for whatever reason that is not satisfactory then it is null and void and it goes back, or they do their own traffic study. He would just put that in as a condition of the approval.

Trustee Steimel added it is one of those things that he doesn't like those conditions that are very vague. They try to avoid that, that is almost a kin subject to the Fire Chiefs of the approval of what they are planning on doing.

Vice Chairman Gross questioned even with the cost of the individual traffic study.

Engineer Stevens replied certainly they could do that, but he thinks it is a discussion, that the study is approximately this much, and the Township says that is reasonable or not. Don't forget, they have a lot of parties trying to participate they are trying to get a grant they are pretty confident but for sure it is not 100% that they can pull all of those things together, so there is a potential that an individual study may still need to be done. The benefit of the overall outweighs any of that complication because again they are talking about a road that just got widen to 5 lanes, a major intersection with several thousands of cars per day and they are talking a development that is just barely over the threshold that they require a traffic study. If this was 500 homes obviously, he would have a different recommendation for them, when it is just barely over the threshold for a 5-lane road and major intersections in the community it is a little different situation.

Trustee Steimel added light fixtures clarifying and they should match what is called out in the overlay district, correct? The only other thing is that they make sure that they are orientated out to Brown Rd. and not back into the site. They must show the fixtures that match what is required in the overlay district and the orientation, so that is an easy thing to meet a condition on that can be verified. The berm?

Planner Lewan stated yes, the berm, to wave the berm requirement. It is not even a requirement it is at their request so if they are ok with not doing the berm, just don't do the berm.

Trustee Steimel noted that they are not showing the berm right now.

Planner Lewan replied correct.

Trustee Steimel said that in the previous meeting when they were talking about the rezone, and he wasn't quite sure he understood what the concern is, he knows he is going to have a comment and he would like to understand what that is. They talked about the buffering, but it looks like the property in the northeast if this butts up to their property in the northeast section there is a lot of buffer there.

Mr. Eugene McNabb 2981 Judah Rd., said that years ago he was told that they made a mistake in the pit and took dirt off the corner of his property in the back, but there was no concern at that time because every operator has said that they are going to lower the pipeline which that material would come out so what they interfered with his property line wouldn't make any difference. If there has been dirt taken off of his property line up there, he didn't know he is not a surveyor, he has never checked it, but maybe they corrected it, but if his property line goes down on the east side then he wants his property leveled back up to match the hill up there to where it is on their property and not his where the grade starts. There should be a buffer up there and a good fence because if they go up there at Menards, that fence it is old, but it is still solid, it is just a farm fence. If that wasn't there and they stepped off the side that grade is steeper than a roof on a lot of houses, and they would be half way down the hill before they get slowed down, so if there is anyone there on his property and they step one foot off of his property because there is no fence there, someone could get hurt. It is something that needs to be done for safety reasons and even if they put a buffer up there and planted some trees it would look good from the south looking up towards this pipeline, a lot of people can see that. They have made people put in 25-ft. buffer between property lines when they build houses, so he thinks there should be a buffer there because right off his property it just goes down.

Trustee Steimel stated they are talking about the northeast corner he thinks coming off the south that is not this property he is to the west. They all know it is a steep thing all the way across the back. Is any of that slop steep enough that it is supposed to be there?

Engineer Stevens replied yes, there are slopes that were created years ago that are steep that need to be graded out so that it complies with the closeout requirements of the term.

Trustee Steimel asked is this something they will be taking care of at engineering then, they are going to build that northeast corner up?

Engineer Stevens responded yes, but it should be conditioned. There is not a lot they encompassed a good chunk of it, but there is some just outside of their grading limits that it is still showing some steep slopes.

Trustee Steimel asked but all they can tell them to do is stuff that is on their property?

Engineer Stevens stated yes.

Trustee Steimel stated that from a landscape and how far things are he thinks they are compliant, but there is a physical buffer, they need it but now it is the sloping. He should have questioned that a little more he didn't understand that comment. Either they are going to fix it with grading, or they are going to have to "terrace" it in?

Planner Lewan added and as far the requirement for fences or berms that is for residential abutting non-residential, so this is residential abutting residential.

Trustee Steimel stated a fence or a wall is to counteract this idea of the slope, it is a big drop-off that is the idea. If they can't get rid of the slope through grading, then they would be required to put in a wall with a fence on it.

Moved by Vice Chairman Gross, seconded by Commissioner Reynolds, that the Planning Commission allow the applicant for PC-2019-18, Breckenridge Townhomes, located at 313 Brown Rd. to contribute to a Township conducted traffic study of the Brown Rd. area vs. conducting a study of only their development for the following reasons: that there would be a greater benefit to the community for a comprehensive traffic study as opposed to a traffic study that is site specific; the cost sharing to be equal or not less than the cost of an individual study that would be prepared.

**Roll call vote was as follows:** Gross, yes; St. Henry, yes; Walker, yes; Reynolds, yes; Steimel, yes Dunaskiss, yes. **Motion carried 6-0**

Moved by Vice Chairman Gross, seconded by Commissioner Reynolds, that the Planning Commission grants site plan approval for PC-2019-18, Breckenridge Townhomes, located at 313 Brown Rd. and the effective parcels for the plans received May 22, 2019, based upon the following conditions: the previously Motion regarding the participation in the comprehensive traffic study be acknowledged by the applicant; that the berming requirement along the property lines adjacent to non-residential property not be necessary; a provision of a pedestrian vehicular access from the subject property along Jordan Rd. or there about from the subject property to Baldwin; clarify the lighting fixtures to meet the (BIZ) overlay district; revise the grading plan or provide fences on the north and east ends of the property.

Discussion on Motion:

Trustee Steimel questioned if they need the orientation for the lights?

Planner Lewan replied no that is something they can work out between him and Tammy.

Eugene McNabb 2981 Judah said when he was a kid, he could ride out to Gingellville and it was dirt on his bicycle and there was no traffic, about all that was there was the Gingell's Hardware and Grocery Store and the school across the street. Brown Rd. up where by where McGomery's is at, if they met a car there one of them would have to stop because it wasn't wide enough to go through, and now he goes out there and look and he is stopped in the middle of the road and he can't even go. Orion has enough roads to take care of themselves, it is not Orion's fault it is Lapeer and all those people that are jamming our roads up. They had Giddings down, Joslyn down one lane, Baldwin one lane, Sashibaw was messed up, the Road Commission, someone needs to talk to Eric or somebody because they don't know what they are doing.

**Roll call vote was as follows:** St. Henry, yes; Walker, yes; Reynolds, yes; Steimel, yes; Gross, yes; Dunaskiss, yes. **Motion carried 6-0**

#### **9. PUBLIC COMMENTS**

None

#### **10. COMMUNICATIONS**

Moved by Commissioner Reynolds, Secretary St. Henry seconded, to receive and file the memo received from Planning & Zoning Director Girling dated May 30, 2019 regarding PC-2019-15, Breckenridge Townhomes Rezone during the deliberation at the May 1, 2019 Planning Commission whether the proper Public Hearing notification procedure was followed.

**Roll call vote was as follows:** Steimel, yes; Reynolds, yes; Gross, yes; St. Henry, yes; Walker, yes; Dunaskiss, yes. **Motion carried 6-0**

#### **11. COMMITTEE REPORTS**

None

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

Planning & Zoning Director Girling stated there is a public hearing next meeting June 19, 2019 at 7:05 for St. Joes SLU for a digital scoreboard in their baseball field.

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

None

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

Trustee Steimel the latest Conditional Rezoning so he tried to represent their wishes but as they know the Township Board went and approved that Conditional Rezoning, that is the one at Waldon and Lapeer. It was 5-2 if he remembers correctly. One of the reasons too was because the applicant came back, and they listed even more conditions. It would have been nice if they would have looked at it and added these additional conditions, but they decided it was ok.

Vice Chairman Gross stated that under these Conditional Rezoning they can't change it.

Trustee Steimel replied correct what he was saying was that in between they did, they offered some more. He tried to summarize and hopefully he got it right, he didn't think it should be (GB) that, that didn't really work, it was more of follow the Master Plan, so don't change it to (GB) and it wasn't just because of a couple of items on (GB) it was just (GB) in general. He tried to



summarize what they had talked about and that is what he thought it was a consensus was more that than that they didn't have these couple of things, he would have recommended it.

Secretary St. Henry asked to shed some light quickly on the thinking about their approval?

Trustee Steimel answered that it is kind of makes sense it would be hard to use the property, pretty much what they heard there. They really don't have an approved Site Plan too, they started with that again it is not a PUD. They had some more pictures, sometimes that is the way it goes.

Chairman Dunaskiss said thank you for carrying their message and especially on this 3-3 vote, you have your work cut out for you.

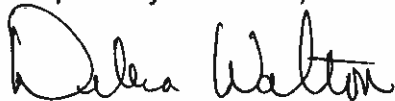
Trustee Steimel replied that he used to get frustrated too, they would make a recommendation and it would be 6-1 and the one person was the rep for the Board, and they went to the Board and that wasn't really what the Board really needed to hear. We are a recommending body, someone else did say that the trust that the Planning Commission looked a lot at this, and they thought they must have good reasons so there 2 descending votes. It was kind of interesting they went from these 7-0's to a little more debate, that is why it is an uneven number.

Planning & Zoning Director Girling noted that the next meeting they have one Commissioner out and then based on one of the cases they do believe that one of the Commissioners may disclose something that may end up with him being recused. They would be down to 5 members is there anyone else that believes they will be out at the next meeting? They will probably disclose something, and they will vote to see if they must recuse themselves, so we will be down to 5 members on June 19, 2019. The next meeting after that would be July 3<sup>rd</sup>, do they anticipate any problem with that? Right now, it just depends on what happens on the 19<sup>th</sup> there is a possibility since they did go ahead and forward that case this evening, unless the Board hears it and sends it back, they don't have any applications, but there is still time for them to meet the application deadline. Hearing of no one at this point and time she will assume that there will be a quorum.

#### **15. ADJOURNMENT**

Moved by Commissioner Reynolds, seconded by Commissioner Walker to adjourn the meeting at 8:55pm. **Motion carried.**

Respectfully submitted,



Debra Walton  
PC/ZBA Recording Secretary  
Charter Township of Orion

6/19/19  
Planning Commission Approval Date