

CHARTER TOWNSHIP OF ORION PLANNING COMMISSION
******* MINUTES *******
REGULAR MEETING, WEDNESDAY, JULY 17, 2019

The Charter Township of Orion Planning Commission held a regular meeting on Wednesday, July 17, 2019 at 7:00pm at the Orion Township Hall, 2525 Joslyn Road, Lake Orion, Michigan 48360.

PLANNING COMMISSION MEMBERS PRESENT:

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

PLANNING COMMISSION MEMBERS ABSENT:

Todd Garris, Commissioner
John Steimel, BOT Rep to PC

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.
Tammy Girling, Township Planning & Zoning Director

OTHERS PRESENT:

Nick Simpson	Debra Walton
Robert LaBelle	Joe Caradonna
Cristy Evangelista	

3. MINUTES

- A. 6-19-19, PC-2019-24, St Joseph Catholic Church Special Land Use Public Hearing Minutes
- B. 6-19-19, PC-2019-25, Silver Bell Bio Tech Conditional Rezone Public Hearing Minutes
- C. 6-19-19, PC-2019-26, Silver Bell Retail Rezone Public Hearing Minutes
- D. 6-19-19, Planning Commission Regular Meeting Minutes

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

4. AGENDA REVIEW AND APPROVAL

Moved by Commissioner Reynolds, seconded by Vice Chairman Gross, to **approve** the agenda as presented. **Motion carried**

5. BRIEF PUBLIC COMMENT – NON-AGENDA ITEMS ONLY

None

6. CONSENT AGENDA

None

7. NEW BUSINESS

A. PC-2018-24, Verizon Wireless/TowerCo Site Plan extension, for plans located at 3801 Giddings Rd. (parcel 09-27-400-011).

Mr. Rob LaBelle attorney, presented. He noted that he was representing for both Verizon and TowerCo.

Mr. LaBelle stated that TowerCo is the actual applicant being the party that would be building the tower, Verizon Wireless would be the first occupant on that tower at the top position.

Mr. LaBelle said that he was there to seek an extension of (1) one year for both the Site Plan and the Special Land Use approval. When this was approved by this Planning Commission a year ago it approved both the Site Plan and the Special Land Use permit. Even though this site will be located on an industrially zoned property, it therefore would have been a permitted use that did not need a Special Land Use, there was enough concern as to whether or not that is how it should be interpreted, that they just apply for the Special Land Use since they had to get the Site Plan anyhow. So, they got a Special Land Use approval as well a year ago at the Planning Commission, so they are seeking an extension for (1) one year for both in this case not just the Site Plan.

Mr. LaBelle added that the original approval was on July 18, 2018 and was a Special Land Use and Site Plan, 5-0 in each case. He said he could go through a description of the project but probably a better way to do here is just to tell them that they need an extension. Verizon is the primary first tenant of this tower and has for capital reasons moved this to their 2020 build plan. It will therefore result in the tower being built in the second quarter of 2020, at that point TowerCo would build it for the purpose of placing Verizon on it as soon as they completed construction. The rationale of course was the fact that Verizon being the primary tenant the anchor tenant and the reason for building the tower in the first place, they need their tenant to be available and ready to go to construct the tower. In the meantime they have been working with the Township as well as the various other agencies that have to approve a tower to work on the details on a variety of things, the building permit for example the retaining wall a fence that needed to be placed on it and the location of utility easements and some existing other utilities in the area. There have been a lot of details to work on which they will continue to work on and get completed including an erosion permit that they must get from the drainage commission.

Mr. LaBelle noted that he could go through the details of the actual project but otherwise that is their proposal for purposes of obtaining and extension of (1) one year.

Chairman Dunaskiss commented that given the location of the site off Giddings the fact that these are long term investments, the maps, the studies, and the investments that go into this these are not cheap, sometimes they do not go up overnight. The maps, the analysis, nothing has changed, and they are diligently working on the site. Not that he would like to have these projects hanging out there, this is more of a long term infrastructure project hybrid in his opinion and it is private so he doesn't see much of an issue with giving a year extension given it is also the Special Land Use and the Site Plan they are diligently working on it.

Commissioner Reynolds agreed with Chairman Dunaskiss that it does not make much sense to have a tower that is unoccupied but built.

Moved by Secretary St. Henry, seconded by Commissioner Reynolds in regards to Site Plan Extension (Ord. 78, Article XXX, Section 30.01, C,11) that the Planning Commission **approves** the Site Plan Extension request for PC-2018-24, Verizon Wireless #1179/TowerCo #MI10338 Site Plan extension request for (1) one year, until July 17, 2020. This approval is based on the following findings of facts:

- that Verizon Wireless the anchor tenant for the tower has delayed its construction plans to build the tower until the second quarter of 2020 as well as on going site preparation requirements.

Discussion on the Motion:

Planning & Zoning Director Girling noted that sometimes there are conditions of the motion that if you say a year from the former approval date then it gives a better calculation of when it was actually approved versus giving them giving a specific date, so if you say a year from the former approval then she can hone in on the actual date.

Secretary St. Henry amended the motion re-supported by Commissioner Reynolds to cover Planning & Zoning Director Girling suggestion that reflects a year from the original motion date.

Chairman Dunaskiss questioned if he was aware with the original date works with the 2nd quarter of next year?

Mr. LaBelle replied yes that is approximately when it is expected to go ahead.

Mr. LaBelle said that there was a Special Land Use approval and a Site Plan approval the Site Plan approval did not occur at the Planning Commission meeting on July 17, 2018. On that date they denied it until they got an approval from the ZBA for the setback waiver and then it ripened automatically into an approval, which occurred the following week.

Planning & Zoning Director Girling said that if Planning Lewan might want to disagree with her on this but she believes that the ordinance says that once their Site Plan is approved their clock on the Special Land Use stops, so they would not need the extension on the Special Land Use because they technically had the approval it is just the (1) one year expiration on the Special Land Use is if they come for the Special Land Use prior to getting their Site Plan, so they received their Site Plan so they don't need the extension on the Special Land Use.

Roll call vote was as follows: Gross, yes; St. Henry, yes; Walker, yes; Reynolds, yes; Dunaskiss, yes. **Motion carried 5-0**

B. PC-2017-11, Orion Village Crossing (Baldwin Summit) Site Plan extension, for plans located at a vacant parcel south of Grand Circle Park on the east side of Baldwin Rd. (parcel 09-29-326-044)

Ms. Cristy Evangelista owner of the vacant parcel for the Baldwin Summit, presented.

Ms. Evangelista stated that she was there to requesting another (1) one-year extension for their Site Plan approval. After they got approved last year, she was ready to build and wanted to apply for the building permits but she did not understand that she needed another engineering review before the Site Plan was actually approved so the delay last year was going through the engineering approval and review and after they finally got approval for that, she lost the window that she wanted for summer and fall construction and when she received the engineering approval she applied for the building permits and she is at the point where she will be approved for the building permit, it had to go through a second engineering review but here they are with the date a year later so she wanted to apply for the other extension. They are ready to move forward and again should be getting the building permits approved the next (1) one-year should be sufficient.

Chairman Dunaskiss questioned what is their intentions for putting a shovel in the ground and pulling permits?

Ms. Evangelista replied that she wanted to do it last year when she got approved but she was road-blocked with engineering, so she is ready to go and has been ready to go since last year. She was told by the Building Department that everything looks good now and as soon as she pays her fees, she should be able to get that Soil Erosion permit, the pre-con scheduled, and she is ready to start.

Chairman Dunaskiss inquired why the (1) one-year extension then?

Ms. Evangelista answered that she thought she had the permit in her hands but according to David and Tammy she does not and believes it is because she has not paid for the fees that she was waiting for and obtain the Soil Erosion permit. This whole conversation happened last week and with this date coming upon her this week she did not want to miss the technical window.

Vice Chairman Gross stated that he believes that the applicant has been diligently pursuing all the necessary approvals and permits. He said he noticed that she has been doing some landscaping out in front.

Ms. Evangelista replied yes, she owns the retail center next door and they have recently opened their anchor tenant, the bar restaurant Public House so all her tenants were worried about parking and she has been landscaping the whole thing. She has been waiting for the bar to open, they opened last night so she is going to redo the parking lot and wants to make both sites look nice so that people can drive through both entrances especially with construction on Baldwin Rd. She has told everybody that they will be building that next site so just wanted to clean it up so it looks good for everybody and construction will be clean.

Vice Chairman Gross noted that the applicant has a history of pursuing and upgrading her projects and developments and has no problem with granting a (1) one-year extension.

Chairman Dunaskiss said that they have had her before them on this project and other ones and he concur with Vice Chairman Gross's comments, it seems that they have been diligently working on the project, given that he feels that they would still do it within this building season where it is going and with Johnny Blacks the anchor there it is nice to round out the project, he is fine with giving a year if that is the request this time, because he feels that they are going to do it within that time anyway.

Moved by Vice Chairman Gross, seconded by Commissioner Reynolds that the Planning Commission **approves** the site plan extension request for PC-2017-11, Orion Village Crossing Commercial PUD Amendment Site Plan for (1) one-year from the date of the first extension. The approval is based on the facts:

- Applicant is proceeding with building plans and requesting building permits and has shown a history of maintaining a sound development plan.

Roll call vote was as follows: Reynolds, yes; Gross, yes; Walker, yes; St. Henry, yes; Dunaskiss, yes. **Motion carried 5-0**

C. PC-2019-29, Baldwin Square Townhomes, Amended Site Plan, located at Baldwin and Jordan Roads (parcel 09-32-376-003).

Mr. Joe Caradonna 2145 Crooks Rd., Troy, MI 48084, presented.

Mr. Caradonna said that he comes before them this evening to request a variance for allowing the decks to be placed in the setback. When they originally received the site plan approval for this project and started construction he believed that the RM zoning would have allowed for this use within it and on their plans they simply outlined patios because of their 89 units 87 of them do have patios but the topography on this end of the building falls off so fast that if they were to put a concrete patio they would have about 10 steps down to the patio and have 2-ft. left of useable patio. They went into apply for a deck permits and was made aware that the setbacks from the rear yard to a side yard had changed in their zoning district so they come before them asking to be able to put the two decks on building 10 that are necessary to allow those units to have access to the backyard the rest of the residents.

Planner Lewan read through his review dated June 27, 2019. What the applicant said was mostly true and just a little clarification. The plan as presented back in 2015 was under the old zoning ordinance, there was some different setbacks between buildings. The previous project met those setbacks between the buildings and all the patios were at grade. The ordinance changed he wasn't sure it would affect this issue because the applicant previously showed all the patios at grade and now, they are showing some decks due to grade issues. In 2016 the ordinance changed where they had very specific setbacks between multi-family buildings such as end to end of the unit the rear to the rear, the front to the front and it kind of simplified it, it was a very complex calculation then the previous ordinance so they simplified the setbacks. So, at this point the approach the Township to add decks when they discovered the elevation issue of course the Township can now only go by the current zoning ordinance it can't go by what was previously in the ordinance, which he felt it probably would have been a problem even under the previous ordinance. They are looking at some deviations from what is the end of the building to the rear of the building. The requirement is 50-ft. the applicant is proposing 20-ft. There were 2 memos on this issue there was a June 28th memo and a July 12th memo. The July 12th memo references the June 28th memo and he wanted to make sure they saw the reference because some of the conditions they mentioned was still there. From the June 28th memo they really had three issues to address, they explained the situation and those three issues are they wanted the Fire Department to make sure they didn't have any issues with decks being closer from the end of one building to the rear of the other and make sure they didn't have any access issues. The Fire Marshal signed off on that and did not have any issues. They asked that the applicant provide an elevation view of the deck so they could see what it looked like, the project was approved for at grade patios and now they have some decks, so they were concerned that there might be some visual impacts particularly for people that would be facing these decks. The applicant did provide in their packet there is a drawing a digital drawing of what one of the decks would look like from the rear of the building to the end of one of the other buildings, and that is up to the Planning Commission to have a discussion if they think that it is out of character with what was previously approved. The third item is they just wanted to talk to the applicant to make sure that these were the only units that this grade issue was going to come up on. If there are other units that this grade issue would rise, they wanted to make sure they covered them all at once so the applicant will not have to come back a month from now after they discover issues further. Of the three issues in the July memo he thinks they have addressed two of them by 1) the Fire Marshal addressing 2) providing elevation drawing for them to look at 3) question for the applicant that these are the only units that this waiver would be required. One other issue that the applicant is asking the Planning Commission for a variance of course they cannot grant variances the only thing that the Planning Commission would be acting on is a site plan amendment. This project will also be going to the ZBA for a variance.

Chairman Dunaskiss added that there was a Site Walk as well, can someone give us an overview of what they saw out there.

Commissioner Reynolds stated that the Site Walk committee did complete a site walk at Baldwin Square. They witnessed the change of grade and the need for the decks. The deck is further from the street, so it starts stepping up that grade and seems to be kind with some of the other patios as some of those on grade patios step less than 30 inches from one unit to the other units. The finished floor elevations move with grade and topography of the site. The side yard of Building 9 in which this starts encroaching on has minimal fenestrations there, so it is not like any door-walls or anything like that, are present.

Secretary St. Henry noted that the decks face a brick wall from the other building, there are no privacy issues.

Mr. Caradonna wanted to address item number three, they have verified that these are the only two units they will not be coming back again for any further requests, the other units will work with slab on grade and steps as they have in the past.

Moved by Commissioner Reynolds, seconded by Commissioner Walker that the Planning Commission grants site plan **denial** until they receive the required variances from the ZBA for PC-2019-29 Baldwin Square, Site Plan modification located at the corner of Baldwin and Jordan Roads (parcels 09-32-376-003) for plans date stamped received June 27, 2019 for the following reasons:

- the additional decks have no adverse effect on the adjacent units
- provides similar amenities to those already provided within the community

Discussion on the Motion:

Commissioner Reynolds questioned if they need to make Mr. Goodloe's comment for receiving a permit as part of the Motion, that will happen by default?

Planning & Zoning Director Girling replied correct. She did request that they did include in the Motion that they don't have to come back to the Planning Commission if they receive approval from the ZBA.

Commissioner Reynolds amended the motion, Commissioner Walker re-supported that the applicant does not have to come back to the PC if they receive their variance approval.

Roll call vote was as follows: St. Henry, yes; Walker, yes; Gross, yes; Reynolds, yes; Dunaskiss, yes. **Motion carried 5-0**

D. PC-2019-27, Natrabis Processing, LLC, Ordinance 154 Application, located on vacant lot No. 3 in Liberty Tech Center (parcels 09-34-300-016 & 09-34-100-016).

Planning & Zoning Director Girling stated that they might be aware that there had been some permits issued in Liberty Tech that the Planning Commission had seen before, to the best of her knowledge all of those purchase agreements have expired and they did not renew their Ordinance No. 154 permits. These two cases are involving lots within Liberty Tech that they might have seen before, but this is a new applicant. She did the normal review and that they did meet all of the criteria within Ordinance No. 154 as it relates to Planning & Zoning they are in the proper zoning district they are the proper distance from a church and a school however they are deficient slightly from residential so they did exercise the right and asked for a 6% variance from the Zoning Board of Appeals and it was granted. They didn't need exactly 6% but because the building isn't constructed yet if they went right the exact variance amount then they will leave themselves very little wiggle room. There had been a larger variance granted in the past in this

area up to 15% and they were granted 6% which is what they requested. Technically with that variance being granted they do meet all the criteria of the Ordinance No. 154.

Chairman Dunaskiss stated that with this ordinance it is the first step it is all vacant except for the Oakland Business Park. They meet the requirements they got the variance on it; they still must meet the requirements per code obviously when it is built; looks like everything is in order.

Moved by Commissioner Reynolds, seconded by Vice Chairman Gross that the Planning Commission grants **approval** of the application, as required per Ordinance No. 154, for PC-2019-27, Natrabis Processing, LLC, for the Processing Facility for parcels 09-34-300-016 & 09-34-100-016 conditioned upon:

This recommendation to grant is based on the following finding of facts:

- The applicant demonstrates the ability to meet Article V, section 9 to the Township to their satisfaction.
- The applicant meets Article V, section 10 and Article V, section 11, that all the zoning standards of the district are met.
- The applicant meets all other applicable Township ordinances and standards of the Township and prior to opening shall demonstrate to the Township meets all the rules and regulations of the State and Medical Marijuana Licensing Board.

Roll call vote was as follows: Walker, yes; Reynolds, yes; St. Henry, yes; Gross, yes; Dunaskiss, yes. **Motion carried 5-0**

E. PC-2019-28, Natrabis Cultivation, LLC, Ordinance 154 Application, located on vacant lot No. 3 in Liberty Tech Center (parcels 09-34-300-016 & 09-34-100-016).

Chairman Dunaskiss stated it looks like the same ownership just looking for a cultivation on this one.

Planning & Zoning Director Girling replied correct, all the findings are the same, same variance granted at the Zoning Board of Appeals. In case anyone wonders on that parcel number it is all lot #3 but because the lot within that platted sub technically switches from the 300 block to the 100 block or vice versa, the County requires that there are two different parcel numbers because they cross into a different section within section 34. It is still one lot within Liberty Tech. The findings on the other are the same.

Chairman Dunaskiss stated that most of the comments ring true even though the only difference is this is a cultivation facility, same ownership everything seems to be in order, this is the beginning there isn't a building yet but everything else is in order.

Moved by Commissioner Reynolds, seconded by Vice Chairman Gross, that the Planning Commission grant approval of the application, as required per Ordinance #154 for PC-2019-28, Natrabis Cultivation, LLC, for a Processing facility for parcels 09-34-300-016 & 09-34-100-016 conditioned upon:

- Article V, Section 9 is demonstrated to the Township to their satisfaction that all those requirements have been met.
- Article V, Section 10 that all those requirements are met to the Townships satisfaction.
- Article V, Section 11 that all applicable zoning standards are met in the zoning district.

Discussion on the Motion:

Planning & Zoning Director Girling stated that there was a revised copy in his folder because there was a typo so they rewrote the Motion and the error was that it said Natrabis Cultivation LLC application for a processing so you said processing, but it should be a cultivation.

Commissioner Reynolds stated that she is correct he did say processing.

Commissioner Reynolds amended his Motion Vice Chairman Gross re-supported that it should be Natrabis Cultivation LLC for a Cultivation facility for the said parcels.

Roll call vote was as follows: Reynolds, yes; Gross, yes; Walker, yes; St. Henry, yes; Dunaskiss, yes. **Motion carried 5-0**

8. UNFINISHED BUSINESS

None

9. PUBLIC COMMENTS

None

10. COMMUNICATIONS

None

11. COMMITTEE REPORTS

None

12. PUBLIC HEARINGS

Planning & Zoning Director Girling stated that there is a future public hearing on August 7th at 7PM for Old Detroit Burger Bar on Baldwin Rd. for outdoor seating with alcohol.

13. CHAIRMAN'S COMMENTS

None

14. COMMISSIONERS' COMMENTS

Commissioner Reynolds, Commissioner Walker and Planning & Zoning Director all commented on attending the Michigan Township Association Planning & Zoning summer retreat at Shanty Creek. All thought it was helpful.

15. ADJOURNMENT

Moved by Commissioner Reynolds, seconded by Vice Chairman Gross to adjourn the meeting at 7:43pm. **Motion carried.**

Respectfully submitted,



Debra Walton
PC/ZBA Recording Secretary
Charter Township of Orion

August 7, 2019
Planning Commission Approval Date