

## CALL TO ORDER

The regular meeting was held on Monday, November 25, 2024 of the Benton Charter Township Planning Commission was called to order at 6:00 p.m.

Members Present: Chairperson Trina Rodez, Marletta Seats, Joe Taylor, Eric Rankin, Carolyn Phillips and Matt Davis

Members Absent:

Staff Present: Loyall Bennett, Andy Dean and Deeann Scalf

Also present: Applicants, Charmaine Frazier & Donovan Frazier for Charis Daycare  
Furkis Architectural Consulting (Daycare's), James Furkis  
Applicants, Sam Patel & Hursh Patel for Home 2 Suites Hotel  
Benton Charter Township, Fire Chief, Rob Harper

**SILENT INVOCATION:** None.

**APPROVAL OF MINUTES:** No changes or corrections on the Meeting Minutes from October 28, 2024 Meeting, Mr. Taylor motioned and support of approval by Ms. Seats. Motion passed.

**AGENDA AMENDMENTS:** None.

**PUBLIC HEARING COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** None.

## NEW BUSINESS:

- 1. Charis Daycare, currently located at 534 East Main Street is seeking a Special Use Permit for 250 Walnut Street (Property ID#: 11-03-4540-0016-01-4) to open a Daycare Center. The Site Plan has been submitted for the property Zoned (B) Two Family Residential. (Public Hearing).**

Mr. Davis motioned to open a Public Hearing, supported by Mr. Taylor at 6:02 p.m. on the Daycare Center request.

**BUILDING DEPARTMENT REPORT:** Mr. Bennett advised of the Special Use Permit for the Charis Daycare Center to open a Daycare Center located at 250 Walnut Street in the Pilgrim Rest Baptist Church Building. Mr. Bennett with the Building Department has reviewed this Applicant, and there may be some concerns with it being within 1500' of the Harbortown Treatment Center located at 1022 E. Main Street in Benton Harbor, Michigan. This is an Outpatient Drug Treatment Facility, where you can get Mental Health Treatment and also Treatment for Methadone.

Mr. Bennett advised that the only concerns the Building Department would have with this is the location, and being so close to this Methadone Clinic. Other than that, the Building Department sees no reason to not approve this Application for a Daycare Center on East Main Street with the following Conditions.

### Conditions:

- 1) Any sale of the Property, would require the New Owner to apply for the transfer of the Special Use into their Name.
- 2) Storm Plans to be reviewed and approved by the Berrien County Drain Commission.
- 3) Approval conditioned upon Berrien County Road Department Review and Permit Approvals.
- 4) Sewer Connections if not existing. (checklist item)
- 5) Water Connection if not existing. (checklist item)
- 6) Provide Proof of Ownership.
- 7) Construction must be complete before opening.
- 8) Maintain a Video Surveillance System.
- 9) Notify Benton Township Police Department of any changes of personnel.
- 10) Provide all State Licenses for the Daycare Center and All Employees.
- 11) Provide copies of all State Inspections to the Business Office when Registering. (Yearly)
- 12) Compatible Signage Approved by the Zoning Board (if needed)/Building Department.
- 13) Special Use Permit Approvals are to be implemented within (1) one year.

- 14) Any change of Property Ownership will require a change to the Special Use Permit.
- 15) Certified Site Plan Survey to the Building Department before opening.

Charmaine Frazier, Applicant located at 534 East Main Street in Benton Harbor advised of the following information:

Specifications:

1. (24) twenty-four hour Security Camera availability.
2. Will be Licensed for up to (50) fifty children at this Location.
  - a. Currently she is Licensed for up to (12) twelve to (14) fourteen children at her current Location (as it is an At Home Daycare, not a Daycare “Center” like the New Location will be).
3. Children’s Age Groups are split up in a Center, and at a Home Daycare they are all together.
4. Separate Infant & Toddler Room.
5. Separate Pre-School Room.
6. Separate School Age Room for before and after care.
7. She has been Licensed since 2012.
8. She will accept before and after Care in new Location.
9. Provide Meals/Snacks.
10. Will have Indoor/Outdoor Play Areas (as weather permits).
11. All Staff has to go under her Licensing.
12. All Employee’s will have to pass Background Checks.
13. She follows all State Guidelines.
14. She will have Individuals with her throughout the day for Security Purposes.
15. Hours of Operation (currently are)
  - a. Monday – Friday
  - b. 5:30 a.m. – 6:00 p.m.
16. Possibly changing with the New Location
  - a. Monday – Friday
  - b. 5:30 a.m. – 7:00 p.m.
17. No available outside entry (as doors always stay locked).
18. Currently has a Purchase Agreement with Homeowner, Pilgrim Rest Baptist Church.
19. Surrounding Area is mostly Vacant Lots.
20. Next Door Neighbor has no issues with this request. Other Neighboring Properties are not close, and if they are, they are not friendly or visible enough to ask their opinion about it.
21. The Neighboring property she is planning on demolishing of the dwelling, and making it a Retention Pond.
22. She is making a Gated and Locked Parking Lot (in a U Shape) for pick up and drop off.
23. Fenced in Playground Area (currently has a fence, but will be updated prior to opening).

Mr. Taylor made a motion to close the Public Hearing supported by Ms. Rodez at 6:16 p.m.

**PUBLIC COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** None.

**BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** Mr. Davis wanted more information on the Methadone Clinic within the 1500’ radius. What are the Requirements, and does the Planning Commission have the Authority to wave that kind of Requirement or Approve or Recommend an Approval? Mr. Bennett advised that the Michigan State Zoning & Enabling Act states that you can not have a Licensed Daycare or Home Care within 1500’ of a Methadone Clinic or a Drug Rehab Facility. Yet the Harbortown Treatment Center is a Facility where Addicts go to get help/treatment for their Addition(s). Mr. Bennett requested the State of Michigan to give their opinion on the location of the Daycare Center from the Methadone Clinic, they would not give any opinion on it. Mr. Bennett requested Charmaine to contact her Attorney to get their opinion on the situation as well, and her Attorney sent a Form in and the Building Dept then reached out to the Township Attorney, Blake Conklin and gave him a copy of said Form and he gave no opinion either, other than taking it to the Planning Commission Board Members for their Approval for a Special Use. With no one giving their opinion, we have nothing to go off of to dictate whether we can or can not approve this Application, so we opted to run it through the Planning Commission.

Mr. Davis questioned the Applicant, Charmaine Frazier on whether she thinks there is any concerns or risks with being 1500' from a Methadone Clinic. Ms. Frazier advised she does not see any issues with the location, and that in the Literature it states that a Daycare Home (which is what she currently does in her Home) versus a Center Facility (which is what she would like to open) have different stipulations in place. Which is why she reached out to her Attorney to get his opinion on things as well. She believes that with Surveillance, Fencing and locks on everything so that everyone would be safe to move forward with this Project. The State of Michigan has approved her licensing for a Daycare Center at this location of 250 Walnut Street, but if she was moving her Home Daycare they would not allow it. But because it is a Center (a Commercial Building/Area) and there are precautions in place with a Center and not a Home Daycare they approved it for her. Ms. Frazier made note that the Enabling Act does not state "Center" when referring to a Methadone Clinic and how close they can be to a Daycare Center. Mr. Bennett advised there is no clear definition, that is why The Building Department and Township Attorney brought it in front of the Planning Commission Board.

Mr. Bennett advised even though the property is Zoned B2 Family, he believes it will be an Allowable Use in this Area to more children, since it is considered a Multi-Family already. Mr. Furkis the Daycare's Architect mentioned that the Site Plan will have no changes from what was presented to the Board Members this evening. So a Site Plan Approval can be requested from these current Drawings. Mr. Bennett is requesting a Special Use Approval as well as a Site Plan Approval for the Charis Daycare Center from the Planning Commission Board Members.

Mr. Davis motioned to close the Public Hearing and go back into Regular Session. Ms. Rodez supported. Motion carried at 6:16 p.m..

**ANY OTHER BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** Mr. Davis stated that the Site Plan mentioned it was not based on a Survey, this is a condition that a Survey must be done to move forward, so nothing falls outside the boundaries of the property. Mr. Taylor made a Motion to approve the Daycare Center located at 250 Walnut Street in Benton Harbor with all the Conditions set by the Township. Ms. Rodez supported. Motion approved.

#### **NEW BUSINESS:**

- 2. Applicant Sam Patel (Ganesh of Benton Harbor), 50970 Stonebridge Dr., Granger, IN 46530, is seeking a Site Plan Approval for a new Home 2 Suites Hotel. Located at 1923 Pipestone Rd behind the Home Depot, as shown on the submitted Site Plan. (Property ID# 11-03-0033-0002-32-0). This property is Zoned D-1 Commercial. (Public Hearing).**

Mr. Davis motioned to open a Public Hearing, supported by Ms. Rodez at 6:20 p.m. on the Home 2 Suites Hotel request.

**BUILDING DEPARTMENT REPORT:** Mr. Bennett advised Sam Patel (Property Owner) is here looking for a Site Plan Approval for the Home 2 Suites Hotel (a Hilton Brand Hotel) to open behind the Home Depot Building located at 1923 Pipestone Road in Benton Harbor. Mr. Bennett has reviewed this Application from Sam Patel, and there may be some concerns on the High Tension Towers and making sure we get a 30' drive access around the Building in case of a fire. As far as D-1, it is an Allowed Use in the Commercial Area. The Sewer Department gave their approval with all the upgrades in the Area and should have no issues with it's capacity.

Sam Patel, Applicant located at 50970 Stonebridge Drive in Granger, Indiana advised of the following information:

#### **Specifications:**

- 1) (4) Four Story Hotel.
- 2) (102) one hundred and two (roughly) Rooms.
- 3) Already Built the Hampton Inn by Home Depot.
- 4) Already Built the Hilton Garden by Celebration Cinema.

**BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** Mr. Taylor recommends staying out of the easement areas as well as out of the way of the High Tension Towers. Mr. Bennett the Tension Lines hanging

through and over the Parking Lot Areas, and those could be concerns for us. The other concern that the Fire Chief, Rob Harper mentioned was wanting drive access, and with getting a new Fire Truck within a year that will reach, they will still need capacity to get back to the back of the Building. Mr. Sam Patel advised the drive will be graded, sodded and open, but not paved, so the Fire Department can drive their trucks on it and even turn around on it, if need be.

Rob Harper, Benton Township Fire Chief advised he needs clearance for a 40' long truck. So, they would need a nice wide turn around the corner, if not they will be baring the truck in the soft pack of the lawn. Mr. Sam Patel advised they could make it curved too, to help the long truck around the big turn. Mr. Harper mentioned the reach of a Ladder Truck is 100' and the proposed Building is 265', so even from the corner, the Fire Department would not be able to hit the back. So, the Fire Dept. would need adequate space back there for the Ladder Truck to fit. Mr. Harper advised they could send the Hotel Engineer information on the dimensions of the truck and what it would need to enter and exit the building safely for an Emergency. But they will be getting a 100' truck within a year so this will need to get address prior to building this Hotel. Mr. Harper is willing to give the Architect/Engineer the specifications so they can figure out the turning radius needed on the 100' truck that is coming next year (prior to building the Hotel). St Joe City Fire Department has a 100' fire truck currently, that is the largest in the Area right now. Mr. Taylor is there surface around the poles in the Parking Lot? Mr. Sam Patel yes they all will have a landscaping island around them to protect them and also make it look nice around them. Mr. Bennett usually with Transmission Lines there comes easements that you can not build within a certain size (example like 50' from the center, or 50' of the edge or something like that). As he is unsure what the easement is on this one. Mr. Sam Patel advised the High Powered Transition Lines is 30' on all sides, and the other Street Pole Lines have 15' on both sides. Mr. Bennett advised if we get a Site Plan approval, he would request that the easements get clarification prior to construction, to make sure they are outside of that easement. Possible Conditions for this are as follows:

**Conditions:**

1. Berrien County Drain Commission will Review and Approve Storm Plans.
2. Possible access to Napier Ave. should be considered.
3. Fire Access around the entire building needs to be looked at.
4. Additional Sewer and Water demands should be considered. Mr. Bennett advised Steve Oosting has already signed off on it.
5. EGLE Permits for the Wetland Areas.
6. Soil Borings and Engineer On-Site during the Foundation Construction due to the Wetlands. Mr. Patel already received the approvals on this and will get us the information.

**PUBLIC COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** None.

Mr. Taylor made a motion to close the Public Hearing and move into Regular Session Meeting was supported by Ms. Rodez at 6:31 p.m.

**ANY OTHER BOARD COMMENTS, CONCERNS, QUESTIONS OR REQUESTS:** Mr. Davis stated for disclosure, his Firm that he works for and is a Partial (10%) Owner of, Wightman & Associates prepared the Site Plan for this Project for Home 2 Suites Hotel, and he needs clarification that it is not a Conflict of Interest if he votes on this Project. As Wightman is an Employee Owned Company. All Board Members are in agreeance that it is not a Conflict of Interest for him to vote on this Project because he works for Wightman & Associates. Mr. Taylor you have a job, and you are not Partners with the Patel's (Owner's of the Hotel), so there is no issues with Mr. Davis in voting if he chooses to do so.

Mr. Taylor made a Motion to approve the Site Plan for the Hotel 2 Suites located at 1923 Pipestone Road in Benton Harbor. Ms. Seats supported. Motion approved.

**AUDIENCE COMMENTS:** None.

**TOWNSHIP BOARD REPRESENTATIVE REPORT:** Mr. Taylor advised that the Planning Commission Meeting that was held on October 29, 2024 the Township Board approved the Special Use Permit Request for Jose Pedroza located at 1363 Pipestone Road in Benton Harbor with Conditions recommended by the Planning Commission. Property No. 11-03-4860-0015-00-3 to continue use at the property as a Residential Home for the

Financial Requirements of a VA Loan for the New Homeowners being in a Zone D-1 Commercial with the following Conditions recommended by the Planning Commission:

- 1) Special Land Use Permit will be issued to Individuals purchasing the property located at 1363 Pipestone Road for Financing purposes.
- 2) Any sale or transfer of Ownership of this property, requires the New Homeowner and the Current Owner requesting the transfer of the Special Use Permit into the New Owner's Name, which must be done at the Benton Charter Township Building Department.
- 3) Property must remain a Single Family Residential Dwelling.
- 4) Special Use Permit must be acted upon within (1) one year from the date of approval.

**ZONING BOARD OF APPEALS REPRESENTATIVE REPORT:** Mr. Davis advised that the Zoning Board of Appeals met on November 20, 2024 regarding the Home 2 Suites Hotel Site Plan that was just approved at tonight's Meeting with the Planning Commission Board Members with requesting recommendation of approval for the variance of the overall height of the Building. That Application was approved and was consistent with numerous previous variance requests for the height. The limit is at 40' and all the Hotels within this Area have received this approval around 55' plus or minus. So, it was consistent with all the other Land Uses in the Area. Mr. Davis stated there was discussion if the Ordinance should be changed to reflect this, and is there an ability to provide direction so this variance could be granted? Both of these are under consideration by the Zoning Administration to look at as an alternative.

**BOARD MEMBER COMMENTS:** Mr. Davis requests an opportunity to discuss after a Motion is put in place, so that opens up for a question/answer before someone approves or disapproves a Motion put in place before Roll Call is voted. Ms. Rodez agrees as well as Mr. Taylor agrees. Mr. Davis or ask for an Amendment or clarification of a Motion even.

**OTHER COMMENTS/CONCERNS:** None.

**ADJOURNMENT:** Ms. Rodez motioned to adjourned at 6:37 p.m.

**ADJOURNMENT:** There being no further business before the PC, the Meeting was adjourned:

*Minutes: Deeann Scalf the Secretary of the Planning Commission.*

**Loyall Bennett**, Building Inspector