CITY OF MILTON
PLAN COMMISSION – BUSINESS AND MANUFACTURING ZONING

Conditional Use Permit Findings of Fact

Applicant Name: CharterNEX (circle one) Property Owner Tenant

Property Address: 1264 East High St. *Please note: if applicant is Tenant of said property, written authorization for this Conditional Use Permit request must be submitted as an attachment.*

Conditional Use Permit Request: Building Height

Applicable Ordinance Section: _____ Zoning of Property: M-1

Plan Commission Public Hearing Date: 04/06/16

Please note: Attendance at the Plan Commission public hearing is required in the case of additional questions or submission of additional findings that pertain to the Conditional Use Permit request.

This Findings of Fact is intended to document compliance with the provisions of Sec. 78-91(b), which states that:

> *Prior to approval or denial by the common council, the plan commission shall review the applicable facts pertaining to the proposed conditional use as found in this division and shall recommend approval or denial of the conditional use after public hearing and consideration of the purpose and intent of the district, the purpose and intent of this chapter, the standards applicable to conditional uses in this division, the standards for evaluating conditional uses enumerated in division 6 of this article, and the performance standards enumerated in division 2, article IV of this chapter.*

The Plan Commission has considered the standards described below in light of the evidence and testimony presented by the applicant and the public regarding the CUP request. If these Conditional Use Permit Findings of Fact are approved by the Plan Commission, they shall be incorporated into its decision to recommend approval or denial of the CUP application, including any changes adopted by the Commission.

II. THE PURPOSE AND INTENT OF THIS CHAPTER.

Pursuant to sec. 78-3, the purpose of Chapter 78 is to:

a. Promote the comfort, health, safety, morals, prosperity, aesthetics and general welfare of this community;
b. Regulate and restrict the use of all lands and waters;
c. Regulate and restrict the height, number of stories and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards, courts and other open spaces, the density of population, and the location and use of buildings, structures and land for trade, industry, residence or other purposes;
d. Further the appropriate use of land and conservation of natural resources;
e. Stabilize and protect property values;
f. Preserve and promote the beauty of the community;
g. Preserve productive and historic agricultural soils; and
h. Implement the community's master plan or plan components.

III. THE STANDARDS APPLICABLE TO CONDITIONAL USES IN THIS DIVISION.

These standards are described in sec. 78-93 as follows:

a. The location, nature and size of the proposed use.
b. The size of the site in relation to it.
c. The location of the site with respect to existing or future roads giving access to it.
d. Its compatibility with existing uses on land adjacent thereto.
e. Its harmony with the future development of the district.
f. Existing topography, drainage, soils types, and vegetative cover.
g. Its relationship to the public interest, the purpose and intent of Chapter 78 and substantial justice to all parties concerned

IV. THE STANDARDS FOR EVALUATING CONDITIONAL USES ENUMERATED IN DIVISION 6 OF THIS ARTICLE.

Division 6 of Article II contains sections 78-181 through 78-187.

a. Sec. 78-182. Site design and physical characteristics.

Site design and physical characteristics to be considered are as follows:
(1) Existing topography, drainage patterns and vegetative cover and the suitability of the proposed use in this regard.
(2) Availability of water, sewer, rail and other services and the utility requirements of the proposed site.
(3) Where public sewers are not available, the percolation characteristics of the soil.
(4) Adequacy of the proposed internal circulation system, including safety consideration.
(5) Access to sites from the internal circulation system.
(6) The costs of providing various public services.
(7) Appearance--how the area will look.

b. Sec. 78-183. Site location relative to the public road network.

Site location considerations relative to the public road network shall be as follows:
(1) Convenient access to a public road network--safety of access points.
(2) Visibility from the proposed road and the need for visibility.
(3) Location to provide access primarily by righthand turning movements.

c. Sec. 78-184. Land use.

Land use considerations include the following:
(1) Compatibility with existing or proposed uses and population density in the area.
(2) Relation to any existing or proposed development at nearby interchanges.
(3) Relation to recommendations in existing land use or comprehensive plans.

d. Sec. 78-185. Traffic generation.

Traffic generation considerations shall be as follows:
(1) Amount of daily and peak-hour traffic to be generated, related to site size; traffic to be subclassified as to arterial, collector and local streets.
(2) Amount of traffic generated relative to existing and anticipated ultimate generated traffic in the area.

(3) Expected composition of site-generated traffic by vehicle types.
(4) Effect of site-generated traffic on the operation of the area.
(5) Safety and convenience to future users.

e. Sec. 78-186. Community effects.

Community effects to be considered shall be as follows:
(1) Immediate and long range tax base.
(2) Access to market and service area.
(3) Relation to scenic or recreation values.
(4) Relation to the public interest, the purpose and intent of this chapter and substantial justice to all parties concerned.
(5) Compliance with the comprehensive (master) plan's goals and objectives.
(6) Relation of the project density to population density in the surrounding area.

f. Sec. 78-187. Other relevant factors.

Other relevant factors are as follows:
(1) The performance standards in division 2, article IV of this chapter. See Section V of these Conclusions and Findings of Fact.
(2) Additional impacts.

Findings:
☐ *Not Applicable for the Proposed Use*
☒ *Compliance with this Section Shall be Demonstrated with Site Plan Submittal*
Comments: Requesting to build a new tower east of the 2014 tower. Exact same height and width as the 2014 tower.

V. THE PERFORMANCE STANDARDS ENUMERATED IN DIVISION 2, ARTICLE IV OF THIS CHAPTER.

Division 2, Article IV of Chapter 78 contains performance standards listed in Ordinance Sections 78-1052 through 78-1149. Section 78-1051 states that "no structure, land, or water shall hereafter be used except in compliance with their district regulations and with the performance standards of this division."

Subdivision I

a. Sec. 78-1052. Air pollution.

No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than No. 2 on the Ringelmann chart described in the United States Bureau of Mine's Information Circular 7719.

b. Sec. 78-1053. Fire and explosive hazards.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate firefighting and fire suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have

incombustible exterior walls and an automatic fire extinguishing system. The aboveground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

Closed cup flashpoint	Gallons
Over 187 degrees Fahrenheit	400,000
105 degrees to 187 degrees Fahrenheit	200,000
Below 105 degrees Fahrenheit	100,000

c. **Sec. 78-1054. Glare and heat.**

No activity shall emit glare or heat that is visible or measurable outside its premises except activities in the M-2 industrial district which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

d. **Sec. 78-1055. Liquid or solid wastes.**

No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply, can cause the emission of dangerous or offensive elements, can overload the existing municipal utilities or can injure or damage persons or property.

e. **Sec. 78-1056. Noise.**

(a) No activity shall produce a sound level that is audible outside the M-1 or M-2 district boundaries which exceeds the following sound level measured by a sound level meter and associate octave band filter:

Octave Band Frequency (cycles per second)	SoundLevel (decibels)
0 to 75	79
75 to 150	74
150 to 300	66
300 to 600	59
600 to 1,200	53
1,200 to 2,400	47
2,400 to 4,800	41
Above 4,800	39

(b) No activity in any other district shall produce a sound level outside its premises that exceeds the following:

Octave Band Frequency (cycles per second)	SoundLevel(decibels)
0 to 75	72
75 to 150	67
150 to 300	59
300 to 600	52
600 to 1,200	46
1,200 to 2,400	40
2,400 to 4,800	34
Above 4,800	32

(c) All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

f. Sec. 78-1057. Odors.

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises. The guide for determining odor measurement and control shall be Wis. Admin. Code § NR 154.18. Agriculture odors associated with normal agricultural activities are exempted from this section.

g. Sec. 78-1058. Radioactivity and electrical disturbances.

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

h. Sec. 78-1059. Vibration.

No activity in any district except the M-2 industrial district shall emit vibrations which are discernible without instruments outside its premises. No activity in an M-2 industrial district shall emit vibrations which exceed the following displacement measured with a three-component measuring system:

Frequency (cycles per second)	Outside the Premises	Outside the District
0 to 10	0.0020	0.0004
10 to 20	0.0010	0.0002
20 to 30	0.0006	0.0001
30 to 40	0.0004	0.0001
40 to 50	0.0003	0.0001
50 and over	0.0002	0.0001

i. Sec. 78-1060. Water quality protection.

(a) No activity shall locate, store, discharge or permit the discharge of any treated, untreated or inadequately treated liquid, gaseous or solid materials of such nature, quantity, obnoxiousness, toxicity or temperature that would be likely to run off, seep, percolate or wash into surface or subsurface waters so as to contaminate, pollute or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste or unsightliness or be harmful to human, animal, plant or aquatic life.

(b) In addition, no activity shall discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Admin. Code ch. NR 102 for all navigable waters.

Findings:

☒ *Not Applicable for the Proposed Use*

☐ *Compliance with this Section Shall be Demonstrated with Site Plan Submittal*

Comments: No existing conditions are changing

Subdivision II. Outdoor Trash and Garbage Storage

j. Sec. 78-1081. Subdivision provisions to be met.

The requirements of this subdivision shall be met for outdoor trash and garbage storage, except where residential (curbside) service is provided.

k. Sec. 78-1082. Purpose.

The purpose of this subdivision is to protect and improve community appearance, prevent the creation of nuisances and health hazards, and improve the quality of life in the city.

l. Sec. 78-1083. Required access plan.

Where a site plan is required for any project under division 8, article II of this chapter, any and all proposed outdoor trash and garbage storage on the subject property shall be depicted as to their location, configuration, and screening on the site plan.

m. Sec. 78-1084. Trash dumpster and garbage receptacle enclosure required.

All garbage cans, trash dumpsters, trash containers, and other storage devices situated on any property shall be closed containers with lids. Where such containers are located outside a building, they shall be completely concealed or screened from public view through opaque fencing and gates, supplemented by screen landscaping. Such fence enclosure shall be constructed of materials compatible with the materials on the front building wall of the main building. No portion of the lot shall be used for open or unenclosed storage of trash or waste of any kind.

n. Sec. 78-1085. Trash dumpster and garbage receptacle maintenance required.

Fencing and landscaping for storage areas shall be maintained in good condition and kept litter-free. All garbage cans, trash containers, and other garbage storage devices shall be emptied and the contents thereof properly disposed.

o. Sec. 78-1086. Trash dumpster and garbage receptacle location in off-street parking space or drive.

No trash dumpster or other trash or waste receptacle shall be permitted in any off-street parking space or drive.

p. Sec. 78-1087. Concrete slab required.

All outside trash dumpsters and garbage receptacles shall be placed upon a concrete slab that has a thickness of not less than five inches.

q. Sec. 78-1088. Adequate size to accommodate recycling materials.

All trash dumpster and garbage receptacle areas shall be of an adequate size to accommodate the storage of materials to be recycled.

Findings:
☒ *Not Applicable for the Proposed Use*
☐ *Compliance with this Section Shall be Demonstrated with Site Plan Submittal*
Comments: No existing conditions are changing

Subdivision III. Outdoor Lighting Standards

r. Sec. 78-1111. Purpose.

The purpose of this subdivision is to provide for adequate and safe lighting of private property, while limiting light spillover and glare onto adjacent properties and public streets. Such limitations are intended to prevent the creation of nuisances, promote traffic safety, conserve energy, preserve the area's dark sky, and support astronomy activities.

s. Sec. 78-1112. Applicability of subdivision provisions.

This subdivision shall be applied to the installation of all new and replacement private outdoor lighting fixtures. Outdoor lighting fixtures legally installed prior to the effective date of the ordinance from which this subdivision is derived shall not be required to comply with these outdoor lighting standards; however, any replacement of such lighting fixtures shall comply with all outdoor lighting standards as set forth in this subdivision.

t. Sec. 78-1113. Required lighting plan.

Where a development requires site plan review under division 8, article II of this chapter, all outdoor lighting fixtures shall be depicted and described on the required site plan or on a separate lighting plan. Depending on the complexity of the proposal or projected impact of lighting, the city may also require the following information:
(1) A catalog page, cut sheet, or photograph of the outdoor lighting fixtures, including the mounting method and light cutoff angles.
(2) A photometric plot plan, drawn to the same scale as the site plan, and indicating the location of all lighting fixtures proposed, mounting and/or installation height in feet, the average illumination level (in footcandles) within the parking lot, and illumination levels at regular intervals around the site and at property lines.

u. Sec. 78-1114. Maximum luminaire height.

The maximum permitted luminaire height shall be 35 feet in all nonresidential zoning districts, and 25 feet in all residential districts. The height of both the pole and base shall be considered in the measurement of luminaire height. In no instance shall an outdoor lighting fixture in a nonresidential zoning district be mounted or oriented such that the lighting element is visible from a property in a residential district.

v. Sec. 78-1115. Maximum illumination levels.

Average illumination levels within parking lots shall not exceed one footcandle within residential districts, and three footcandles within all other districts. The illumination level at any property line shall not exceed 0.5 footcandles above the ambient lighting conditions on a

cloudless night where the property adjoins land in a residential district, and two footcandles above the ambient lighting conditions on a cloudless night where the property adjoins land in any other zoning district. The plan commission may agree to allow greater lighting levels based on specific and reasonable written justification provided by the applicant, provided that the purpose of this subdivision is not compromised.

w. Sec. 78-1116. Use of shielded light fixtures.

All outdoor lighting fixtures shall be shielded as defined in section 78-1, except incandescent fixtures of 150 watts or less, other sources of 70 watts or less, lighting within public street rights-of-way, and lighting required for a specialized security or safety purpose. No searchlights shall be permitted.

x. Sec. 78-1117. Types of light source.

All outdoor lighting fixtures shall have high pressure sodium (HPS), low pressure sodium (LPS), incandescent, fluorescent or comparable light sources, except that in cases where true color rendition is required (including display lots and certain outdoor recreational uses), white lights such as metal halide shall be permitted. No new mercury vapor lighting fixtures shall be installed, and no replacement equipment or bulbs for pre-existing mercury vapor lighting fixtures shall be installed. No flickering or flashing lights shall be permitted, except low wattage seasonal lighting between November 1 and January 31 and lighting required for a specialized security or safety purpose.

y. Sec. 78-1118. Location.

No exterior light fixture shall be located within any required landscape bufferyard or within three feet of any property line except accent lights not exceeding 150 watts for incandescent fixtures or 70 watts for other fixtures.

z. Sec. 78-1119. Hours of illumination.

Within one hour after closing of the store, completion of the final work shift, or completion of specific activities associated with an institutional use, only building mounted security lighting and up to 25 percent of all other outdoor lighting fixtures may remain illuminated. Any use with four or fewer pole or ground-mounted exterior lights shall be exempt from this section.

aa. Sec. 78-1120. Exterior lighting for outdoor recreational uses.

Ball diamonds, playing fields, golf driving ranges, tennis courts, parks, and similar outdoor recreational uses may be exempted from one or more of the outdoor lighting standards of this subdivision if approved by the plan commission through site plan review.

bb. Sec. 78-1121. Street lighting.

Street lighting shall conform to the standards set forth by the state for state and federal highways, the county for county highways, and the city for city streets and highways.

Findings:
☒ *Not Applicable for the Proposed Use*
☐ *Compliance with this Section Shall be Demonstrated with Site Plan Submittal*
Comments:

No existing conditions are changing

Subdivision IV. Vehicular Access Standards

cc. Sec. 78-1141. Purpose of subdivision.

The purpose of this subdivision is to promote the safety and general welfare of the public by alleviating or preventing congestion of public street rights-of-way through minimum public street access requirements applicable to private and public land uses.

dd. Sec. 78-1142. Permit required.

Each access point onto a public street or right-of-way shall have a permit issued by the director of public works per Wis. Stats. § 86.07(2).

ee. Sec. 78-1143. Required access plan.

Where a site plan is required for any project under division 8, article II of this chapter, any and all proposed access drives on the subject property shall be depicted as to their location and configuration on the site plan.

ff. Sec. 78-1144. Number of access points.

(a) Each lot shall have not more than two vehicular access points on any street frontage adjacent to any lot.
(b) In no instance shall any lot be permitted more than one vehicular access point on any one street if its frontage on such street is less than 100 linear feet (as measured along the right-of-way line).
(c) On arterial streets and in certain areas experiencing, or expected to experience, congestion and/or safety problems, access to a lot may be required to be located via an access point located on an adjacent property or another street frontage.
(d) Vehicular access may be further restricted by the state on state and federal highways, and by the county on county highways.

gg. Sec. 78-1145. Location of access points.

(a) Residential uses shall not have access points onto a nonresidential collector or arterial street unless such street has the only available frontage.
(b) Nonresidential uses shall not have access points onto a residential street unless such street has the only available frontage.
(c) At its intersection with the street right-of-way line on an arterial or nonresidential collector street, no access point shall be located closer than 100 feet from the intersection of any two street rights-of-way unless such access point is the only available location on the subject property. In all cases, access points shall be located as far from an intersection as the lot size permits.

(d) The minimum distance between vehicular access points serving the same property shall be 25 feet (edge to edge), as measured at the property line. A distance in excess of such 25 feet may be required if, in the opinion of the director of public works, present or projected traffic factors warrant a greater distance.
(e) The distance from an access drive to the property line of an adjacent property shall not be less than five feet, as measured along the right-of-way line, except where shared driveways are expressly allowed.

hh. Sec. 78-1146. Angle of intersection with public right-of-way.

All access drives shall intersect with the public street right-of-way at an angle of not less than 75 degrees, and shall intersect at an angle of 90 degrees wherever possible.

ii. Sec. 78-1147. Width of driveways.

All access drives shall have a minimum width of ten feet for single-family dwellings, 12 feet for two-family dwellings, and 20 feet for all other land uses. All curb openings for access drives shall have a maximum width of 24 feet per unit for single-family and two-family dwellings, and for all commercial uses the driveway width shall be determined at site plan review, as measured at the right-of-way line. Access drives may be flared between the right-of-way line and the roadway up to a maximum of five additional feet.

jj. Sec. 78-1148. Traffic control.

The traffic generated by any use shall be channelized and controlled in a manner which avoids congestion on public streets and other safety hazards. Traffic into and out of all off-street parking, loading and traffic circulation areas serving six or more parking spaces shall be forward moving, with no backing into streets or pedestrian ways. Except in the B-3 district, there shall be no loading or unloading within the public street right-of-way. Traffic control devices shall be required as determined by the director of public works.

kk. Sec. 78-1149. Paving of access.

All access approach areas located within a street right-of-way shall be paved to the satisfaction of the director of public works with a hard, all-weather surface, and shall be maintained so as to prevent the transport of gravel, dirt, or other eroded material from the subject property into the public street.

Findings:
☒ *Not Applicable for the Proposed Use*
☐ *Compliance with this Section Shall be Demonstrated with Site Plan Submittal*
Comments:

No existing conditions are changing

Additional Conditions of Approval (if applicable):

*Findings:*_____

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Final Conclusions/Summary (if applicable):

*Findings:*_____

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Plan Commission Recommendation: Approve: _____ Deny: _____
Date:_____

Common Council Action: Approve: _____ Deny: _____
Date:_____