

**CHARTER TOWNSHIP OF LYON
PLANNING COMMISSION
MEETING MINUTES
June 14, 2004**

Approved as corrected July 12, 2004.

DATE: June 14, 2004
TIME: 7:00 PM
PLACE: 58800 Grand River

Call to Order: Chairman Hemker called the meeting to order at 7:00 pm.

Roll Call: Present: Brent Hemker, Chairman
Laura James, Secretary
Ray Bisio, Trustee
Jim Hamilton
Ted Soper
Laura Williams

Excused: Michael Barber, Vice Chair

Also Present: Matthew Quinn, Township Attorney
Chris Doozan, Township Planner
Alexis Marcarello, Township Planner
Chris Olson, Township Superintendent

Guests: 49

Mr. Hemker stated that Mr. Barber's absence is excused.

1. APPROVAL OF AGENDA

Mr. Doozan requested that the following item be added, if time allows:
- Brick enclosure requirements related to cellular towers

Ms. James made a motion to adjourn the meeting at 10:00 PM. Mr. Hamilton supported the motion.

Voice Vote: Ayes: Hemker, Hamilton, James, Soper
Nays: Bisio, Williams
Excused: Barber

Motion approved.

Mr. Hamilton made a motion to approve the agenda as modified for Monday, June 14, 2004.
Mr. Soper supported the motion.

Voice Vote: Ayes: All
Nays: None
Excused: Barber

Motion approved unanimously.

**2. APPROVAL OF CONSENT AGENDA
- May 10, 2004 Meeting Minutes**

Some typographical errors were noted for the Recording Secretary to fix.

Mr. Soper made a motion to approve the Consent Agenda consisting of the minutes from the May 10, 2004 meeting as corrected. Ms. Williams supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

3. PUBLIC COMMENTS ON NON-AGENDA ITEMS:

Nick Mancinelli, 18177 Shoreline Court, stated that a couple weeks ago with regard to the Hornbrook parcel, it came to his attention that Mr. Hornbrook wanted to include his house and the land around it in the sale to him. He stated that he would have to discuss this issue with the Planning Commission to see if he would have to go back to preliminary site plan approval or if the Commission would consider this a minor change. He noted that he has submitted a letter to the Commission from him explaining what happened and also included a revised site plan drawing with 73 lots. He stated that this will not change the density.

Mr. Mancinelli stated that he is going out of town for a couple weeks and asked the Planning Commission to review the change at their next meeting to see if they like it or not. He stated that this way he could decide whether or not to make the agreement with Mr. Hornbrook. The Commissioners agreed to look at this issue.

4. PUBLIC HEARINGS:

Text Amendment to the Zoning Ordinance, consider an amendment to allow small animal veterinary clinics in the I-1 Industrial District

Mr. Doozan briefly reviewed the amendments that would have to be made to Section 33.02, sub-section A and Section 33.03, sub-section I to allow small animal veterinary clinics in the I-1 zoning district.

Mr. Soper questioned how the disposal of the animal waste would be handled. He noted that they received a letter from a resident expressing concern with how waste would be handled.

Dr. Katie Dyer, 2700 Childs Lake Road, explained their procedure for disposing of waste. She noted that there is a very small amount of waste generated because they are not a boarding facility.

Ms. Williams questioned if they have a procedure for medical waste. Dr. Dyer responded that they contract this out for removal.

Mr. Bisio questioned where the proposed location is. Dr. Dyer responded that it is Lyon Industrial Center. It was indicated that the address is 55860 Grand River. It is one of the front buildings. Mr. Bisio questioned who the tenant is that is in there now. It was indicated that there is no tenant in there now. Mr. Bisio questioned if there would be a problem with future tenants coming in.

Dr. Dyer responded that they plan on double insulating the walls between tenants. She noted that all of the heating and cooling are independently run. She stated that they are more concerned with the noise from what goes in there affecting their patients. She noted that most of the people that are in the occupied section now are not heavy industrial businesses.

Mr. Soper stated that one thing to keep in mind is that they should not be reviewing this strictly on this one case, it should be for any veterinary clinic in any industrial park. This should not be evaluated on an individual basis. He noted that he would want to make sure that there is no overnight boarding of animals. Dr. Dyer stated that there would be an occasional overnight of animals who have had surgery.

Mr. Hemker opened the public hearing at 7:14 PM.

William Erwin, Silver Lake Road, questioned why they are considering amendments to the zoning ordinance when there are lots of empty spaces available in the Township. He noted that there are other spaces that maybe are more expensive, but this is something that they are not supposed to consider. He stated that he does not want to see the ordinance changed because there are other locations in the Township where this use is allowed.

Ms. James stated that this is a reasonable and good argument. She stated that it was represented to them that it is almost impossible to find currently zoned commercial land for this.

Mr. Erwin stated that he realizes Lyon Crossing may be too expensive, but there are plenty of vacant buildings up and down Grand River that are already zoned commercial.

Dr. Dyer stated that there were two properties that they did look into, but both would require a zoning variance because they were located too close to residential property. She noted that this use would have to be 200' from residential property. Mr. Erwin noted that a variance is easier than changing an ordinance.

Mr. Hemker closed the public hearing at 7:17 PM.

5. OLD BUSINESS:

Text Amendment to the Zoning Ordinance, consider an amendment to allow small animal veterinary clinics in the I-1 Industrial District.

Mr. Soper stated that one of his biggest concerns is that he would hate to make a change to an ordinance for just one application. He questioned if this would cause any other issues or open up any other doors that they don't want to with regard to industrial parks. Mr. Doozan responded that there would be criteria set forth here that would keep concerns to a minimum.

Mr. Bisio expressed concern with this use being in an industrial area and that there is a 200' setback for residential areas but no setback for industrial. Mr. Doozan stated that there are two impacts of concern with a veterinary clinic, the noise and odor. He stated that the 200' from residential is designed to make sure that if there is a veterinary clinic located in the Township that it is far enough away from residential so that these impacts do not occur. Mr. Bisio felt that the odor problem is a major concern.

Ms. Williams stated that from a traffic standpoint, a veterinary is really a consumer related business than an industrial business and did not feel that this would be a compatible use. She felt that this would open up the door, and this is something that she did not want to do.

Mr. Hemker noted that they did receive a letter from Mr. & Mrs. England expressing the opposition

to this.

Ms. James stated that at the last meeting she was led to believe that all the other options had been exhausted. She stated that if there is some other properties that may be acceptable with a variance, these should be looked at rather than changing the zoning ordinance.

Mr. Hemker stated that he feels that they should not change the ordinance for one particular situation.

Ms. James made a motion to recommend denial of the text amendment to the Zoning Ordinance to allow small animal veterinary clinics in the I-1, Industrial District. Mr. Soper supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously

AP-03-09, Elkow Planned Development, 11 Mile and Milford Roads. Applicants: Hitech Building, LLC and Ivanhoe Huntley Holding, LLC, Final Planned Development.

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated May 14, 2004 regarding this issue.

Mr. Bisio asked for clarification on the Condominium or Site Condominium Approval section indicated on page 5 of the McKenna Associates, Inc. review letter. Mr. Doozan stated that the applicant is going to have to come back to the Planning Commission with each phase for approval.

Mr. Soper questioned the status of the conservation easement. Mr. Doozan responded that they are in the process of working out the details. He noted that they are making good progress with the Oakland Land Conservancy. He stated that this is not finalized but felt that is pretty close to being complete. Mr. Soper asked Mr. Doozan if he is satisfied with the way things are going with this. Mr. Doozan responded that he is.

Ms. Williams asked for clarification of the acreage for the conservation easement. She noted that it is indicated "in excess of 50 acres" in the condominium documents. Paul Elkow stated that the total acreage for the conservation easement is 63 acres.

There was discussion with regard to what is being paved. Mr. Elkow stated that they are working with Nick Mancinelli to complete the section on Eleven Mile between this development and Mr. Mancinelli's development.

Mr. Bisio questioned the size and cost of the proposed homes. Mr. Hemker stated that this is not really incorporated into what they are discussing tonight. Mr. Quinn stated that this will be reviewed when the Heights of Elkow Farms comes before the Planning Commission for site plan review.

Ms. James stated that they only thing that they are dealing with tonight is the plan development agreement. She noted that the developer would have to come back for site plan approval. Mr. Elkow stated that they would have to come back for each phase.

Mr. Soper questioned what the time frame is for this project. Mr. Elkow stated that if they can keep this process going and get a grade permit, they are hoping to begin next spring.

Mr. Quinn questioned if the school district purchased the land. Mr. Elkow responded that they did. Mr. Quinn stated that the school district will have to sign the application as co-applicants. He asked for clarification with regard to the water system. He stated that the Township was under the impression that this development was going to tie into the municipal system. Ray Cousineau stated that they do plan on tying into the municipal system and that the language in the documents was put there just in case the Township's system was not available. Mr. Elkow stated that if they would have gotten on the agenda for the April meeting instead of the June meeting, they would have put in a couple wells while they were waiting for the Pontiac Trail SAD water to get to them.

Mr. Soper questioned who is responsible for the utilities around the school. Mr. Elkow responded that this is included as part of their deal.

Ms. Williams discussed the 90' wide lots. Mr. Doozan stated that if the Commissioners are comfortable with this layout, they are, in essence, agreeing to the 90' lots. Mr. Soper questioned if the majority of the lots are 90' wide. Mr. Elkow responded that they are a minimum of 90' wide. Using a displayed site plan, Mr. Elkow indicated the size of the lots throughout the development.

There was discussion with regard to the amount of brick on the proposed homes. Mr. Bisio noted that he would prefer to see about 50% or more brick on the homes. Mr. Hemker stated that the more brick the better.

Mr. Bisio questioned if the homes would have side entry garages. Mr. Elkow responded that the 90' and 100' lots will have side entry garages and the duplexes will have front entry garages. Mr. Bisio questioned what would be the most expensive house in this project. Mr. Elkow respond that it would be at least \$500,000, if not more, depending upon the lot and the extras that are added to the home.

Ms. Williams questioned if approval for the flood plains has been issued. Mr. Cousineau responded that they do have preliminary approval from MDEQ. Mr. Doozan questioned if they have something in writing. Mr. Cousineau responded that they do and noted that copies of all outside agency approvals have been submitted to the Township.

Ms. James made a motion to recommend approval of AP-03-09, Elkow Planned Development, final planned development agreement to the Township Board subject to the following conditions:

1. The three conditions outlined in the McKenna Associates, Inc. letter dated May 14, 2004.
2. The school district will sign the Planned Development Agreement.
3. If any outside agency denies any approval, this applicant will return to the Planning Commission.
4. The Planned Development Agreement be amended to provide that pavement on the western side of Eleven Mile Road be completed in conjunction with the Hornbrook development.

Mr. Soper supported the motion.

Voice Vote: Ayes: James, Williams, Soper, Bisio, Hamilton
 Nays: Hemker
 Excused: Barber

Motion approved.

AP-02-16 Twin Pines Condominium, west side of Martindale Road, south of Grand River, Site Plan Review.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated May 14, 2004.

Mr. Hemker stated that in the recommendations of the McKenna Associates, Inc. letter it indicates that the loft units are going to be units 35, 40, 48, 82 and 90. He noted that the picture of the site indicates buildings numbered to 48. Jeff Appel, developer, noted that this picture is numbered incorrectly and that corrections have been made on the plans.

Ms. James questioned if there is any objection to the use of fully shielded lights in the development. Mr. Appel responded that they did agree to do this. He noted that they will be doing the wall mounted lights as well.

Mr. Olson stated that one of things that they agreed upon at the last meeting was to relax the sidewalk requirement but maintain the number of trees for replacement. Mr. Hemker stated that it is his understanding that this will meet the tree replacement requirement, but it will not be the same type of tree.

Ms. Williams questioned the warranty of the trees that will be replanted. It was indicated that if any of the trees die, they will be replaced. There is a one year warranty on the trees.

Mr. Soper made a motion to recommend approval of AP-02-16, Twin Pines Condominium, site plan to the Township Board subject to the conditions cited in the McKenna Associates, Inc. letter dated April 14, 2004 with the addition that fully shielded lighting be used. Ms. Williams supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

AP-03-25, Tanglewood Grenelefe West Subdivision, south side of Ten Mile Road, east of Currie Road, Final Preliminary Plat review.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated May 27, 2004 regarding this issue.

Bob Freund, Freund Associates, indicated that he does not have anything to add.

Ms. James questioned if there were landscape plans. Mr. Freund responded that he did submit landscape plans with tentative preliminary approval. Mr. Doozan noted that they do have the landscape plans.

Chuck Niebus, 54786 Grenelefe, stated that he is a neighbor of this development and is also the President of the Association for Tanglewood Grenelefe Condos, which is immediately adjacent to this development. He expressed concerns with the landscaping and indicated that some of the neighbors in his development got together and replaced and improved some of the landscaping on the berm.

Mr. Hemker noted that the landscaping is part of the original planned development approval which was approved over ten years ago.

Ms. James stated that this is the second time in the last couple months that a large number of Tanglewood residents have been here saying that the landscaping looks horrible. She stated that

unfortunately, the Commission can't do anything about it. She stated that when this was approved in 1991 there wasn't any landscaping requirements. She stated that this is really a private dispute between the homeowners and the developer.

Mr. Soper stated that when it comes to Association By-Laws, the Township has no control over these. He questioned if the County has any control. Mr. Quinn responded that this is a private land matter and nobody other than the Association has any control over these.

Mr. Freund stated that he is really agitated by some of the comments that were just made. He stated that he feels that they are grossly unfair and exaggerated. Mr. Hemker stated that this is not the time or place to debate this issue.

Ms. James made a motion to recommend approval of AP-03-25, Tanglewood Grenelefe West Subdivision, Final Preliminary Plat to the Township Board subject to the conditions cited in the McKenna Associates, Inc. letter dated May 27, 2004 and noting that the Planning Commission and the Homeowner's Association do have concerns about the landscaping at Tanglewood. Mr. Hamilton supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

6. NEW BUSINESS:

AP-04-18, Erwin Rezoning, Pontiac Trail and Silver Lake and Kent Lake Roads, Call for Public Hearing to consider a rezoning request from R-1.0 to R-0.3.

AP-03-27, Pinehurst Planned Development, 10 Mile and Martindale Roads, Call for Public Hearing to consider Preliminary Planned Development.

AP-03-27A, Pinehurst Rezoning, 10 Mile and Martindale Roads, Call for Public Hearing to consider rezoning request from R-1.0 to R-0.5.

The Commission discussed possible dates for the public hearings for the above cases. Mr. Doozan noted that because of advertising requirements for rezoning, the above three cases would not meet the requirements to be on the July, 2004 meeting Agenda, therefore, they would have to be scheduled for the August, 2004 meeting.

Mr. Soper made a motion to schedule a public hearing on August 16, 2004 at 7:00 PM for the following issues:

- AP-04-18, Erwin Rezoning
- AP-03-27, Pinehurst Planned Development
- AP-03-27A, Pinehurst Rezoning

Mr. Bisio supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

AP-03-34, Lyon Ridge Planned Development, South side of 10 Mile Road between Chubb and Johns Roads. Call for public hearing to consider preliminary planned development.

Mr. Soper made a motion to schedule a public hearing for July 12, 2004 at 7:00 PM for AP-03-34, Lyon Ridge Planned Development. Ms. James supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

AP-03-43, Hialeah Farms, Pontiac Trail, west of Old Plank Road, Tentative and Final Preliminary Plat Review.

Mr. Doozan reviewed the information contained in the McKenna Associates, Inc. letter dated May 4, 2004 regarding this issue.

There was brief discussion with regard to this development connecting to Rousseau Lane. Jesus Anayas, applicant, stated that the owner of Rousseau Lane will not allow them to connect.

Ms. James stated that this is a developer with a sizeable chunk of property complying with the underlying one acre zoning without any variances or question of turning a profit and fully complying with all of the setbacks and lot sizes.

Ms. James made a motion to recommend approval of the tentative preliminary plat for AP-03-43, Hialeah Farms, to the Township Board subject to complying with the tree survey requirements for this parcel prior to any construction or earth moving. Mr. Soper supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

Ms. James made a motion to recommend final plat approval for AP-03-43, Hialeah Farms, to the Township Board subject to the tree survey being provided to Township Administrators prior to any construction or earth moving. Mr. Hamilton supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

AP-04-13, Woodwind Village Condominium, Ten Mile between Chubb and Currie Roads, Condominium Master Deed, By-Laws and Exhibit B Review.

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated June 14, 2004 regarding this issue.

There were no comments or questions from Commission members, therefore, Mr. Hemker asked for a motion.

Mr. Soper made a motion to recommend approval of AP-04-13, Woodwind Village Condominium, to the Township Board subject to the review and approval of the Township Attorney. Mr. Bisio supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

AP-04-09, Consumers Energy Regulator Stations, south of Nine Mile Road, west of Currie Road and west side of Griswold Road, north of Nine Mile Road, Site Plan Review.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated May 12, 2004 regarding this issue.

Richard Davis, Consumers Energy, stated that they did apply for variances for the fencing and paving. He noted that both variances were granted subject to approval by the Planning Commission. He stated they have received all the necessary permits. He briefly discussed the construction of the proposed building on the Lyon 34 site.

Ms. James questioned if Consumers Energy had any comments about the road right-of-way. Mr. Davis responded that they don't have a problem conveying that it is 27'. He noted that they have contacted Oakland County Road Commission about this. He stated that Oakland County Road Commission was real surprised that the Township initiated this since it is usually the County who initiates this.

Mr. Hemker questioned if there are any safety concerns with this. Mr. Davis responded that the project is designed according to Michigan Safety Standards. He stated that they are a regulated utility by the Public Service Commission.

Mr. Olson questioned how deep the holes are. Mr. Davis responded that the three wells that they just drilled are 3,100 feet deep.

Ms. Williams made a motion to approve AP-04-09, Consumers Energy Regulator Stations, subject to the conditions outlined in the May 12, 2004 McKenna Associates, Inc. letter with the addition of the dedication of the road right-of-way along Griswold and Nine Mile Roads. Mr. Soper supported the motion.

Mr. Davis noted that it is going to take time to get the conveyance in place for the dedication of the road right-of-way. The Commission suggested that Consumers Energy provide a letter of commitment to the Township for this. Mr. Davis indicated that this would not be a problem.

Ms. Williams amended her motion to indicate that a letter of commitment would be acceptable. Mr. Soper supported the amendment.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

Casterline Funeral Home proposed text amendment to the Zoning Ordinance to allow funeral homes on less than 10 acres of land

Mr. Doozan explained when the Casterline Funeral Home was proposed several years ago in the R-1.0 district, the ordinance was amended at that time to permit funeral homes in this district. He stated that at that time the minimum lot size was established at ten acres. He stated that he is not sure that there is any magic to this number, but this happened to be the size of parcel that the funeral home was being proposed on.

Mr. Doozan stated that the Casterline's would like to separate the funeral home from the house and barn that are located on the property. They are proposing that Section 22.02, sub-section B, item 22a be amended, changing the size for funeral homes to 4-1/2 acres in lieu of 10 acres. He stated that a request for consideration of amendment to the zoning ordinance has been submitted. He stated that if the Planning Commission feels that this request has merit, then the appropriate action would be to schedule a public hearing.

Mr. Hemker questioned if the applicant would be better to go to the ZBA for a variance rather than the Planning Commission reacting and changing the ordinance for one case. Mr. Doozan responded that he is not sure about the merits of a variance. Mr. Quinn stated that if this goes to the ZBA, the applicant is going to have prove that they did not cause the reason for the variance. Mr. Hemker stated that he personally has a problem with them changing ordinances when someone comes in because they want to do something.

Mr. Quinn noted that where his office is in Royal Oak there are two funeral homes and each one is located on 1/2 acre parcels. He stated that he does not know where the logic is for a 10 acre parcel requirement.

Mr. Olson explained how the 10 acres came into fruition. He stated that the house on this property is subject to the 18 mil requirements and not homestead.

Mr. Soper stated that he does not have a problem with scheduling a public hearing so that they could get input from other people.

Roxanne Casterline explained how the 10 acres came about. She indicated that her son-in-law and daughter would like to purchase the home and barn that is why she initiated this request.

Mr. Soper stated that he does not feel that they should pursue this as 4-1/2 acres, but should pursue it as what would be a logical size. Mr. Hemker stated that they could schedule the public hearing, and in the meantime, they could have Mr. Doozan do some research to see what a reasonable

size

would be.

Mr. Soper made a motion to schedule a public hearing for September 14, 2004 at 7:00 PM for amendments to the zoning ordinance requirements for funeral homes. Mr. Bisio supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Excused: Barber

Motion approved unanimously.

Brick Enclosure Requirements Related to Cellular Towers – Discussion

Mr. Doozan explained that they had a request from T-Mobile to do a co-location on a tower that is located on the Woodwind property. This would be the fourth provider that would be located at this site. He stated that the previous providers have provided brick enclosures for their equipment. T-Mobile is looking at the ordinance and objecting to putting in a brick enclosure. He stated that the Planner's office has told that that they believe that it is the Planning Commission's interpretation that a brick enclosure is required. He stated that T-Mobile has requested that he ask the Planning Commission again to see if this is the correct interpretation.

There was brief discussion regarding this issue and the consensus of the Planning Commission was that this is the correct interpretation and that brick enclosures are required.

7. MISCELLANEOUS DISCUSSION NONE

8. ADJOURNMENT:

Mr. Hemker adjourned the meeting at 9:12 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary