

**CHARTER TOWNSHIP OF LYON
PLANNING COMMISSION
MEETING MINUTES
August 15, 2005**

Approved as submitted September 12, 2005.

DATE: August 15, 2005
TIME: 7:00 PM
PLACE: 58800 Grand River

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

Roll Call: Present: Michael Barber, Chair
Ted Soper, Vice Chair
Jim Dome
Jim Hamilton
John Hicks, Trustee
Laura Williams

Absent: Laura James, Secretary (vacation)

Also Present: Philip Seymour, Township Attorney
Alexis Marcarello, Township Planner
Michelle Aniol, Township Planner
Al Hogan, Building Official

Guests: 37

Mr. Soper made a motion to excuse the absence of Laura James. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
Nays: None
Absent: James

Motion approved unanimously.

APPROVAL OF AGENDA

Mr. Soper made a motion to approve the agenda with the following changes:
- Remove Item 1 – AP-05-31.b, Leduc Rezoning Public Hearing
- Add Touchstone Corp., AP-05-33, to New Business for action after public hearing

Mr. Hicks supported the motion.

Voice Vote: Ayes: All
Nays: None
Absent: James

Motion approved.

**APPROVAL OF CONSENT AGENDA:
- Meeting Minutes of July 11, 2005**

Ms. Williams made a motion to approve the consent agenda consisting of the meeting minutes of July 11, 2005 as submitted. Mr. Soper supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved unanimously.

PUBLIC COMMENTS ON NON-AGENDA ITEMS: NONE

PUBLIC HEARINGS:

1. **AP-05-31.b, Leduc Rezoning**, Public hearing to consider a request to rezone 201.59 acres on the east side of Milford Road and the north side of Twelve Mile Road (Coyote Golf Club) from R-1.0, Residential-Agricultural District to R-0.5, Single Family Residential District. (Withdrawn at applicant's request).

Removed from the agenda.

2. **Text Amendment to footnote "f" of the Schedule of Regulations**, Public hearing to consider a text amendment to footnote "f" of the Schedule of Regulations, Section 36.02, to clarify the building and construction setback for regulated wetlands and watercourses.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated July 6, 2005 regarding this issue.

Mr. Dome questioned if there is any way of defining a watercourse. He stated that the issue that they are talking about is a ditch across the property and under the guidelines of this it is a 100' strip. He stated that right now they are mowing into the ditch, which is classified as a watercourse. Ms. Marcarello stated that in this particular case, it is a County Drain, which the County considers a watercourse. Mr. Seymour stated that a watercourse is defined on page 330. Ms. Marcarello read the definition cited on page 3 - 30.

Mr. Barber opened the public hearing at 7:12 PM. There were no comments. He then closed the public hearing at 7:13 PM.

Ms. Williams questioned if this is still going to be clear enough, because part of the issue was for paving activities. Ms. Marcarello responded that the ZBA felt that the paving was not a building, it did not have vertical walls. She stated that the ZBA thought that it might have included the paving, but it was not defined. She stated that they defined construction as the touching of the land for any type of development including things vertically or horizontally. She stated that it also defines not only the footprint but also the area where they are constructing the building and any land that is being developed from a vacant state.

Mr. Dome questioned how they will deal with construction when the land is going to be restored. Ms. Marcarello responded that it doesn't really apply with temporary disturbances. She stated that they included language that says "temporary services may be allowed in the outer 25', but it must be restored to its pre-construction condition or improved". She further discussed this issue.

Mr. Dome felt that it could be a big problem if a developer can't dissect a watercourse and then restore it. Ms. Marcarello noted that it would be allowed temporarily, as long as it is restored to its

pre-construction condition.

Mr. Hicks made a motion to recommend approval to the Township Board of the addition of the definition to Section 36.02, as outlined in McKenna Associates, Inc. letter Section "f" wetlands and watercourses setback as stated in the letter of July 6, 2005. Mr. Hamilton supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved.

3. **AP-05-33, Touchstone Corp. Rezoning.** Public hearing to consider a request to rezone 18.63 acres of land located on the east side of Milford Road, north side of Ten Mile Road from R-1.0, Residential-Agriculture District to B-2, Community Business District.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated July 15, 2005 regarding this issue.

Leslie Myers, representing Touchstone Corp., displayed a drawing of the proposed site. She discussed the uses that area surrounding this site:

- directly to the east, there is a veterinary clinic comprised of two clinics (a large animal clinic and a small animal clinic)
- just to the north, there is a church
- to the north of the church there is a residential use that has a legal non-conforming use, a company that services port-a-johns
- directly to the west is a new B-2 use that has been approved
- to the west of the new B-2 use there is a collision shop
- to the southwest there is Raney's Rainbow Gardens, which is a large commercial enterprise
- directly to the south is another church
- further south is the Lyon Township Fire Station No. 2

She stated that what has been created in this area is a "service node". She stated that there are a lot of things going on there that are very un-residential.

Mr. Soper stated that the port-a-john business is being re-located so this area will be strictly residential.

Ms. Myers stated that it is their interpretation that a "service node" has been developed in this area and was through the use of the Special Use process. She read a portion of the Special Use criteria from the Zoning Ordinance, which they felt indicated that their request this evening was appropriate.

She responded to the nine criteria found in Section 9.03(E) of the Zoning Ordinance:

1. Will the proposed amendment be in accordance with the basic intent and purpose of the Zoning Ordinance?

She stated that it will help to correct the affects of the special land use that has been placed on this property. She noted that 18 acres is very difficult to put 18 houses on with roads and storm water management. She stated that it doesn't leave much room for buffering from some of these uses.

2. Will the proposed amendment further the comprehensive planning goals of the Township?

She stated that they believe the answer to this is "Yes". The Master Plan states that commercial uses in Lyon Township do not provide for the daily needs of the residents. She felt that they should complete this "service node" to provide for the residents. She stated that it has been mentioned that there are other areas in the New Hudson for these types of uses, but noted that no other grocery store wants to locate there because of Wal-Mart.

3. Have conditions changed since the Zoning Ordinance was adopted or was there a mistake in the Zoning Ordinance that justifies the amendments?

She stated "Yes", more special uses have been added into this area and have affectively changed the character. She stated that this is not appropriate for residential, otherwise, it probably would have already been developed as such. She stated that there is a lot of pressure on Lyon Township for residential, but did not feel that this would be an attractive site for this.

4. Will the amendment correct an inequitable situation created by the Zoning Ordinance rather than merely grant special privileges?

She stated that it will correct an injustice. This property is surrounded by un-residential uses.

5. Will the amendment result in unlawful exclusionary zoning?

She stated that there is no place to put a grocery store in the Township because nobody wants to go to the New Hudson area.

6. Will the amendment set an inappropriate precedent, resulting in the need to correct future planning mistakes?

She stated that this rezoning will help correct some of the previous planning mistakes.

7. Is the proposed zoning consistent with the zoning classification of surrounding land?

She stated that the answer is "No". All of the surrounding land is zoned residential but is not being utilized that way.

8. Could all requirements in the proposed zoning classification be compiled with on the subject parcel?

She stated that it could.

9. Is the proposed zoning consistent with the trends in land development in the general vicinity of the site?

She felt that the answer to this is "Yes". She stated that if this was the perfect place for residential zoning, all of these special land uses would not have tried to locate there.

Ms. Myers stated that this is a tough call, it is a tough situation. She noted that she is not one who would usually go against a Master Plan. She felt that what is going on in this situation is not what is going on in the Master Plan. She stated that one area did call for a commercial node on the northwest corner. She felt that this proposal will complete a "service node" in this area by putting services together in one general vicinity. She stated that she does not see where this proposal will

spawn activities down Ten Mile, they will be concentrated and there won't be a need for additional land uses or special requests along Ten Mile Road.

Ms. Myers noted that in 2000 a request for rezoning of this property came before the Commission as a request for a B-3 zoning. She stated that at that time the consultants stated that because of a presence of another B-2 district on the other side of the road, the northwest corner, provides some justification for a rezoning of this parcel, however, they felt that the B-3 was too intense. She stated that if conditional zoning/contract zoning is something that the Commission is interested in, this applicant is very interested in entering into this, but at this time it has not been mentioned because the Township is not actively participating in this.

Ms. Myers stated that they do have a plan for a high-end user. She briefly discussed what they are proposing.

Paul LeBlanc, Langworthy, Strader, LeBlanc, stated that he was asked to work with Touchstone and look at the appropriateness of their request. He stated that he did provide a report to the Planning Commission as part of the original application. He stated that he is not here to attack the Master Plan. He stated that his position is that what is being proposed is very consistent with what the Master Plan says. He gave a brief history of his background and his firm's background.

Mr. LeBlanc stated that as he reviewed the Township's Master Plan and Mr. Doozan's letter, the first thing that came to him is that they have to note that there is more to a Master Plan than a Future Land Use Map. He stated that the map is obviously an important part of it showing land use patterns and recommendations, etc. He stated that as he went through the Master Plan he noticed a number of statements, visions, intents of the plans and what they are proposing here as a rezoning is entirely consistent with the intent that is conveyed by the Master Plan. He cited a few examples of this.

Mr. LeBlanc briefly discussed the term "node". He stated that as a Planner he has always looked at a "node" as a concentration, a cluster of uses around an intersection, not a spot zoning on one parcel. He felt that their concept of what a "node" is, is consistent with what the plan talks about but is different that what is shown on the Future Land Use Map. He further discussed some of the areas of the Master Plan that discusses "nodes".

Mr. LeBlanc stated that it is their position that the proposed B-2 rezoning is consistent with the Master Plan, it supports the neighborhood service node concept, it will provide sufficient land for needed uses like a grocery store and it does not constitute strip development. The rezoning would provide sufficient land to establish a neighborhood center to serve the current and future population in this immediate area.

Dan Courser, Busch's, gave a brief Power Point presentation of the store that they are proposing for this site.

Mr. Barber opened the public hearing at 7:52 PM.

Chris Roberts, 56645 McKenzi Lane, stated that he is a Busch's customer and does go all the way to Five Mile and Sheldon Roads. He stated that he likes their cooking classes, their wine and their food, but as much as he likes them, it doesn't mean that he wants them in his backyard. He stated that this proposed site comes right up to his property on McKenzi Lane. He stated that the development across the street is going to be called the Shoppes at South Lyon, and made a suggestion of a name for this site, "The smells of South Lyon" because when he would sit in his yard he would be able to smell whatever food is being cooked or whatever garbage is being stored. He stated that this is not something that he ever expected to have encroaching on a neighborhood that is very high end. He noted that all the residents on McKenzi Lane have six or

eight car garages and have spent a lot of money on their homes. He further discussed his reasons for being opposed to this proposed development.

Mr. Roberts stated that he took a quick advisory petition and went to his neighbors on McKenzi Lane. He noted that all the residents he spoke with signed the petition, which indicates that they are opposed to this development. He submitted the signatures to the Planning Commission.

Bruce Whitney, 56655 Ten Mile Road, stated that he is kind of slighted by this because nobody mentioned that there is residential property on the south side, which is his. He stated that he has been in this location since 1977. He noted that his property is very well screened and maybe this is why nobody knows that there is a house there. He stated that he has made substantial improvements on his property over the years and has put a lot of time and money into it.

Mr. Whitney noted that the screening that he does have will go away soon because of the southwest sanitary sewer and water construction that will be going through there. He stated that right now they can't even see Ten Mile Road, but once the sewer project goes through, they will be able to see Ten Mile Road. He further expressed his opposition to this development. He felt that the Planning Commission should follow the Planner's recommendation and deny this rezoning.

Scott Rasegan, 23302 Outback Drive, stated that the proposed use is definitely more intense than what is already in the area, i.e., veterinary clinic, church, etc. He stated that all the businesses that are in the area have been there for 10 to 15 years or more. He felt that they should not make a bad situation worse. He requested that the Planning Commission deny this request.

Joseph McDonald, 56330 Ten Mile Road, stated that he wished that Mr. Roberts would have stopped by his house with the petition because he would have signed it. He noted that his home is three properties down on the north side of the road from the proposed development. He discussed the impact on the traffic on Ten Mile Road and stated that he strongly opposes this development.

Ms. Fairchild, 27900 Haas Road, stated that it was hard seeing Wal-Mart and Lowe's being built. She would prefer to continue to see open farm land as opposed to buildings. She stated that there is too much growth going on in the Township now and that the residents are not really ready for this. She felt that they need to slow the growth down a little bit.

Mr. Barber closed the public hearing at 8:08 PM.

Ms. Marcarello explained the action that can be taken by the Planning Commission following the public hearing. They can make a motion to recommend approval, recommend denial or table, if they feel that they need more information.

Mr. Soper stated that with regard to the need for a grocery store, he really would like to see a Busch's in the area, but just two mile east there is a grocery store going in, two miles north there is a spot for a grocery store and Wal-Mart is expected to expand to a Super Wal-Mart. He stated that to the west there are grocery stores in South Lyon. He did not feel that they need another grocery store. He stated that there is a drug store going in across the street and felt that they don't need another one. He stated that he truly believes that this will be detrimental to what they are trying to do in New Hudson. He stated that they are trying to develop New Hudson as a walking community with shops and this will take away from it. He stated that they also discussed servicing residents within a 1-1/2 mile radius, but every resident that is in this area plus the petitions they have seen, indicate that the residents don't want this.

Mr. Soper stated that the businesses that are there right now, i.e., veterinary clinic, churches, fire station, he does not see as high impact businesses. He noted that some of them have been there

a long time. He noted that the Planning Commission has just completed updating the Master Plan which corrects some of the issues. He noted that the traffic will be ridiculous. He stated that this will be pulling people out of South Lyon and from every direction. He noted that they want to keep the traffic to the outskirts of the Township and not pull it into the heart of the Township. For all of these reasons, he stated that he is totally opposed to this proposal. He stated that it is not a good fit for this area.

Mr. Barber stated that there are three grocery stores in South Lyon which is just a couple miles away. He discussed the traffic that this would bring to Ten Mile Road and Milford Road. He noted that neither road can handle all the traffic from all the developments. He stated that he can't see any reason to rezone more land in this area for commercial. He stated that there is already some commercial that is going to be developed on the northwest corner. He felt that this area should remain residential. He stated that if they were to rezone this property without a firm commitment as to what is going in there, they could end up with a gas station or some other undesirable use.

Mr. Hamilton felt that this is pre-mature. He stated that as he looks at the Ten Mile and Milford Road area, it is not an intersection that could be compared with other larger intersections. He stated that the infrastructure at this point does not afford the building of more commercial. He re-iterated that there is no guarantee that Busch's will be built there. He stated that he cannot support this rezoning.

Mr. Hicks stated that the parcel on the west side was before the Planning Commission in 1998 and the Board overruled the Planning Commission's recommendation of denial. One of the arguments was that if that went commercial, then others would come back asking for rezoning to commercial using this as an argument, and they did. He stated that there is no end to this. He stated that with regard to the traffic, they can't justify it. He stated that the residents are the ones that have to live with the traffic while the developer develops the land and then moves on. He felt that the traffic is reason enough in itself to turn this proposal down. He felt that the residents want something less intense in this area, He noted that they have already approved a node at Johns Road that will probably have a grocery store there. He stated that Busch's alone on this corner would not make him go for this, even under contract zoning.

Ms. Williams stated that she concurs with all the comments that have been made so far by the Commissioners, the residents and in the McKenna Associates, Inc. review letter. She stated that she does not feel that this is an appropriate use for this corner. She stated that they have the nodes on Ten Mile, according to the Master Plan, and this would make three, which is not acceptable. She felt that if this is rezoned then more land owners will come in requesting that their property be rezoned also. She felt that it was an uneven comparison of a church to a grocery store. She noted that they have recently spent a lot of time updating the Master Plan and in the new section of Retail and Office section they have identified that the Township does have a surplus of retail space. She stated that since there is a surplus, she doesn't know why she would even be compelled to rezone more. She felt that the information in the McKenna Associates, Inc. review letter summed it up very well in addition to the comments made by the residents.

Mr. Dome stated he concurs with all the comments made. He stated that the only additional comment that he would like to make is if this ever did come to fruition, he is sure that there are other adjacent property owners who are watching to see what happens here. He stated that once they start the ball rolling, it will be really hard to stop. He stated that from a practical point of view, he does not believe that this would be in the best interest of the community. He stated that his only apprehension is that this is Busch's. He felt that as a community Busch's would be a great asset with a piece of architecture to show off, but on the practical side business will be taken away from somebody else. He stated that the 33% increase in traffic is not acceptable. He stated that he hopes Busch's can find a place to build, but this location is not the right place.

He stated that he cannot support this proposal.

Mr. Barber stated that they worked for a year on updating the Master Plan. He stated that because of a court case for a development on Milford Road, they looked at every possible detail in the existing Master Plan and the Future Land Use Map to see if everything was correct or if they needed to make any changes. He stated that rezoning this property is just not part of this plan.

Mr. Soper asked Todd Wyett, a member of the DDA and the proposed developer, if he felt that this development will impact New Hudson's development in any way, shape or form. Mr. Wyett responded that this would be a very long winded answer. He stated that he would be happy to discuss this with Mr. Soper in front of the DDA.

Mr. Soper stated that the Planning Commission makes a recommendation to the Board. He asked Mr. Wyett what his intention is for this property if this does not go through. Mr. Wyett responded that he will cross that bridge when he comes to it.

Mr. Soper made a motion to recommend to the Township Board that they deny the rezoning for AP-05-33, Touchstone Corp. based on the following:

- a letter from McKenna Associates, Inc. dated July 15, 2005,
- the residents comments made here tonight,
- the petition that was submitted here tonight,
- the comment of the Commissioners tonight.

Mr. Hicks supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved.

OLD BUSINESS: NONE

NEW BUSINESS:

4. **AP-05-36, Carriage Trace Phase V**, Schedule a public hearing to consider an Average Lot Size Development located on the east side of Pontiac Trail on Coach House Lane, between the City of South Lyon and Trebor Drive.

There was brief discussion as to when the next available date or a public hearing would be.

Mr. Soper made a motion to schedule a public hearing for AP-05-36, Carriage Trace Phase V, for Monday, September 12, 2005. Mr. Hamilton supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved unanimously.

5. **AP-05-37.b, Crossroads Church**, Schedule a public hearing to consider a request for special land use approval of a religious institution (church) located at 28900 Pontiac Trail, south of Silver Lake Road.

There was brief discussion as to when the next available date for a public hearing would be.

Mr. Soper made a motion to schedule a public hearing for AP-05-37.b, Crossroads Church, for Monday, September 12, 2005. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved.

6. **AP-05-38, Shadow Wood**, Schedule a public hearing to consider an Average Lot Size Development proposal located on the east and west sides of Chubb Road, between Eight and Nine Mile Roads.

There was brief discussion as to when the next available date or a public hearing would be.

Mr. Soper made a motion to schedule a public hearing for AP-05-38, Shadow Wood, for Monday, September 26, 2005. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved unanimously.

7. **AP-05-39, Leduc Rezoning**, Schedule a public hearing to consider a request to rezone 201.59 acres on the east side of Milford Road and the north side of Twelve Mile Road (Coyote Golf Club) from R-1.0, Residential-Agricultural to R-0.3, Single Family Residential District.

There was brief discussion as to when the next available date or a public hearing would be.

Ray Leduc requested that the public hearing be scheduled for the second meeting in October, 2005.

Mr. Soper made a motion to schedule a public hearing for AP-05-39, Leduc Rezoning, for Monday, October 24, 2005. Mr. Hicks supported the motion.

Voice Vote: Ayes: All
 Nays: None
 Absent: James

Motion approved unanimously.

MISCELLANEOUS DISCUSSION

Ms. Aniol discussed the way that the agenda is set up with regard to public hearings and the action item. Mr. Seymour suggested that they label an item a. for the public hearing and b. for action on the issue. The Commissioners decided that they would like to hold the public hearing and then take action when the public hearing is done as opposed to having the action item listed under New Business.

ADJOURNMENT:

Mr. Barber adjourned the meeting at 8:37 PM.

Respectfully Submitted,

Deby Cothery

Deby Cothery
Recording Secretary