

**CHARTER TOWNSHIP OF LYON  
PLANNING COMMISSION  
MEETING MINUTES  
September 26, 2005**

Approved as corrected December 12, 2005

DATE: September 26, 2005  
TIME: 7:00 PM  
PLACE: 58800 Grand River

Call to Order: Chairman Barber called the meeting to order at 7:03 pm.

Roll Call: Present: Michael Barber, Chair  
Laura James, Secretary  
Jim Dome  
Jim Hamilton  
John Hicks, Trustee  
Laura Williams

Absent: Ted Soper, Vice Chair

Also Present: Philip Seymour, Township Attorney  
Chris Doozan, Township Planner  
Alexis Marcarello, Township Planner  
Chris Olson, Township Superintendent

Guests: 30

Ms. Williams made a motion to excuse the absence of Ted Soper this evening. Ms. James supported the motion.

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

Motion approved unanimously.

**APPROVAL OF AGENDA**

Ms. James made a motion to approve the agenda for Monday, September 26, 2005 with the addition of AP-05-40, The Learning Experience Day Care Site Plan, to New Business. Mr. Hamilton supported the motion.

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

Motion approved unanimously.

**APPROVAL OF CONSENT AGENDA:  
- August 29, 2005 Meeting Minutes**

An error was noted in the minutes for the Recording Secretary to correct.

Ms. James made a motion to approve the August 29, 2005 meeting minutes with the following correction:

- Add to line 75: Mr. Hamilton asked Mr. Prendergast to define "short term" in the Planned Development Agreement. Mr. Prendergast responded that he would do this. He noted that short term is between 8 to 16 hours.

Mr. Hamilton supported the motion.

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

Motion approved unanimously.

**PUBLIC COMMENTS ON NON-AGENDA ITEMS:           NONE**

**PUBLIC HEARINGS:**

1. **AP-05-38, Shadow Wood**, Public hearing to consider an Average Lot Size Development proposal on the east and west side of Chubb Road, between Eight and Nine Mile Roads; discussion and action on Average Lot Size Development and proposed site plan to follow public hearing.

Ms. Marcarello reviewed the comments indicated in the McKenna Associates, Inc. letter dated September 20, 2005 regarding this issue.

Bob DiMaria, co-owner of Sansone Properties, gave a brief introduction of the proposed project. He stated that they are proposing approximately 234 units in this development. He stated that the project is located between Eight Mile and Nine Mile Roads spanning across both sides of Chubb Road. He introduced the people working on this venture with him.

Joe Moore, Moore Engineering, stated that they have been doing a lot of work on this project over the past couple years. He expressed willingness to work with the Township. He noted that they want to work within the existing zoning rather than going through a rezoning or a PD. He stated that under the Township's ordinance they would be allowed 234 lots. He discussed the lot sizes, open space and the wetland areas. He noted that they would like to create sort of an equestrian theme sign with split rail fencing.

Mr. Hamilton asked the developer if they plan on waiting for water and sewer to get to this area. The developer responded that they do plan on waiting. He noted that they are working with the Township's Engineers and Consultants.

Mr. Barber questioned if there would be access to the lake. Mr. Moore responded that they will not have any access to the lake for swimmers or boaters. He noted that they will have an observation deck.

Mr. Hicks discussed the roads. He noted that Magnolia Bend is a loop road. He stated that they would like to see then name changed. Mr. Moore stated that they can do this. He noted that they will have to get approval from the Road Commission of Oakland County.

Mr. Barber opened the public hearing.

Mr. Gafka, 52455 Nine Mile Road, questioned the access rights and water levels. He questioned if it is being used as a retention pond, wouldn't it decrease the land. It was noted that the lake level will only rise 1' in 100' flood.

Sean Gagnon, 22270 Chubb Road, stated that he moved here because he wanted more property.

He stated that he checked the area out before he moved. He felt that these smaller lots will ruin the character of the area. He expressed concern with the creek that flows through his yard. He noted that sometimes when the creek swells the water gets close to his home because the culvert underneath Chubb Road is not handling the water and is possibly undersized. He questioned if the culvert needs to be bigger. He felt that with the additional development he may see water in his basement. He discussed Chubb Road and noted that it was almost impassable last winter.

Vince Marino, 21380 Chubb Road, stated that he owns 5 acres on the east side of Chubb Road. He expressed concerns about the road and noted that it gets really bad. He was also concerned about how this proposed development will buffer the lots from his property. He wondered if the property values would decrease because of the smaller lots.

Cary Pankow, 53353 Martha Lane, stated that he concurs with the comments already made. He stated that he moved here from Livonia because he liked the larger lots and the surroundings of where he is at. He noted that the road conditions in the winter are horrible. He felt that with the small lots it would be like living in Livonia again. He noted that his property backs up to about 20 of the proposed lots. He questioned the tagging of the trees. Ms. James noted that the Township requires that a tree survey be completed.

There was discussion on the approval process for average lot size developments. Mr. Doozan explained the process. He noted that the Planning Commission reviews the proposals, conducts the public hearings and then would make a recommendation to the Township Board of either approval or denial. The Township Board would have the final approval.

A resident questioned the value of the proposed homes. Mr. Doozan responded that the value of the homes is not one of the criteria that they look at. He noted that this does not make any difference in terms of a recommendation to the Township Board.

Janet Sawyer, 53721 Nine Mile Road, stated that she moved to this area approximately 20 years ago from Livonia. She noted that her property backs up to a wetland. She discussed the traffic on Nine Mile Road and noted that it is horrific already. She stated that she has not heard of any proposed plans for improvements to Nine Mile Road. She questioned how they can prevent people walking through their yards. She stated that the density of this proposed development does not blend with the neighborhood.

Anthony Pilarz, 21250 Chubb Road, questioned if this development will be draining into the lake. If so, he questioned what impact this will have on the environment. He also questioned if this has been analyzed. He stated that this is a major concern. He questioned how long the developer is willing to wait for the water and sewer. He noted that some of the neighbors that the developer has purchased property have to vacate their land by March, 2006. He stated that he grew up in this area and would like to see backyards as big as his.

Russ Manson, 21420 Chubb Road, stated that his property is on the east side of the road, just north of Mr. Marino. He stated that he understands development, but felt that it is not a proper argument that living up to 1/2 acre standard is a hardship.

Shelly Gagnon, 22270 Chubb Road, discussed the condition of Chubb Road. She noted that her brother or parents won't come to visit them because the road is so bad. She stated that with regard to the creek, they are never sure how much it will rise. She stated that she doesn't want a subdivision, she would rather have wildlife and gardens. She felt that 244 homes on 144 acres will be too tight. She stated that they might as well have a mobile home park there.

Mr. Olson stated that they have received two letters from residents who could not be here tonight, Sandra O'Brien of Nine Mile Road and Ken Manda of 21130 Chubb Road. He briefly discussed what their concerns are.

Mr. Olson commented on the infrastructure and project design. He noted that there are major concerns about the design as well as the density and the lack of open space. He stated that with regard to traffic, if there is a traffic study completed and it indicates that improvements are needed, they will certainly be addressed. He felt that the 20' buffering should be more. He felt that there may need to be a recalculation done with respect to density. He discussed the sewer and water issues. He stated that he doesn't see a problem with water, but the sewer, at this time, is very limited.

There were some questions regarding tree preservation on the Autry parcel. Ms. Marcarello responded that the Autry parcel is lifted in the Tree Preservation Ordinance because it is a farm and is exempt. When there is a split, each parcel is not automatically exempt. Each parcel would have to apply to exemption, but it is not guaranteed that they receive an exemption.

Mr. Doozan read the Giffels-Webster second review letter dated September 26, 2005 that he received late this afternoon. He noted that he also received a memo from Metro Transportation Group, which he read.

Ann Eckman, 21825 Chubb Road, stated that she just moved here because she wanted her daughter growing up in the country. She stated that as a single parent, she does not see how she will be able to afford the taxes. She stated that she stands out at the bus stop and sees all the cars go speeding by.

Cary Pankow, 53353 Martha Lane, stated there is no berm proposed to protect his property from this development.

Mr. Barber closed the public hearing at 8:16 PM.

Mr. Hicks questioned the observation deck and the proximity of it to the water. Ms. Marcarello responded that this is not called out on the site plan.

Mr. Barber felt that the homes are too close to the wetlands and felt that the drawing should be revised reducing the amount of home. He also felt that there is not enough usable open space provided with this plan. With regard to tree replacement, he felt that there needs to be more caliper per inch replacements made. He discussed the traffic and road improvements that may be needed on Chubb Road. He was concerned with the Township's sewer capacity issues.

Ms. James made the following comments:

1. The Planning Commission was not provided with a traffic study. She stated that she really would like to see a traffic study and our Consultant's review of this before she could vote on this.
2. The developer has hired two wetland consultants, but they haven't seen a report from either of these companies.

3. A parallel plan was not provided.
4. The developer is asking for something extra, which they don't have a right to, it is optional. There is certain criteria that the Planning Commission has to consider and it is pretty clear that not all the criteria has been met.
5. Living up to the 1/2 acre standard is not a hardship.
6. Would like to see a copy of the language for Average Lot Size Developments. Felt they need to study this.
7. This is an extremely awkward configuration that could have maximum impacts on a lot of people.
8. The 20' vision belt is not sufficient. She noted that she has not ever heard it called a vision belt. She felt that this should be larger. She noted that trailer parks offer more than a 20' buffer.

Mr. Hicks stated that the tree replacement issue is not the responsibility of the homeowner and should be taken care of by the developer. He stated that he agrees with the comments that were made by the residents. He stated that they were never concerned with this area because they never imagined that someone would put eight parcels together for a development. He stated that he could not support this development.

Mr. Hamilton questioned the value of the homes. Tyson Jewell responded that they are intending on starting the homes at \$400,000. Mr. Hamilton questioned how they are going to filter into the lake so that there is no sediment. He also questioned what the treasured memory is. Mr. Jewell responded that there is a horse buried near the pond and that this area will be preserved as open space, but it is not shown on the plan.

Mr. Dome discussed some basic concerns of the infrastructure. He stated that this is not scale in terms of the number of houses, but scale in terms of the size of the property being developed. He felt that the developer has a responsibility to supplement the community. He stated that he could never support this unless the developer were to pave Currie Road and Nine Mile Road. He felt that the developer has an obligation to do this. With regard to setbacks, the way that this is carved out it appears that some of the existing homes are close to the setbacks. He stated that he still needs to be convinced that they are not impacting off-site parcels. He stated that with regard to the unregulated wetlands, he would like to understand how these calculations were done.

Mr. Dome stated this is a wet area and that he cannot support a plan that drains into the lake. He stated that he would like to see a macro drainage plan. He noted that there is a lot of off-site water that is draining across this parcel.

Mr. Dome felt that the developers have an obligation to buffer this development from the existing homes. He suggested that the developer meet with the neighbors to hear their comments and suggestions and come to an agreement so that they feel comfortable with what is being proposed for development. He noted that the Planning Commission does listen to the existing homeowners. He noted that their comments are very important. He stated that he was disappointed with the concept. He stated that this is a large lot area and nobody anticipated something like this.

Ms. Williams felt that there are too many homes in the middle of a large lot area. She felt that there should be more buffering. She stated that she really feels for these 8 people who will be looking into the backyards of these new homes. She discussed the sewer capacity issue, the water issue and the impact on the roads.

Gary Rentrop, Attorney, stated that they have listened to the comments tonight and asked for the opportunity to go back to the drawing table and revise the plans

Ms. James made a motion to table AP-05-38, Shadow Wood, site plan for the reasons stated by

the public and Commissioners this evening for a period of up to 120 days to allow the developer to revise the plans. Mr. Hicks supported the motion.

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

Motion approved unanimously.

**OLD BUSINESS:**

2. **AP-05-22, Speedway Gas Station and Convenience Store**, 22380 Pontiac Trail, southeast corner of Pontiac Trail and Nine Mile Road, Commercial Site Plan and Special Land Use.  
**Recommendation to table an additional 60 days.**

Ms. James made a motion to table AP-05-22, Speedway Gas Station and Convenience Store, for up to 60 days. Mr. Hamilton supported the motion.

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

Motion approved unanimously.

**NEW BUSINESS:**

3. **AP-05-41, Canzano/Lyon Trail Building Co., L.L.C.** Schedule a public hearing to consider an Average Lot Size Development proposal located east of Pontiac Trail between Eight and Nine Mile Roads.

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

Ms. James made a motion to schedule a public hearing for AP-05-41, Canzano/Lyon Trail Building Co., L.L.C. for the second meeting in November, which would be November 28, 2005. Ms. Williams supported the motion.

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

Motion approved unanimously.

4. **Milarch Nursery, 28500 Haas Road**, between Grand River Avenue and Twelve Mile Road, Site Plan Review.

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated September 21, 2005 regarding this issue.

Ms. James asked the applicant if they have ever had any complaints about the lighting. Joe Kaplan, JCK Associates, responded that this business has been here for approximately 30 to 35 years in a non-conforming state. Roger Milarch stated that not to his knowledge have there been any complaints about the outdoor lighting.

Mr. Kaplan stated that with regard to the screening issue, this is a wholesale business with large

trucks coming in and out all the time. He stated that the plantings come in and out and basically screen the whole area. Mr. Milarch stated that years ago they had two rows of Arborvitae's across the front that were 20' tall. He noted that they finally took them out because he felt that they obstructed the view for people leaving the site.

Mr. Barber questioned if there is any exterior lighting. Mr. Milarch responded that they did have one light on the north side of the building, which burned out, that was kind of high and was never replaced.

Mr. Milarch stated that they do have a dumpster on the property about 2/3rds of the way back and that it cannot be seen from the road. Mr. Kaplan noted that it is not indicated on the drawing.

Mr. Milarch stated that they would prefer not to take down the front potting houses. He felt that they could shorten them up from the side setbacks. Mr. Doozan stated that this is considered an existing legal non-conformity.

Ms. James stated that she doesn't care about the non-conformities. She felt that they should approve the office expansion.

Mr. Barber questioned if they could grant approval for the addition without affecting what is already there. Mr. Seymour stated that if they are talking about the setbacks and the gravel, the burden is on the Township to prove that these items came about after the ordinance came into being. He felt that this would probably be very difficult. He felt that these are probably existing non-conformities and didn't feel that the Township will run a real risk in doing anything with respect to this. He stated that technically they would be expanding a non-conforming use, therefore, the applicant will require approval from the Zoning Board of Appeals. He stated that the Planning Commission does not have the authority to allow a non-conforming use.

Mr. Olson questioned if the Planning Commission received a floor plan. It was indicated that they did. He stated that he did not receive one. He stated that Mrs. Milarch came into the office and they went over what the existing office space was and what was added to it. He noted that there is a 25% provision for adding. He stated that there was a proposed site plan earlier this year that was withdrawn. He stated that a building permit was issued for a 25% expansion, which would be 780 square feet. The expansion exceeded this square footage. He noted that there was then a request for additional expansion of the office areas.

Mrs. Milarch stated that Larry Phillips gave them a building permit. Mr. Olson noted that it was only for 780 square feet and not for 900 square feet. Mrs. Milarch stated they had an approved plan for 900 square feet. Mr. Olson stated that the application stated 780 square feet. Mr. Milarch stated that the plan that was stamped by the Township was for 900 square feet.

Mr. Olson stated that he doesn't want to see these offices turn into a retail center. He felt that there is an extensive amount of office space here. Mrs. Milarch stated that they do have public come in and buy wholesale.

Mr. Dome stated that he feels that they have a responsibility to uphold the Ordinance. He felt that Mr. Seymour raised a good point, it is an addition to a non-conforming use which is not the responsibility of the Planning Commission. He stated that he is not concerned at all with the existing conditions, but felt that the applicant has an obligation to show that they have expanded their parking proportionately.

Mr. Olson stated that the reason this is before the Planning Commission today is because it exceeds the 25% expansion requirement. He noted that this has been discussed in meetings with the

Milarch's. He stated that this is why there is a plan before the Commission for their consideration along with the other issues. He stated that with regard to the non-conformity, the Commission could either make a recommendation or not make a recommendation to the ZBA for the offices.

There was discussion with regard to the non-conformity of this. Mr. Seymour stated that it is non-conforming because office buildings are not allowed in residential. He stated that this is a valid non-conforming use because when the business was started, office buildings were allowed in residential. He stated that because they are proposing to expand they would have to go under the existing ordinances.

Ms. James made a motion to approve the site plan as presented for expansion of the office only for AP-05-43, Milarch Nursery, subject to the condition that the ZBA grant approval of the variance for the addition to the non-conforming building. Mr. Hicks supported the motion.

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

Motion approved unanimously.

#### **5. AP-05-40, Learning Center Day Care**

Mr. Doozan reviewed the comments indicated in the McKenna Associates, Inc. letter dated September 22, 2005 regarding this issue.

Steve Talon, Steve V. Talon Development, distributed booklets to the Commissioners.

Ms. James asked the developer if he agreed with all the conditions outlined in the review letter. The developer responded that he generally agrees with the letter, except for the signage issue. He stated that signage is very important. He stated that they would like to request that they could relocate some trees in order to put a monument sign near the corner.

The developer noted that most of the changes to the plan have been made. There was discussion with regard to the north and south driveways. It was noted that the north is a two way drive and the south is an exit only drive. Mr. Doozan indicated that this will work.

There was discussion with regard to the location of ramps from the parking lot to the sidewalk. Ms. James suggested that several ramps be added. She noted that it is not only difficult to get a stroller up to the sidewalk, but it is a safety hazard. Mr. Doozan felt that they could work something out.

With regard to the 4' fence, the developer would prefer to have a 6' fence. It was noted that to have a 6' fence, a variance would need to be sought from the Zoning Board of Appeals.

There was concern with the amount of cars that will be arriving at this location within a fifteen minute period for child drop-off. The developer noted that not all children will be dropped off at the same time, they will be staggered. The Commission requested a traffic study of the drop-off times.

Mr. Olson questioned the main entrance to the building. The developer responded that the main entrance will be on the east elevation. Mr. Olson noted that there is a misprint on the elevations.

Discussion of signs – Mr. Olson questioned why they couldn't have a sign on the west elevation

of the building rather than having a monument sign that would take out landscaping. The developer responded that they do understand that they can't have more than one sign. Mr. Olson stated that the parents bringing in the children will know that this is a day care, so why do they need a sign at all. He felt that once this is established, permanent signage is not needed. He felt that if a sign is allowed, it would be better on the building exposures rather than having a monument sign that would be surrounded by landscaping. After further discussion of signage, the developer decided that they would go to the ZBA to request a variance for a temporary sign. The developer felt that signage is critical.

Ms. James made a motion to table AP-05-40, The Learning Experience Day Care Site Plan, for up to thirty days. There was not support for the motion.

Mr. Dome stated that what was submitted does not reflect what the developer really wants. He felt that this is dangerous.

Mr. Doozan stated that he spoke with Mr. Quinn who indicated that with respect to the signage, the developer would have to go before the ZBA for a variance or there would need to be an amendment to the PD Agreement.

Ms. James made a motion to table AP-05-40, The Learning Experience Day Care Site Plan, for up to sixty days to allow the developer to address the issues and decide whether they will go to the ZBA for a variance or request a PD Agreement amendment. Mr. Hamilton supported the motion.

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

Motion approved unanimously.

**GENERAL DISCUSSION:                   NONE**

**ADJOURNMENT:**

Mr. Barber adjourned the meeting at 10:00 PM.

Respectfully Submitted,

*Deby Cothery and Catherine Culver*

Recording Secretary