

**Charter Township Of Lyon
Planning Commission Meeting
Meeting Minutes
July 10, 2006**

Approved as submitted on August 14, 2006

Date: July 10, 2006
Time: 7:00 PM
Place: 58000 Grand River

Mr. Barber called the meeting to order at 7:00 P.M.

Roll Call

Present: Barber, Mike (Chair)
Hamilton, Jim
Hicks, John (Board Liaison)
James, Laura (Secretary)
Soper, Ted
Williams, Laura

Absent: Dome, Jim

Also present: Philip Seymour, Township Attorney
Michelle Aniol, Township Planner
Chris Olson, Twp. Superintendent

Guests: 4

Ms. Williams made the motion "that we excuse Jim Dome because he has to be out on business tonight." Mr. Soper supported the motion.

Voice vote:
Ayes: all
Nays: none
Absent: Mr. Dome

Motion approved.

Approval of Agenda:

Ms. Aniol informed the Planning Commission that there were some changes to the agenda. The Miles Christi, AP-06-13, recommendation is for an additional table is 90 days, not 60 days. Also under new business, item AP-06-26, Fiber Tower Wireless Co-location, should be removed from the agenda.

Mr. Soper made the motion "that we approve tonight's agenda with the changes as noted for Monday, July 10, 2006." Ms. Williams supported the motion.

Voice vote:
Ayes: all
Nays: none
Absent: Mr. Dome

Motion approved.

Approval of Consent Agenda: June 12, 2006 meeting minutes

Mr. Hamilton made the motion “to approve the June 12, 2006 meeting minutes.” Ms. James supported the motion.

Voice vote:

Ayes: all

Nays: none

Absent: Mr. Dome

Motion approved.

Comments from public on Non-Agenda Items:

John Bell, 23113 Currie Road – Mr. Bell said that he would like to make a presentation on the Lyon Township Library, but the same information is going to be given at a meeting tomorrow (July 11, 2006). He asked if anyone had not seen the presentation. The Commissioners commented that they have either seen the presentation or will be going to the informational meeting. Mr. Bell suggested that he not give the presentation then.

Public Hearings:

None

Old Business:

- 1. AP-03-40, Shoppes of Lyon, Commercial site plan approval extension, west side of Milford Road, north side of Ten Mile Road.**

Ms. Aniol reviewed the comments in the McKenna Associates letter dated June 21, 2006.

Greg Obloy, 40111 Andover Road, Bloomfield Hills – Mr. Obloy said that he read the letter from Chris Doozan and felt it was correct, but he overlooked a few things. The first thing overlooked is the interpretation granted by the ZBA. The ordinance says that any interpretation or relief given by the ZBA has a 24 month window for what it is approved. The second is that the amended ordinance is affecting 25 feet of the site plan to the north. It is less than 5% of the site. It is really de-minimis. Therefore, he feels that it does comply with the ordinance as amended. Lastly, they have not moved on with the site because the water and sewer was not engineered until April. Therefore, they could not engineer the site because they did not know where the water and sewer mains were going to be. They have just gotten the engineering done in the last month.

Mr. Barber commented that they say the wetlands and the streams are only 5% of the site, but it is important because it is part of the Township’s ordinance.

Ms. James commented that she thinks that it is worth repeating that the applicant referred to the encroachment as de-minimis, which means that achieving the compliance with the Township’s setback laws should be a de-minimis requirement for them. “Your height does not comply with the setback ordinance, and it is pretty cut and dry. On the other hand, there are some things that McKenna has asked you for and conditioned you for upon site plan approval, and I do not think we can.” Specifically numbers 1 and 3. Ms. James questioned the Township’s legal right to condition the site plan approval on the giving of a free easement to the county and to the Township. Ms. James asked Mr. Seymour his opinion. Mr. Seymour said that it might be a “taking without compensation.” He was asking if Ms. James was referring to the bicycle path. Ms. James said yes, and the right-of-way. Mr. Seymour said that the road right-of-way is something that goes to the county. It is the future right-of way that goes along 10 Mile, so he felt that was not going to be a “taking without compensation.” Mr. Olson also added that the property is a participant of the special assessment district. Mr. Seymour said that he could see a “taking without compensation” in regards to the bicycle path, but not the right-of-way.

Mr. Barber said that it was in the Township ordinance.

Mr. Soper asked if the applicant had any issues with the easements in regards to 1 and 3. Mr. Obloy said that there was just no reason to move forward because they did not engineer the site until this spring. Mr. Soper asked if he had an issue with the items. Mr. Obloy said, “No, we do not have an issue with the items.”

Todd Wyett 25900 West 11 Mile Southfield – Mr. Wyett said that “there is no issue with the items. It will be done at the appropriate time of the engineering.” Mr. Wyett continued that last May when they were before the Planning Commission, they thought that they would be in the ground by now. They thought that the sewer and water would be there. There is no way to build without having sewer and water. Mr. Wyett said that he hopes to have water by the fall and sewer by the spring. He further explained that he felt it came down to is an issue of fairness. The Township needs to do what is fair, and what is fair is to extend the site plan. Mr. Soper commented that he did not think that the water and sewer was the fault of the Township. It was the fault of other developers and other issues.

Mr. Olson said that he has had some conversations in regards to septic at the present time with the engineers. Mr. Wyett said that the county turned down septic because the sewer was now there.

Ms. James said that she did not think that the Township had the choice to be kind. They do not have an exception in their law for this. It is cut and dry. Ms. James suggested that they send them to the ZBA.

Ms. Williams said that the only question is in regards to the 24-month window that Mr. Obloy referred to. Mr. Seymour said that in his opinion, that did not apply. There was an interpretation of the ordinance by the ZBA, and the interpretation lasts until the Township Board adopts a different ordinance. Under the extension of the site plan, you have to comply with all ordinances.

The Planning Commission discussed the possible options of sending the applicant to the ZBA and then having them come back to the Planning Commission.

Mr. Hamilton asked if the Planning Commission grants an extension with the condition that they get a variance from the ZBA and the applicant goes to the ZBA and does not get the variance, what happens to the extension? Mr. Seymour answered that the extension would not be effective because it would be conditioned upon them getting a variance. They would have to submit a new site plan.

Mr. Barber asked if they had permits. Mr. Wyett answered yes, they did have some permits, just not all of the permits. They have permits for everything but NPDES. Ms. James asked if he had a DEQ permit. Mr. Wyett answered that after you get an MPDS permit, you ask for a DEQ permit. Ms. James asked if they have issued a ruling for the request. Mr. Wyett said that the paper work went out last Friday. Mr. Barber asked if the permit involved putting in an asphalt road. He also asked if the permit was within, what the Township will allow him to do? Mr. Wyett said that the permits are to allow land balancing through grading. Mr. Wyett continued to explain that if the development is over 5 acres, a NPDES permit is needed. Mr. Olson clarified that was submitted last Friday.

Ms. James asked how they would feel if they tabled the item for up to 60 days and allowed them to go to the ZBA. Mr. Wyett said that he thought it would be more fair if they approved the extension subject to the ZBA issuing a variance. That way if the applicant could get to the ZBA in August, he would then have the approval before August 26th and could get back to the Planning Commission before August 26th.

Ms. James commented that she thought in the meantime, they might have a DEQ permit, and that might be informative. She continued to ask if the watercourses were regulated by the DEQ. Mr. Olson answered that he thought it was. Mr. Wyett said that it is regulated. He said what is not regulated by the DEQ is the Township’s footnote “F” requirement. It goes beyond the DEQ. Ms. James said that his site plan requires a permit from the DEQ because it encroaches upon the watercourses. Mr. Wyett explained that it requires two permits, “to land balance it requires a NPDES permit, which also allows storm water discharge. The other permit that it requires is to cross the wetland, which you apply for at a later date when you are ready to put a culvert in.” Ms. James said that they might not get the DEQ crossing. Mr. Wyett said that would be odd.

Ms. Williams made the motion “that we approve the site plan extension for AP- 03-40 Shoppes of Lyon, subject to the five conditions in the McKenna letter dated June 21, 2006, with the additional condition that the applicant go to the ZBA and get a variance from the zoning ordinance for the wetland setbacks.” Mr. Soper supported the motion. Voice vote:

Ayes: all

Nays: none

Absent: Mr. Dome
Motion approved.

2. AP-06-13, Miles Christi, Site plan review for religious house and family center, located on the east side of Johns Road, north of Ten Mile Road; (Recommended additional table up to 90 days).

Ms. James made the motion “that we table this for up to 90 days.” Mr. Soper supported the motion.

Voice vote:
Ayes: all
Nays: none
Absent: Mr. Dome
Motion approved.

New Business:

3. Discussion and possible schedule a public hearing to consider text amendments to the Zoning Ordinance regarding footnote (ee), of the Schedule of Regulations, involving side yard setbacks in residential districts.

Ms. Aniol reviewed the comments in the McKenna Associates letter dated July 5, 2006.

Ms. James asked why wasn't the 1.0 and 2.5 acre minimum included in this from the beginning and why does it need to be changed. Ms. Aniol commented that the answer she got from Mr. Doozan was that he could not find any notes to indicate why it was left out. Ms. James suggested that it was left out to prevent houses from being built on top of each other. Ms. Aniol said that we are talking about average lot size and the flexibility of constructing in one area to preserve another. Ms. James asked if the average lot size development ordinance already trumped this anyways. Ms. Aniol said that it does not allow it for the 1.0 district. “If you do not have any flexibility in the side yard for zoning districts in R 1.0, average lot size development is not as attractive.” Ms. James clarified that this would allow 5 feet and 35 feet. Ms. Aniol said yes, but there would still be 40 feet in between.

Ms. James made the motion “that we schedule a public hearing for the 28th of August.” Mr. Hamilton supported the motion.

Voice vote:
Ayes: all
Nays: none
Absent: Mr. Dome
Motion approved.

4. AP-06-26, Fiber Tower Wireless Co-location, 52806 Eight Mile Road, Site Plan Review.

Removed.

Mr. Barber adjourned the meeting at 7:40 p.m.

Respectfully Submitted,

Catherine Culver
Catherine Culver

Recording Secretary