Charter Township of Lyon
Planning Commission
Meeting Minutes
September 24, 2007

Approved: October 8, 2007

DATE: September 24, 2007
TIME: 7:00 p.m.
PLACE: 58000 Grand River

Call to Order: Mr. Barber called the meeting to order at 7:00 p.m.

Roll Call: Mike Barber, Chairman
Michael Conflitti
Jim Hamilton
John Hicks, Board Liaison
Laura James
Sean O'Neil
Carl Towne

Also Present: Philip Seymour, Township Attorney
Chris Doozan, Township Planner
Al Hogan, Building Official

Guests: 38

1. APPROVAL OF AGENDA

Ms. James made a motion to approve the September 24, 2007 agenda as submitted. Mr. Hamilton supported the motion.

Voice Vote:	**Ayes:**	**All**
	Nays:	**None**

MOTION APPROVED

2. CONSENT AGENDA

Mr. Hamilton made some corrections to the August 13, 2007 Minutes and Mr. O'Neil changed the phrasing of a sentence in the Minutes of September 10, 2007. The Recording Secretary made the changes.

Mr. Hamilton made a motion to approve the Minutes of August 13, 2007 and September 10, 2007 as corrected. Mr. O'Neil supported the motion.

Voice Vote:	**Ayes:**	**All**
	Nays:	**None**

MOTION APPROVED

3. COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

There was no one who wished to address the Commission.

4. PUBLIC HEARINGS

AP-07-20, Meadowcreek of Lyon, public hearing to consider an amendment to the Preliminary Planned Development plan, south of 10 Mile Road, between Milford and Griswold Roads.

Representing Meadowcreek of Lyon: **David Goldberg, Aspen Group/Lyon, LLC; Authorized Agent**
28246 Franklin Road
Southfield, MI 48034
Duane Bennett, Landtech and D. Bennett Enterprises

Mr. Doozan reviewed the memo dated July 24, 2007 from McKenna Associates.

Mr. Goldberg gave a brief history of the project. The PUD approval equated to a 13.8% increase in density which equaled 25 units. The project went from 181 to 206 units which equaled a 9% increase in the gross units per acre. Under the underlying zoning the project was entitled to .64 units per acre and the project as approved has .73 units per acre. In addition, the PUD provides for 30% more open space than would have otherwise been provided under conventional zoning. Of that open space, 68 acres consist of a public park on the south side of 9 Mile Road.

The main reason for the amendment was to revise the layout, a few of the lots need to be reconfigured to avoid having to move some Edison lines that are currently located on 9 Mile Road. To move those lines it would have been a major disturbance to the wetlands. Rather than disturb the wetlands, they elected to avoid the easement entirely which in essence was a benefit to the Township, in that it created 100'-150' of open space corridor along 9 Mile Road.

They are still proposing to pave 2,234' of pavement. This project had not been planned as a PUD originally, if it was planned not as a PUD it would not be developed as a cohesive development with unified control and layout along with assurances that the roadway would get from 10 Mile Road to 9 Mile Road. They are proposing to pave 424' less than the entire frontage. Essentially, they are proposing to pave 880' of pavement offsite to pick up the pavement from Griswold to allow access from Griswold to the entranceway. They are hoping that the Commission would recognize that they are picking up their portion of the paving and it's a good lion's share of it. McKenna Associates has also identified some sidewalks that would not be built in that paving area.

By not paving that additional roadway it would fall short about 700' of Clarkshire. Mr. Goldberg continued that he was contacted by one of the owners on Clarkshire that has a common boundary with the project. He indicated that although not having paving on 9 Mile Road was something that they deal with on a daily basis, they also all operate on propane systems and getting natural gas to each of the residents would be a public benefit.

With respect to the replacement trees they had previously agreed that the number of replacement trees required for the project was 1,227 which was using the old Zoning Ordinance. The Township Board agreed to reduce that number to 892 because the old ordinance did not allow any type of a waiver. Under the new ordinance the new requirement for replacement tress was 2,156. The PUD plan currently has 176 acres of open space which would be undisturbed. Within those 176 acres there were probably 5,000-6,000 protected trees which would be greater than 8 inches that are not being disturbed. In addition, they had a landscape plan that was submitted as part of the project, that plan called for thousands of shrubs and it called for 1,121 trees to be planted of which 774 would be in the public right of way within the subdivision as street trees. When that plan

was submitted, the requirement that they were supposed to put in there was for only 862 trees, so that plan itself has 259 extra trees. If they were to look at the 412 that they were asking to do plus the 259 it would equal about 671 replacement trees which was only 221 less than the Township Board approved. It's an equivalent of about $100,000 worth of trees.

Mr. Goldberg continued that one of the things that the Township Board was very eager to have move along was the southwest sanitary sewer and water main projects, of which, their properties were intricately involved and through which a significant portion of the sanitary sewer system runs through. This last summer, while the residential building market was crumbling they were approached by the Board if there was any way to get their easements through their property to the Raney's property because the public school's parking garage on Griswold needed to have sewers right away. At the time they did not have right of ways through the property, granting the right of ways was not anything that was required or that had been discussed as part of the PUD it was done in good faith and without accepting any compensation that was offered by the Township. They are proposing that the sanitary sewer right of way that would be needed through the Lyon Associates property if they are granted the request through this amendment, would also be granted to the Township without compensation or challenge, and that was estimated to be approximately $40,000-$50,000.

With regard to the setbacks, there was not an identified builder that would be buying the lots, so a lot of this was designed around their criteria. The purpose of the changes was to allow better flexibility for the builders. They agreed that if they were to get the additional 15' the entire decking needed to be built inside that envelope.

As far as the new request to require the owners to sign off stating that they have an easement on their property, he felt that was just tedious, they would make sure it was clear and well defined in the disclosure statements.

Mr. Goldberg closed by saying that he requested a recommendation that permits them to go onto the Township Board.

Mr. Barber opened the Public Hearing at 7:48 p.m.

Bob Seckum, 56888 9 Mile Road. Regarding the original PUD agreement he felt that this was the largest density bonus of 14%. Ms. James stated no, the largest was 25%, it was up there but not the highest. The applicant accepted that bonus with conditions and now the conditions have changed. He did not believe that the conditions have changed at all. They had agreed to pave the entire frontage on 9 Mile Road. This was the only benefit to the Township. If the paving goes away, so should the 14% density bonus. It was important to point out that the developer does not pay for this pavement, rather the homebuyer does. If the county was to decide to pave 9 Mile, he and his neighbors would all have to pay for their entire frontage, the only difference would be that he would have to pay for his own 400' all by himself, where as the people in the subdivision divide the cost between 200 of them.

He also wants to reduce the number of trees; both of these requests are obviously financially oriented. He blames the need for the changes on the poor economy, which was not a Township issue and should not be given any consideration for altering the agreement. All of the residents felt that the Township and its professional planners were working in good faith with the developer on this project for the past 3 years. Mr. Goldberg represents a group of investors whose main purpose was to maximize their investment at the expense of the Township. Their plan was to sell out, leave town and let the Township begin anew with the real developers or builders. By making sewer and water available, they are able to increase the density over what the land would support using septic and water wells, what financial value this benefit has added to the their original investment. Sewer and water are a benefit provided mainly through developers, none of them are privy to this benefit. They are subject to the negative fall outs such as higher density, and 1800 additional vehicle trips per day on the already overused and under-maintained road system. If they wish to change the only part of this agreement which benefit's the Township than the Township must cancel the entire agreement and begin

the process anew.

William Greenway, 23360 Clarkshire Drive. Mr. Greenway stated that he agreed with the previous speaker with regard to the paving. The roads are overburdened especially with the new school on 10 Mile and then to add the kind of traffic that would be added. It was critical to get the paving; it was clearly a trade off that was made. He was not in favor of mitigating the paving requirement at all because that would be a tremendous detriment to the residents.

Monica Kimball, 21750 Natasha Lane. She stated that Nine Mile Road was so overburdened, if it could be assured that the people in the subdivision only turn right onto the paved roads that would be one thing, she would urge them to turn this down. She is a tree lover but would want to know more information.

Jack Hagman, 22851 Clarkshire. He agreed with the first speaker. He suggested that if they don't like it give it back to them and take the density back and let them go from there. Why should they support them? If they gave that property back south of 9 Mile they become a tax payer, but when they accepted that property they took the tax burden off of them and put it on the backs of the Lyon Townships taxpayers, so give it back to them.

Hal Rasegan, 56414 9 Mile Road. He agreed with everything that has just been said. There are roughly 76 houses using 9 Mile Road today, they have had multiple meetings with the Oakland County Road Commission and they just say that the current level of traffic was more than the road can handle, they can't maintain it, so learn to live with it. Start looking at the number of additional trips that would be using 9 Mile Road, the road just cannot handle it. Any concessions that they grant in the short term, the residents will have to live with in the long term.

Jim Clark, 56965 Briar Meadow. His concern was with the lesser amount of pavement on 9 Mile but the additional traffic, he knew the County would not increase their maintenance of the road from meetings they've had in the past with them, the deterioration of the road becomes more frequent.

George Grost, 57050 9 Mile Road. He stated that he would rather trade the trees for the paving, there would be increased traffic, he would hold the applicant to less density, larger lots, bigger houses, with larger setbacks. He only saw trouble if they let him have the less setbacks.

John Storn, 2300 Clarkshire. He has been on the end of Clarkshire for 30 years, he saw no advantage to him for this new subdivision, he knew that they can't stop progress, but they could stop changing what was already approved. Everyone wants them to pave the road which was originally agreed too, he would like it paved all the way to Clarkshire. Don't let them cut back on the paving.

Brett Schnieder, 21775 Natasha Lane. He has lived in the Township for 15 years, he came from Allen Park, he did not think they should compromise the setbacks, the changes on the side, the fronts should meet the setback, the side or the rear should not be changed nor the corner lots. That would come back to haunt them. There was a problem with the easement and power lines; he did not think those were new installations, why weren't these addressed at the original planning? The wetland requirements should not be compromised at all. The pavement, they need that, the road was terrible. The trade off for the sewers for the bus garage, that was a good deal, but it was not a good business move. Once a favor was given, then they owe a favor. Keep the roads in the agreement, don't change any original planning.

Richard Burt, 56755 Briar Meadow. He agreed with the road issue. Don't compromise on the trees. He has 4 kids and they walk 9 Mile, they would like the sidewalks.

John Bell, 23113 Currie Road. Mr. Bell stated that he was a board member for 18 years and they were in a tough position. They spent a lot of time getting the best deal they could from the developer, any compromise

on that might be something that they not agree too. Stick to their guns; don't waste the time that was spent. Health, welfare and safety of the community was their responsibility and every one of the items that was pointed out addressed one of those issues. Don't approve the pavement changes.

Jeff Bell, 57200 9 Mile Road. He disagreed with the concept that it was a 10 Mile access road, since almost half the homes were fronting on 9 Mile. In addition to the road addition he believed there was another drain system that had to be put through in which case they already have a drainage issue on Clarkshire. He did not have a problem with decreasing the trees as long as the size of the trees went up and mandate no less than a 4" tree. He felt that there should be a $250,000 bond to insure that the trees would survive. The other concept he didn't like about the trees, he moved out this way to avoid the concept of Pulte subs that was plastered with trees, they should not be that tight, they need room to expand.

Mr. Barber closed the Public Hearing at 8:14 p.m. due to no one wishing to comment.

Mr. Goldberg stated that they have changed. The increase in density was no where near the highest amount ever granted. They are only asking to reduce some of the amount of paving not to eliminate it entirely. In addition, they are not there asking for additional density. There was a $200,000 to $250,000 to their detriment, meaning that there was that amount of sewer that were supposed to go in their roads that they were supposed to get the benefit for when later it got relocated along the drain and in the rear yard. He stated that he felt for the people who had problems with 9 Mile Road and they are proposing to fix that significantly. The significant portion of residents are going to be using Griswold as the means in and out of the property.

Mr. Goldberg continued that he disagreed that the only benefit to the Township was the paving. He stated that the significant amount of park land was a great benefit.

The 3 owners of the properties that are involved are the Raney family who has owned their property since the 1960's; this was not a developer looking to get rich. Lyon Associates owners brought their property in the early 1970's and have been paying taxes and have left their property unmolested for over 30 years. Aspen Group has been there for 12 years, quietly owning the property and paying their tax dollars, not requesting rezoning to commercial.

Mr. Goldberg stated that regarding the sewer and water the Township was so concerned about the annexation process that was going on from South Lyon and now has the sewer water run to where they needed it too, essentially, at the expense of the entire SAD districts. The sewer and water was a 100% benefit to the Township right now, it was a burden to him, not to mention that his property got disturbed and destroyed with a lake built in the middle of it right now so that the sewer could get built through.

With regard to the paving, he apologized that they are asking to pave a little less road. As was addressed, a lot of that portion beyond their property was used by Cattails so they can either develop their property and pay for it the rest of the way if people want to get in and out of their golf course. Ms. James asked if he has had any conversations with the owners of Cattails? Mr. Goldberg stated that back when the SAD was going on, but that's gone and they are probably wondering why they ever agreed to an SAD in the first place. Ms. James asked if he had any conversations with them specifically on the issue of who would pave 9 Mile? Mr. Goldberg stated that they never said anything to him, they were very happy with what was originally agreed to.

He does not believe they are going to run out of green space and they are not compromising wetlands, he really hoped that they haven't wasted 5 years of time and work for this PUD.

Mr. Barber stated that the 25 houses weren't to pay for the road, they can negotiate the trees with the Township Board.

Ms. James stated that she agreed with Mr. Seckum's remarks. The pavement was a deal breaker for them at

this point. It was hard to get excited over setbacks. They routinely give flexibility to developers on side yard setbacks, to her that wasn't a make or break of the agreement, but the paving was. She felt that 25 houses was a big density bonus. They might even be able to stomach another one or two lots to get that road paved.

Mr. Barber stated that there were no changes in the lot size, they are staying the same. Just shifting the houses from one way to the other so they can have side entry garages and make a little bit wider building envelopes, this was a negotiation with a Planned Development so that they don't have problems with people building decks. He agreed with Ms. James, it was not a deal breaker.

Ms. James stated that the road condition was so serious that the roads in this portion of the Township are routinely closed for days or even weeks on end in the winter, that problem can't be overstated.

Mr. Hicks stated that they have an approved plan and he believed that some minor tweaking creates no problems and he has no problem with the shift. The significant changes were the paving, the trees and the bike path. He was in favor of recommending the existing plan that was already approved once to the Board without any modifications.

Mr. Doozan stated that they could accept the revised plan with the revised layout with the exception of the roads, bike path and the trees.

Mr. O'Neil asked Mr. Goldberg to clarify the tree preservation. Mr. Goldberg stated that they had a landscape plan that they originally presented to the Township Board. In the landscape plan there are 291 more trees proposed than required under the Landscape Replacement Ordinance for replacing street trees and trees that go in the detention basin. The argument was that they have already given them 229 more, they are offering to give them 412 which was only 221 less than the agreed amount, he stated that his numbers were a little off.

Ms. James stated that they re-wrote the tree law specifically to give this developer a break and now they can't even live up to the new law, that was hard to accept.

Mr. Hamilton asked if they could save some of the trees that they intend to remove by moving them into the lots? Mr. Goldberg stated that the original tree replacement plan was only to show the trees that they were disturbing in the building envelopes and they were proposing to leave a bunch of trees on the lots as undisturbed and not be obligated to replace them. Some live and some don't during the construction process. When they revised the plan and adapted to the new ordinance they just came in and agreed to treat it as if they were just taking them all out. Ms. James asked if that doesn't open up the possibility that they could designate these trees between the building envelopes to be saved and then put the cost on the builder to replace them if they are knocked down during construction. Mr. Goldberg stated that if they proposed to save them, it would slightly reduce the amount, maybe a couple hundred. He had no problem doing that. Mr. Bennett stated that the place to do that would be the 35' in the rear. Right now they have taken out those trees to come up with a gross removal, they could put the tree fencing at the rear setback of the building envelope and those trees wouldn't come out unless the builder disturbed them during construction.

Mr. Doozan stated at this point the agreed upon tree replacement was 892 and the applicant was asking to replace 671 trees.

Mr. Towne questioned if they made a recommendation to not approve the revised plan do they make a recommendation to submit the original PUD? Mr. Seymour stated that the recommendation was on the revised plan.

Mr. Hogan stated that he respectfully disagreed on the importance of the setbacks in regards of storm and drainage easements. Mr. Hogan stated that request for the side yard was not as important as the rear yard.

Mr. Hamilton questioned Mr. Hogan if there was already a tree in the setback would they want them to remove that? Mr. Hogan stated that their plan already shows the removal of all of the trees within the building envelope. Ms. James stated that every lot was clear cut at this point. Mr. Goldberg stated that they did that so they would not put the Township in the position of fighting with the builder of killing a tree and having to replace it. Mr. Hogan agreed.

Mr. Hamilton stated that they can't move on the roads at all. They should protect as many trees as possible that are there and they need a restrictive covenant in the agreement to notify the building department about the easements and setbacks.

Mr. Towne stated that it was such a collage of items in the new plan that it doesn't sit good with him. There are so many changes that he can't see any reason why he should accept it and he would vote to turn it down completely.

Mr. Towne made a motion to recommend to the Township Board that they turn down AP-03-07 the Preliminary Revised PD plan and the AP-07-20 Amendment to the Tree Preservation Permit Ms. James supported the motion.

Voice Vote:	**Ayes:**	**All**
	Nays:	**None**

MOTION APPROVED TO DENY

Mr. Barber called for a 5 minute recess at 8:45 p.m.
Mr. Barber called the meeting back to order at 8:50 p.m.

6. NEW BUSINESS

Discussion of Michigan Association of Planning Annual Planning Conference

Mr. Doozan explained that the Conference would be held at the Grand Traverse Bay Resort. Brief discussion continued regarding who may want to attend the conference.

7. ADJOURNMENT

Mr. Barber adjourned the meeting at 8:53 p.m.

Respectfully Submitted,

Kellie Angelosanto
Recording Secretary