

**Charter Township of Lyon
Planning Commission
Meeting Minutes
December 10, 2007**

Approved: February 11, 2008 as revised

DATE: December 10, 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
Carl Towne

Absent: Sean O'Neil

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

Guests: 11

Ms. James made a motion to excuse Mr. O'Neil. Mr. Hamilton supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None
	Absent:	O'Neil

MOTION APPROVED

1. APPROVAL OF AGENDA

Mr. Hamilton requested to add #4 to the agenda to add approval of the Consent Agenda for November 12, 2007 and the administrative review for AR-07-30 South Hill Building because it wasn't approved at the last meeting.

Ms. James made a motion to approve the December 10, 2007 agenda as revised. Mr. Hicks supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None
	Absent:	O'Neil

MOTION APPROVED

2. CONSENT AGENDA

Mr. Hamilton stated that he had to reconsider his motion for the Consent Agenda because they never approved the agenda for November 26, so he would like to take approval of the minutes of November 12, 2007 and put in there approve the agenda for November 26, 2007.

Mr. Hamilton made a motion to reconsider his motion for the Consent Agenda for the November 26, 2007 minutes. Mr. Towne supported the motion.

Voice Vote: **Ayes:** **All**
 Nays: **None**
 Absent: **O'Neil**

MOTION APPROVED

Mr. Hamilton made a motion that the agenda for November 26, 2007 be approved. Ms. James supported the motion.

Voice Vote: **Ayes:** **All**
 Nays: **None**
 Absent: **O'Neil**

MOTION APPROVED

Ms. James made a motion to approve the minutes of November 12, 2007 as previously submitted and the November 26, 2007 subject to the corrections that have been given to the Recording Secretary. Mr. Hamilton supported the motion.

Voice Vote: **Ayes:** **All**
 Nays: **None**
 Absent: **O'Neil**

MOTION APPROVED

3. COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

There were no public comments.

4. PUBLIC HEARINGS

AP-07-34, Public Hearing to consider a text amendment to the Zoning Ordinance regarding Senior Housing Regulations, discussion and possible action to follow the public hearing.

Mr. Doozan reviewed the memo dated October 30, 2007 from McKenna Associates concerning the recommended text amendment to the Zoning Ordinance regarding senior Housing Regulations.

Mr. Towne stated that he thought it was well put together. He questioned the project density. Mr. Doozan stated that there are 3 types of senior housing, independent, dependant and nursing care. They are dealing with independent and dependant living. There are sub categories that fall under independent which include senior apartments, for those types of independent living the density shall not exceed 8 units per net acre. For dependant living the sub category would be assisted living, the maximum density in that case would be 20 units per net acre.

Mr. Towne asked if some of these facilities could be used to go from independent to assisted living to Hospice. Mr. Doozan stated that there are combinations but they don't deal with that in terms of project density. They would take each individual segment of the development and figure out the density for each segment. Mr. Towne stated that they almost co-mingle, once they go from the independent to the assisted living and then get into a Hospice situation in the same general facility then they would actually need more square footage in the room because they would want

family members to be able to stay with the person. Mr. Doozan stated that he would have to think about what to do with respect to density in a mixed situation.

Mr. Towne questioned if they had to go two stories? Ms. James stated that 30' in height was the current regulation.

Ms. James stated that on the issue of the square footage, she thought that was heavily regulated by the State of Michigan. She continued that she was concerned with the zoning; by passing this they would be changing the entire Township. The one house per acre zoning would change to 8-20 houses per acre and all the developer would have to do would be to restrict it to people above 55. It was a huge density increase. How would they defend the 1 acre zoning if they opened up the entire Township to senior housing with super high density, 8 units per acre was what they do for mobile homes and 20 units per acre she has never seen.

Mr. Hicks stated that he questioned the term senior apartments. Mr. Doozan stated that under the independent living it could go up to 8 units per acre which was comparable to the RN2 that's for independent living which was senior apartments. Ms. James stated that gave her a lot of pause.

Mr. Towne asked how they would label it differently. Mr. Doozan stated that the difference was that they provide additional services that traditional apartments don't offer in order to make it work they have to have the higher density. Mr. Doozan stated in the single family district it was permitted under Special Land Use.

Ms. James thought they could look at the list of requirements for mobile homes that Mr. Doozan had created for mobile homes, it may be appropriate to apply here as well.

Mr. Hicks questioned the minimum site size of 5 acres. He stated that they are always trying to establish a buffer between residential and non-residential he didn't see the need to go down to 3 acres for the site size.

Mr. Hamilton stated that the Planning Commission could make a determination on it. Mr. Towne didn't see a problem with it.

Mr. Conflitti questioned how they handle disposal/sanitation? Mr. Doozan stated dumpsters are on site and the amount would be dealt with at the time of Site Plan review.

Mr. Barber opened the Public Hearing at 7:30 p.m.

Nick Mancinelli, 18177 Charlotte Court, Northville. Mr. Mancinelli stated that he would soon be presenting the licensed assisted living proposal which would consist of 55-60 units. It was extremely difficult with the current Zoning Ordinance to apply for the assisted living or a senior living facility built in Lyon Township unless it was part of a larger PD. The demographics for South Lyon for a census was done in 2005 which included Lyon Township, showed that there are close to 9,000 residents that are between the ages of 60-90 which was 15% of the total population in the census report. It's estimated that by the year 2010 the number of seniors in the same age bracket would increase to almost 28%, or 11,500 residents. He stated that 2010 was only 2 years away. It's estimated that 70% of these seniors in that age bracket would require some form of long term care at one time in their life and 30% would require assisted living. That was about 3,500 people that would require assisted living by 2010. There are zero assisted living facility in Lyon Township.

If a resident of Lyon Township was in need of an assisted living facility they must move out of the Township to a surrounding community. Moving out of town creates a hardship for the remaining family members and that person was also traumatized in having to leave a familiar surrounding of family and friends. The Commission has worked too hard to help and support the citizens of the community, help to keep them here in the Township. There was a drastic need for all types of senior care.

Ms. James questioned if Mr. Mancinelli agreed with the definitions and recommendations that McKenna has come up with. Mr. Mancinelli stated that the 20 units per acre sounds like a high density but it's not within an assisted living facility. Ms. James stated it depended on where it was, if they bought 40 acres and wanted to put up an 800 unit apartment building then there would be a problem. Mr. Mancinelli stated that he agreed with that. Ms. James stated that even with the independent living, with the 8 unit per acre, if they bought 40 acres they would end up 320

units, it was significant. Mr. Mancinelli stated that he only looked at the assisted living part of it because that was what they were proposing. Ms. James stated that he was below the requirement. Mr. Mancinelli stated that they were looking at 56-57 units, all assisted living, in a licensed facility.

Mr. Mancinelli introduced Garrett Sedley, owner of Cambrian Assisted Living in Tecumseh, Michigan. Mr. Sedley stated that typically what they see in assisted living was smaller apartments, studio and one bedroom but occasionally there was the 2 bedroom for a couple. The typical resident in an assisted living facility was an 85 year old, semi frail, widow that does need assistance and has given up driving for the most part, out of the 55 people that are living in the facility currently, 4 have cars, 2 drive. They provide 3 meals a day and there are no cooking facilities in the units at all, if they want to have a microwave for popcorn or a coffee maker then that was allowed if they are deemed competent to handle that safely. There was a distinct line of how far they can go with care, as soon as they get into skilled care their licensing ends and skilled nursing picks up, they can't provide skilled nursing care in a home for the aged.

Ms. James questioned if Mr. Sedley has read the proposal. Mr. Sedley stated yes, and it figured in with their proposal, their proposal would meet the requirements. Regarding the 35' height for the roof line it was aesthetically pleasing and it went with the building. They probably could cut 5' feet off but because of the size of the footprint it worked.

Mr. Sedley stated that in their environment there was a 4 yard trash dumpster that gets taken away twice per week.

Ms. James questioned how many acres are used for the facility? Mr. Sedley stated in Tecumseh they are on 4 acres and the one they developed in Battle Creek was 3.5 acres, same building and same footprint; 5 acres would just be a lot of unused land and would create a huge cost.

Mr. Barber stated that the maximum size area was limited to 30%. Mr. Sedley stated that they could still meet what was in the proposal.

Ms. James stated that her concern was the zoning. Mr. Sedley stated that he could understand her concern but in particular a stand alone assisted living facility this type of density works for them because these are smaller apartments and they don't need a lot of space. Their building exceeds the minimum standards that the State has set.

Ms. James questioned if the State licensing regulations specifically regulate the square footage of the various types such as independent and dependant living. Mr. Sedley stated that he wasn't sure what they would be regulating with the independent, they can't build an independent facility and then start offering a variety of assisted living services and skate around being a licensed facility. He did not think there were a lot of regulations for independent living; he did not think there was a requirement for a license for independent care that was more when they got into Adult Foster Care or Group Homes.

Ms. James questioned if the language that was being proposed in the regulations, independent living vs. dependent living vs. assisted living does that track the language of the licensing? Mr. Sedley stated that again he wasn't sure about independent living and he was not sure what she meant about dependent living, typically they hear adult foster care home for the aged and that's where assisted living falls under and then it would be skilled nursing facilities. Ms. James stated that maybe their regulation should contain the same language that the State has, she would feel more comfortable having the same language. Mr. Doozan stated that they were only looking at independent and assisted living not adult foster home or the skilled nursing.

Mr. Towne asked if grouping the independent living with the assisted living was that the wrong avenue, since independent was not licensed and one was? Mr. Sedley stated that it was a complimentary situation because they could form a campus community. Mr. Towne stated that they were concerned with a normal senior housing project getting that density, how do they handle that? Mr. Mancinelli questioned if a Special Land Use would give them the authority to not approve something. Mr. Doozan stated that it does.

Mr. Barber stated that he felt there was a need for this in the Township.

Mr. Conflitti questioned what the vacancy rate was? Mr. Sedley stated the one in Battle Creek was full and the one

in Tecumseh has 4 units left, they would be full, there would always be turnover, but they also typically build a waiting list.

Ms. James questioned what was the largest facility that he was aware of? Mr. Sedley stated that he imagined that there are some that have gone over 100 units; it was not a model he would pursue.

Ms. James questioned if they could put a cap on the acreage or the number of units it would make her feel better and keep the size manageable. What if they capped the units to 80 on any one parcel, something like that? Mr. Sedley stated that's what the density does for them? Ms. James stated no, that's why she was worried.

Mr. Barber closed the public Hearing at 7:59 p.m.

Ms. James stated that the density was a big issue for her. Mr. Barber stated that the nature of assisted living must be dense because they need to have care available.

Mr. Towne stated that he liked it with a few exceptions, the square footage and the 35' height on the roof, it had to be adhered to, the ordinance was for 30'.

Mr. Conflitti questioned if the applicant had photos available. Mr. Sedley stated no but the Commissioners could visit the following website to view some photos of the facility: www.Cambrianassisted.com.

Mr. Hamilton stated that he felt that the types needed to be defined better.

Ms. James stated that she would defer to the State regarding the square footage; if it meets the minimum provided by the State then she didn't think they should require more. Mr. Doozan stated that he would check to see what the State requirements are.

Ms. James made a motion to table AP-07-34 until the January 16, 2008 and re-open the public hearing at that time. Mr. Towne supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None
	Absent:	O'Neil

MOTION APPROVED

2. AP-07-32, Public Hearing to consider a text amendment to the Zoning Ordinance regarding wall signs in Commercial and Industrial zoning Districts, discussion and possible action to follow the public hearing.

Mr. Doozan gave a brief overview from the McKenna Associates memo dated November 1, 2007. The following recommendation was made:

The total area of a wall sign shall not exceed 1 ½ square feet per lineal foot of building frontage, but in no case shall the wall sign exceed 48 square feet. However, in the B-2, B-3, I-1 and I-2 districts, on premises signs meeting or exceeding a setback distance of 250 feet or more from the proposed road right of way and having a usable floor area of 50,000 square feet or more, the wall sign size may be increased to a maximum of 150 square feet to identify the name of the business only.

Mr. Towne stated that it really depended on where the signs were located, he didn't think they should change it from 48 square feet, he didn't think that people wanted to look at signs, let them be creative with their signs. Mr. Doozan stated it was a matter of scale, Ferguson's had a 48' square foot sign, there was no way that they could have gotten creative with their sign and have it visible.

Ms. James questioned what the downside was in having the ZBA continue keeping the signs. Mr. Doozan stated that they wanted to have uniform standards. Ms. James questioned what kind of users would come in and request a bigger sign. Mr. Doozan stated that they would have to meet the 50,000 square feet or more and a setback of 250

feet back.

Ms. James stated that they had the future right of way as point of reference for the measuring but do all future projects have a right of way? Mr. Doozan stated yes, it was published by the Road Commission.

Mr. Towne sought Mr. Doozan’s opinion on whether or not he felt it was a good fit for the Township and there would not be an adverse affect on residential. Mr. Doozan stated yes, he felt it would fit in and not have any adverse affect.

Mr. Barber opened the Public Hearing at 8:15 p.m. and closed it due to no one wishing to address the Commission.

Mr. Hamilton made a motion to recommend to the Township Board to approve AP-07-32 referencing the McKenna Associates memo dated 11-7-07 in the paragraph and the conclusion. Ms. James supported the motion.

Mr. Barber stated that any applicants would be coming to the Building Department. Mr. Doozan stated that sometimes they would see them on the plans.

Voice Vote:	Ayes:	All
	Nays:	None
	Absent:	O’Neil

MOTION APPROVED

3. AP-07-33, Public Hearing to consider rezoning of Hidden Ponds Planned Development to R-1-0, Residential-Agricultural District, discussion and possible action to follow the public hearing.

Mr. Doozan gave a brief overview of the McKenna Associates memo dated December 7, 2007.

Mr. Doozan stated that there are valid reasons to rezone the subject property from PD to R-1.0. Foremost was the fact that the PD Zoning has been dormant for six years, and even the minimum requirements of recording the PD Agreement have not been addressed. Furthermore, as required by Ordinance, a new phasing plan has never been submitted when the project did not start after 24 months. Meanwhile, the presence of the PD zoning gives the perception of higher density zoning than really exists on the land. This issue was raised by the plaintiff in the Coyote Golf Course litigation. They believe the rezoning was valid also because the R-1.0 zoning is inconsistent with the Master Plan, and with the zoning and existing land use on surrounding properties.

They have been in contact with the developer Mike Huszti, who would like to retain the PD zoning. He notes that inaction on the property was due to two reasons, the uncertainty of whether a mobile home park was going to be approved on the southeast corner of South Hill and Twelve Mile Road, which would have a had a negative impact on development of Hidden Ponds, and more recently due to the poor economy.

Mr. Barber opened the Public Hearing at 8:26 p.m.

Representing Hidden Ponds Development: Mike Huszti, 673 Olivia Drive – Owner

Mr. Huszti stated the reason the project did not get started initially was due to the mobile home park on the southeast corner, that dragged on. Then after the mobile home park situation was over the housing market did not cooperate. They have a great plan, and some land balancing has been done as well as the engineering. They would like to maintain the PD zoning and the long term intent was to continue with that plan.

Ms. James questioned if the applicant objected to going through the PD process again? Mr. Huszti stated that they put a lot of time and energy into it and it would cost many thousands to go through it again. Some ponds have been done and the roads were roughed in, there was definitely the commitment to go forward with that plan.

Ms. James stated the plan was beneath the zoning. Mr. Huszti stated that they have 34 units approved and they have

a total of 40 acres.

Mr. Hamilton questioned what would the applicant have done if the mobile home park had gone in instead of being rejected? Mr. Huszti stated they would have had to regroup. Mr. Hamilton questioned why it wasn't recorded earlier? Mr. Huszti stated that they did work on a planned development agreement and some drafts went back and forth and it was never signed and the project didn't move forward so it just never happened, he guessed it was still sitting a file somewhere. He would propose that they re-visit that and discuss it with the Township Attorney and get an agreement together so it could be recorded. He understood the plan was for one year and if it can't get started within a year then they would ask for an extension, even though it was likely that it would take at least that long for the housing market to recover. If they have to come in on an annual basis to extend the site plan then that was what he would request to do.

Ms. James questioned if he would be prepared before going in front of the Township Board? Mr. Huszti stated that he would work towards getting that done.

Mr. Hamilton questioned if the applicant did the land balancing and started the roads when he first received the approval? Mr. Huszti stated yes. Ms. James stated that she would hesitate to rezone it and make the property owner go through the PD process again when it was not necessary to incur the expense, if she thought they could get a better plan in the process then she would do that, but they haven't asked for an increase in density.

Mr. Doozan questioned if the applicant could get the PD agreement resolved in 14 days? Mr. Huszti stated that he would like the opportunity to review the PD agreement and discuss with Mr. Doozan or the Township Attorney, he knew that a few drafts went back and forth, but he thought they could get it together rather quickly.

Kathy Crowley, 55535 Lee Drive, New Hudson. She stated that she owns the horse farm adjacent to Mr. Huszti's property; she has no problem with the zoning one way or another. She would personally like to see it go back to residential. All of the engineering that the applicant has done has flooded her land. She asked them all to drive down 12 Mile Road and look at the huge swale that the applicant dug from 12 Mile all the way to her land. Her fencing has been underwater ever since that was done. She has been to the Township several times, no one would help her. She was told it was a civil matter. This Township approved this site plan and the applicant started work, there are swales everywhere and drain tiles all through that property that leads to her land. The pipes coming up out of the ground are visible. Mr. Barber questioned if that was put in by Mr. Huszti or was it already there. Ms. Crowley stated no, that land wasn't touched, it was the old Lee Farm, it was a dairy farm and none of that was there.

She stated that since this was done her land has flooded severely, her front pasture was a lake, she had no problem with the applicant but it should not interfere with her land. She has no problem with people doing what they want to with their land as long as it does not affect her land. Whatever they end up approving it has to be done so her land was not flooded. She has 10 acres that she can't use, there are 13 homes on Lee Drive and they are not flooded but they don't abut the applicant's property. Her fence was destroyed. She asked that the plan be engineered so that it doesn't flood her land, she wants it to be corrected and she did not want to have to sue someone but make sure that they do what they are supposed to do.

Mr. Conflitti stated that he knew where she was speaking of because his son had mentioned wanting to go fishing there because there was so much water.

Walt Conrad, 27255 South Hill Road. He attested to what Ms. Crowley stated was true. Of those 40 acres he bet that houses couldn't be put on 15 acres due to the ponds and the standing water. Ms. Crowley stated that she does have a pond on her property where 4-5 months of the year her whole fence was under water. Even if they made it R-1 they couldn't put 40 houses, 1 acre, because there was probably only 15 acres they were usable.

Ray Krida, 55598 Katie. He saw the sign for the development when he moved here and it stated that it would have city sewer and water and he wondered if that was still the plan? Mr. Huszti stated it was public sewer but individual wells. Mr. Krida questioned if propane was proposed? Mr. Huszti stated it was natural gas. Mr. Krida questioned if there would be any road improvements in the area for the extra units?

Ms. James stated that he was asking some good questions and that perhaps they should revisit this and look at the Charter Township of Lyon Planning Commission

final approved plans and investigate that.

Mr. Barber closed the Public Hearing at 8:45 p.m. due to no one else wishing to address the Commission.

Mr. Huszti stated that he didn't think that this drainage issue was an ongoing problem and he would like the chance to resolve it. Ms. James stated that if it was resolved she would advise him to get a letter from Ms. Crowley that stated it was resolved to her satisfaction.

Mr. Barber stated that spring time was coming along with the thaw, he didn't feel right approving this, it had to be corrected, no water should drain off of his property onto someone else's. Mr. Huszti stated that he would like the opportunity to resolve it. Mr. Barber questioned if the engineering was wrong do they get a hold of who worked on it to make sure that the applicant has done what was approved? Mr. Doozan stated that they could go out and evaluate it.

Ms. James made a motion to table AP-07-33 and continue the Public Hearing at the January 16, 2008 meeting. Mr. Hamilton supported the motion.

Voice Vote:	Ayes:	6
	Nays:	1 (Towne)
	Absent:	O'Neil

5. **OLD BUSINESS – None**

6. **NEW BUSINESS - None**

8. **ADJOURNMENT**

Mr. Barber adjourned the meeting at 8:50 p.m.

Respectfully Submitted,

Kellie Angelosanto
Recording Secretary