

**Charter Township of Lyon  
Planning Commission  
Meeting Minutes  
September 8, 2008**

Approved: October 13, 2008 as submitted

DATE: September 8, 2008  
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  
Lise Blades  
Michael Conflitti  
Jim Hamilton  
Sean O'Neil  
Chris Roberts, Board Liaison  
Carl Towne

Also Present: Matthew Quinn, Township Attorney  
Christopher Doozan, Township Planner  
Michelle Aniol, Township Planner  
Leslie Zawada, Township Engineer  
Al Hogan, Building Official

Guests: 91+

1. APPROVAL OF AGENDA

Mr. Towne made a motion to approve the September 8, 2008 agenda as submitted. Mr. Roberts supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

2. CONSENT AGENDA

Mr. Towne made a motion to approve the August 25, 2008 special meeting minutes as submitted. Mr. Roberts supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

There were no comments.

4. PUBLIC HEARINGS

- A. AP-08-18 Oakland SWA Partners, LLC; Public hearing to consider a rezoning request for parcel 21-09-100-043, from R-0.3, Single Family Residential to I-1, Light Industrial, south side of Pontiac Trail, east of Martindale.

Representing AP-08-18: Karen Safran, 4111 Andover Road, Bloomfield Hills

Mr. Doozan reviewed the McKenna Associates memo dated 9-3-08. As noted in the McKenna memo, the following recommendations were made:

- The Planning Commission could recommend approval, even though such a recommendation would be inconsistent with the Master Plan and surrounding land use and zoning, on the basis that consistency with the Airport Master Plan was an overriding objective. Prior to making such a recommendation, the Planning Commission may wish to consider whether the Township Master Plan should be amended first. They are concerned that the rezoning to I-1 would open the door to any of the I-1 uses listed previously in this memo, not just the uses cited by the applicant. Despite the best intentions of the applicant, if rezoned, and the property is sold, the full realm of industrial uses could locate on the site in the midst of an established residential neighborhood.
- The Planning Commission could consider a split zoning for the parcel. For example the southerly three acres seem to be of greatest concern to the County's Manager of Aviation. Perhaps the southerly three acres should be zoned and the remaining 7.76 acres left intact.
- The Planning Commission could schedule another public hearing and consider another zoning classification other than the requested I-1, Industrial District. For example, R-1.0 zoning would be appropriate for one of the desired uses cited by the applicant, airport accessory use.

Ms. Safran stated that Article 1 of the Lyon Township Zoning Ordinance sets forth how the intent was to improve and protect the public health, safety and welfare for the residents of Lyon Township. The applicant's position was that this rezoning meets those goals. The applicant can't get around the fact that there is an airport adjacent to this property. It is clear that the County has made its intention known that they want to expand the use of the airport and has designated this property as being part of the Airport Safety Zone. When looking at the safety zones, a residential use is not compatible. The Airport Safety Plan also limits density and types of uses. When looking at a less intense use, a non-residential use, then the most appropriate use of the property would be an I-1 Industrial zoning. She did not think that all of the uses that fall under that zoning would be realistic or compatible with the airport use. It would be a less intense type of use, such as mini-storage, not a giant factory. In terms of the health, safety, and welfare of the community, it is better put to an industrial use on the property rather than residential. She understood the concern that this would open up any use, but the airport would be limited to what is allowed. She noted that the applicant approached the Township Board to explore the possibility of a Planned Development, if the Board waived the 40-acre minimum again to meet the concerns of the Township. The request for a waiver was turned down. At this point, the applicant is choosing to go forward with a straight rezoning of the property. In looking at the uses and the airport safety zones that this property is in, even if they had a split zoning, they would still be within safety zones 1, 3, and 5. Two of those zones don't allow a residential use of the property. Airport accessory use is something that would be inside the fence at the airport. She didn't think that was a use that the property could be used for. As far as access, that is more of a site plan issue, rather than a zoning issue. They have an easement west of the property through Pineview off of Pontiac Trail, so there was another means of accessing the property rather than using the 60' wide access point that was recognized in the McKenna letter.

Ms. Safran stated that she thought rezoning the property was a health, safety and welfare issue. It was appropriate to this piece of property, due to the location and the unique situation. She gave the examples of smaller airports that were surrounded by industrial uses and how they don't find residential abutting an airport. The Master Plan would have to consider the fact of the airport.

Mr. Barber opened the Public Hearing at 7:25 p.m.

**Bob Henich, 58521 Pontiac Trail.** Mr. Henich's property borders the access road to the back 10 acres, and the back of his property borders the 10 acres in question. His main concern is that the Board at another time decided that they would not let Pineview be an access way to the back 10 acres; now it's in question. There are other access sites to the 10 acres. On the original chart, it only showed the road and a single lot. That is not true; there are two lots. The back property was one acre and had a home on it. Due to septic and sewer, it had to be one acre, so he didn't know how someone could just put a road right through it. Right now, it was just a driveway going to two different lots. He showed the Commission on

the map what he was referring to. He continued that it worried him that his house was right there, and the wind blows right through. Any odors or excessive noise like grinding up cans is a concern. If they put it under a general term of light industrial, it can mean a lot of things. He has been there for 20 plus years. He could see a house back there but not light industrial. He stated that he owns 1.5 acres.

Linda Linder, 58695 Pontiac Trail. Ms. Linder stated that her property backs up to this 10-acre parcel and there are several industrial parks on Grand River that would be suitable. The applicant purchased this parcel knowing it was residential. With regards to the residential zoning, the applicant had made a statement in the South Lyon Herald that he couldn't build residential because it was in an Airport Safety Zone. She stated that didn't change; the airport didn't move and neither did the property. He bought it knowing what he was getting. This was a business decision that an investor made. He should have done his due diligence to see if it was a good risk. Why should the residents be the ones to pick up the slack because the applicant made a poor business decision? The only person that stood to benefit was the applicant. It would deter their property values. The curve on Pontiac Trail was a blind curve and very dangerous. She heard the concerns that were expressed over the New Hudson Inn, and there are not even any neighbors involved; they gave that a lot of serious concern. She would hope that they put more thought into this project. They were talking about a factory could run twenty-four hours a day. She is on 1.5 acres and there are unknown noise, environmental, safety and welfare issues. This does not fit with what the Township is trying to do, and it would deter future residents from moving here. This is not in the best interest of the Township or the residents. She hoped they turned it down.

Mike Schope. Mr. Schope was representing the resident pilots of the airports, and he would like to state that the area had a restricted runway lane. A number of pilots use the airport for their business and are very much interested that the approach zones remain unencumbered as they are today. Regardless of which zoning decision comes out of it, he would ask that the zones remain the same as today. They try to be good neighbors.

Theresa Danielson, 29465 Pine View. Ms. Danielson stated that she had the pleasure of walking around and meeting the residents of the community, and a lot of them were in attendance. They want to stay rural; they don't want a factory in their backyard. This would affect everyone. When they bought their home 5 years ago and came to ask questions, they were told that the sheriff and ambulance would only utilize their road if a plane crashed. This will affect their home values, and there was a piece that she read from a Public Policy Brief regarding spot zoning. This did not match the Master Plan, and she hoped it did not go through; she would be a very disappointed resident of Lyon Township. She confirmed that the Commission had received her petition with 234 signatures on it.

Russ Danielson, 29465 Pine View. Mr. Danielson showed a different map than what had been presented regarding easements. The road was a 60' easement and takes up another 10' of his property that he can't use. There was an 18' gas main that runs underneath the intersection from Pontiac Trail through his yard and through the whole back of the property. They had to come in at one point and dig a big hole because there was a leak, and they had to fix it; that could happen anytime. Just past the end of the runway was the drain, and they would have to have holding ponds. Beyond that were the wetlands that cannot be used, and those were not shown on the map. There was not a lot of area to build on with all of the obstacles. He would also like to know if the County would allow an industrial access onto Pontiac Trail.

Wes Karczynski, 29381 Hampton Court. Mr. Karczynski said to stick to the Master Plan and stay the course.

Paul Lavoie, 58180 Travis Road. Mr. Lavoie had attended for support. He pointed to the sign behind the Commission desk and stated that was what people moved here for: the country living. They didn't move here to have to have a factory or industrial behind them. They would not want it in their backyard. They should stick to the Master Plan. The applicant knew what it was zoned when he bought it. Times get tough and things change, but they should not have to take the brunt of it. The Commission should deny the change of zoning and stick to the Master Plan.

Kathy Hansen. Ms. Hansen stated that her backyard faces this property. Between her property and the 10 acres, they also have the Huszti property, and he was limited to 33 possible home sites. After 5 drillings of perk tests, the property did not perk; she didn't think that this property right next door would perk any better. If the airport wanted to expand, there is 9 acres that has been for sale for years directly next to the airport. She suggested using the land for crops. She would much rather have those versus buildings, security lights, or a parking lot. It was zoned residential and should stay that way.

Kathy Stocking, 29200 Roediger Court. Ms. Stocking has lived here for 21 years, and she would like to keep it the way it is: beautiful. They don't need any more buildings; there are empty buildings all over the place, so use that space. She agreed with Ms. Hanson; put cows or horses there, and crops would be fine too. They love living there and plan to stay there. It is where they have raised their children.

**Brian Zilenski, 58150 Pontiac Trail.** Mr. Zilenski stated that they have lived here since 1991. He commented on how Pontiac Trail is dangerous now. When they moved there, he did understand it was on a main road. Down the street, there are 532 acres for sale and 9 acres right across. They liked the peace and quiet, but it hasn't been that way since Wal-Mart came along. The problem is that the applicant bought this property as residential, and times are tough now. All of us should not take the brunt of the applicant's bad decision. The applicant should either build a house on it or farm it. The problem with this airport is that back in the 80's, this was all residential; it can't be changed. He understood that the applicant is probably running out of money, but he can't change this on his dollar.

**Claude Phifer, 59101 Albert Lane.** Mr. Phifer stated that all of the Commission members were very important with what they passed and what didn't get passed. They have been living with a mistake since 1991 with Continental Aluminum. He would not have someone else come in with an industrial site when they have no idea what would be going there and what type of noise and pollution could be caused. They have all of these agencies like the DNR and the EPA, which did not do them any good with Continental Aluminum; they still suffer with the noise and the smell. He referred to the stamping plant on Kensington Road and how that affects that subdivision. Industrial does not fit in this Township at all. That property has been for sports aircraft and some commercial, but they are in and out in thirty seconds. This is something that people want to do, and it should not be possible. Vacant land is available all over. That property has been for horses or ATVs and something that people expect in their neighborhood. They would never get them out of here if they gave it to them. He asked the Commission to really consider this; the residents don't want it.

**Jerry Elrite, 59071 Annah Drive.** Mr. Elrite stated that he is concerned with Annah Drive being a thoroughfare. It was a dead end road now, but he did not want it opened up when there are so many small children in that area. He did not see how the Board could even consider opening it up when they don't even know what the usage would be; they couldn't allow a blank slate. He strongly opposed it.

**Starlet Peedle 58110 Travis Road.** Ms. Peedle stated that her property backs up to the runway and is on a private road. She has a problem with an industrial area coming in. She already has an industrial area to the right of her and has had that owner at her house 2 times in the last 3 months because of the smell. She did not want to have another stinky place to the east of her and to the west. It was affecting her quality of life, and she didn't want another place like that, especially when they don't even have a plan. She thought crops would be a great idea. They knew the airport was there when they bought their house 23 years ago, and they have no problem with the airport.

**Elizabeth Trantham, 58530 Travis Road.** Ms. Trantham was very much opposed to this becoming industrial. It was residential when they bought there 32 years ago, and their property backs up to this property. It should remain residential.

**Bill Peedle, 58110 Travis Road.** Mr. Peedle stated that they have been through this so many times before, why do they have to do this when they have a Master Plan? The logo on the wall showed a farm, trees, and grass. They have to breathe. They had a horse that got sick from breathing that smell. His wife can't work in the garden at night, due to the smell. Every time they come before the Board, they get shot down. They are not living where they have to live; if it were in their backyard, they wouldn't want it either. He did not want something that would cause cancer or breathing problems. He was sick and tired of it. Their property values have continued to go down. He worked for Ford Motor Company and lost money in the stock and it hurt. It was too bad that the applicant made a bad decision, but he will have to live with it.

**Kristy Romanik, 59192 Annah Drive.** Ms. Romanik moved into the area five years ago, and she picked it because it was close to the airport; they love the airport. She has two small children and is concerned about a thoroughfare for Annah Drive. There are a lot of small children that ride their bikes in that area. There are no sidewalks, and there was only one way in and one way out. She felt sorry for the applicant having problems with the land, but she did agree with the Master Plan; it is residential. She stated that the land could be used for a park, bike pathways, or open space that would be more in line with the Master Plan. She opposed the change in zoning.

**Adam Ruffin, 29480 Roediger Court.** Mr. Ruffin moved to South Lyon two years ago, and they really enjoy it here. There are many children riding their bikes on their street, and he is totally against this. We all make bad decisions, and the applicant will have to deal with that. Having a factory in his backyard is not a good idea; the potential smell and the noise are all concerns. He hoped that they hear the residents and take into consideration their concerns before making a decision.

**Paul Koesler, 59184 Madi Lane.** Mr. Koesler stated that the applicant's attorney brought up the fact that being in such

close proximity to the airport could pose a health and safety risk. Personally, he fails to see how that would change if it were to be industrial when there could be a small business located there; population density would be more than a household. He would expect that would make things worse. He is against this rezoning. He was concerned with spot zoning and questioned if this would open the Township up to a liability issue. He wanted this to be denied.

Cris Petersen, 59663 Sterling Drive. Mr. Petersen stated that they live on the flight line of the airport. He wasn't sure how having homes there would impose a greater risk. He suggested having homes with hangars; these are high priced properties and are done across the United States.

William Hansen, 29360 Roediger Court. Mr. Hansen stated that he has lived here for 21 years and came out when the airport was there with no homes at the end, and he knew what he was buying when he bought the home. He has worked all his life as a mechanic in light industrial areas for three different companies. He has been told to do things that they would not want done to their property. He just retired from a company that he worked with for 21 years, and it backed up to a small river. His job was to clean all of the machinery before it was brought in. If the EPA had walked in then, his health would be a lot better than it is today because there was no breathing apparatus. He would steam clean the parts and all of the grease, oil, and dirt went right down into the river, and that's where it is today. All of those years, he knew he was doing it, but he had to have a job. If light industrial went into this area, things were going to happen that they don't know about because he has lived it and had to do it to keep a job. Light industrial gets away with everything they want because no one comes around to check it. He wanted for years to call the EPA or someone, but he couldn't do it because of the owner; he was mixed in his loyalties. It was in the center of Novi. If they do it here, it would be in their backyard.

Mr. Barber closed the Public Hearing at 8:08 p.m.

Ms. Safran stated that everyone attending was to be commended, and they have listened to the comments from the residents. She stated that many members of the public commented about the applicant buying the property and knowing what it was zoned for at the time of purchase. She stated that her client did his due diligence and was fully aware that it was zoned residential. The idea of the homes with the hangers was an idea that her client had, which was a unique idea and would fit in with the residential. The issue was not what it was zoned at the time the property was purchase but what has changed. He couldn't know that within the last few years there would be an entirely new Airport Master Plan; this was a definite change of circumstance. Residential uses are now prohibited; there was no ability to put residential uses on that property, so the question now is what can be done to use the property? The Airport Acts and Safety Zones and the Planning Strategies that the County puts out for the zones also limits what can go on the property. Uses are limited to very low density and low intensity. The County did not want to have high personnel uses on the property or noxious odors or smoke stacks that would interfere with the airport. Part of the property was zoned one and should prohibit all residential land uses with 0-5 people per acre. They were talking about very low intensity type use, not something that would be despised by the community.

Mr. O'Neil stated that it was his understanding when reading the material that because of the property's proximity to the airport, there is no prohibition to residential. It is simply that certain densities need to be kept. The only requirement is that it doesn't provide a higher density than what was already planned for. It seems like Ms. Safran was not saying the same thing.

Ms. Safran stated that she was looking at the Accident Safety Zones, and these were County guidelines. The way they are master planning the airport is to avoid land uses that concentrate people indoors and outdoors. Mr. Towne stated that it does not say that they can't build houses; they just don't want apartment high rises. Ms. Safran stated that it appeared to be dated November 2006, and it may have been transmitted in March, but the way she was reading the guidelines was that they don't want any residential use.

Ms. Blades stated that Lynn Smith drafted the Zoning Overview Approach Plan, and it goes through the Zoning Ordinance and the Michigan Zoning Enabling Act. The statement was made that there were some zoning acts that were amended in 2000, and then the Enabling Act came out in 2006. Item 4 says that if a Zoning Ordinance was adopted before March 28, 2001, then the Zoning Ordinance is not required to be consistent with any Airport Zoning Regulations, Airport Layout Plan, or Airport Approach Plan, so she felt they were grandfathered in. Ms. Safran stated that this Township was required to take the Airport Plan into consideration. Ms. Blades stated that she could feel what the residents are saying. This is not a requirement, it is a suggestion; it came from the State of Michigan, not the Township. Ms. Safran stated that the Township does have to take into consideration and honor the direction from the County as well as the State. The Township has to address these types of planning issues when looking whether or not it is appropriate to use this property for what it was first envisioned or what would happen based on other outside forces. They all have to deal with outside

forces, and this is all about what is the most appropriate use of the property and how these other jurisdictions that have control over what happens in the Township changes things.

Mr. Barber stated he heard from Mr. and Mrs. Hansen that the land does not perk. There is so much wrong with this: it does not agree with the Master Plan, it's not compatible, and the pilots are saying not to change anything. If he saw a site plan, he would probably consider it. However, not knowing what would be going in there makes this just a blanket rezoning, and he wouldn't go along with that. He would recommend working on the Master Plan first and deciding what they were going to do. The Airport Accident Plan has caused them to change direction, and he was not sure they could go ahead.

Mr. Quinn stated that at this stage, there is an application. They have many options available to them. They could make a decision or table it until the applicant provides them with the additional information that Mr. Doozan found to be deficient in their application. They can also make a recommendation pro or con to the Board, or deny it.

Mr. Hamilton asked if they are prohibited from building on the property as it is currently zoned. Mr. Quinn stated no.

Ms. Safran stated that was not consistent with her understanding, and it is her understanding that this property does perk.

Mr. O'Neil stated that he agreed that this would create a spot zone. They all know the airport has been there for a long time, and that might be an extenuating circumstance that drives them to change the Master Plan to better fit that area. Clearly, they are currently zoned single-family residential with varying densities, and they are Master Planned the same. He questioned if Ms. Safran would not agree that it would be creating a spot zone. Ms. Safran stated that she didn't think so because when reviewing a zoning application, the Master Plan is a zoning guideline; it was not the be all and end all. They needed to take into consideration if circumstances change. She did not think it would create a spot zone, and this is something that the Commission is going to have to deal with and plan something different for this property.

Mr. O'Neil stated that he would find it more responsible to address this through a Master Plan Amendment, as opposed to giving them a rezoning to industrial when residents surround them; that made no sense at all. At the end of the day, they do things that are not popular. He finds himself having many of the same questions as the residents who spoke at this meeting, and he didn't see this request as making the most sense, given all of the facts in this case. If they wanted to further comply with the county's guidelines, they could go to R-0.5 or R.1-0, which would have some allowance for airport accessory type uses as a Special Land Use. Going through that avenue would provide them with a zoning classification that was more consistent with the surrounding properties and still offer an opportunity to work hand and hand with the airport expansion plan. Why would they not consider those options? Ms. Safran stated that airport accessory was an inside the fence/outside the fence issue; this property was outside the fence at the airport, so they would still have a lot of the same issues with access that they are dealing with now. They would prefer to have a use that was a principal permitted use rather than a Special Land Use.

Ms. Blades asked if it was a requirement when applying for a PD to have a plan. Mr. Doozan stated that the Township requires a 40-acre minimum for a PD, and this parcel is less than 40 acres. It has been the Township's practice to require a plan when requesting such a waiver. Ms. Safran stated that they made the request for the PD after they found out about the approach plan. They would like to work with the Township but need to know before they start on an expensive process if the Township was going to be willing to listen to them. It was a reasonable request.

Mr. Barber stated that he did not agree that they couldn't use their property. It is zoned residential, so they could use their property. He thought they should have some meetings and talk about the Master Plan and what should go in these areas, as the Airport Accident Plan affects them. He always stays by the Master Plan and the Future Land Use, and they need to adjust it first and consider what should go there. He thought they should wait or say no.

Ms. Safran stated that if they wanted to table this, they would request a reasonable time, not an open-ended tabling. Ms. Safran continued that they would be willing to table up to 9 months to allow them to go through the process.

Ms. Blades stated that she felt it was unfair to the residents and that they would be stringing them along. Essentially, everyone has said that everyone did their due diligence, and she understood that things changed in 2006, but it's not a requirement; they can put residential there. When Oakland County says they are not interested in buying the land anymore, it ended up being a bad choice.

Mr. O'Neil stated that they are talking about timetables, and the applicant was asking to table for the best interest of the

Township and the residents. He was not interested in setting a timetable for that. It could take longer than 9 months. He was uncomfortable in setting a time limit. It would take as long as it takes, and they are going to do what they need to do, regardless of how long it takes.

Mr. Hamilton agreed with Mr. O'Neil. The property can be built on the way it's zoned, and he felt that they were spot zoning it and setting precedence. On that basis, he would deny it.

Mr. Conflitti stated that there are many reasons not to rezone, and he has not heard one good reason to rezone it. He walked the property recently, and he agreed that the curve on Pontiac Trail was a big concern, along with the gas main and the drain. He would recommend that they turn it down.

Mr. Towne made a motion to recommend to the Township Board to deny AP-08-18 rezoning request. Mr. O'Neil supported the motion.

Voice Vote:	Ayes:	6
	Nays:	Barber

Mr. Barber explained that he voted no because the applicant owns the land, and he should be able to do something with it. He would like to see things in writing and with a blueprint before he says no.

#### MOTION APPROVED

Mr. Barber called for a short recess at 8:35 p.m.

Mr. Barber brought the meeting back to order at 8:41 p.m.

- B. AP-08-19, VS-17, LLC (William Clark): Public Hearing to consider a rezoning request for parcel 21-03-352-006 from I-2, Industrial District with TC, Town Center Overlay District to I-2, Industrial District without TC, Town Center Overlay District.

Ms. Aniol reviewed the memo from McKenna Associates dated September 4, 2008. The following recommendations were made:

- The Planning Commission could recommend denial on the basis that the rezoning was inconsistent with the Master Plan, surrounding land use and zoning.
- The Planning Commission could recommend approval, even though such a recommendation would be inconsistent with the Master Plan and surrounding land use and zoning, on the basis that consistency with the Airport Master Plan was an overriding objective. Prior to making such a recommendation, the Planning Commission may wish to consider whether the Township Master Plan should be amended first. They are concerned that rezoning to I-2 without the TC Overlay District would set an inappropriate precedence.
- The Planning Commission could schedule another public hearing and consider another zoning classification other than the requested I-2, Industrial District without the TC Overlay District. For example, O, Office or P, Parking zoning, which would be compatible with the Airport Safety Zones Land Use Guidelines and Planning Strategies.

Ms. Safran stated that the situation in this particular application was different from the previous application. She continued that at the time the applicant purchased the property, it was zoned industrial. This property has been zoned industrial as long as the applicant has owned the property. Prior to the current Master Plan designation, this property was contained within an area that the Township's Master Plan designated as the Grand River Industrial Corridor. It was in an area that the Master Plan always envisioned as industrial. That changed recently with the Town Center Overlay District, so the I-2 zoning is now subject to the overlay district. That was put on the property at the action of the Township. It was not something that the applicant requested; he opposed it at the time. There is currently litigation in front of the Michigan Court of Appeals.

Ms. Safran stated that this was a case where they have long standing industrial property. The chart that was contained on page 3 of McKenna's review letter shows that all of the property surrounding this property was either vacant, industrial, or zoned industrial, with the exception of the elementary school and the Huron Valley Bike Trail. They were not encroaching on an established residential neighborhood.

A site plan was presented to this Planning Commission, and it was approved subject to several conditions, which was the reason for the litigation. There is no mystery what the client wants to do with the property. It is a less intense use, and the use fits within the level of uses in the Airport Safety Plan. It is also consistent with the Township's historical planning for this property and area. It is also consistent with the surrounding uses, so it would not create spot zoning. The essential services would not work due to the inappropriateness with the Airport Approach Plan; it was not a use to allow the client to retain any return for his investment. Office was the other suggestion, and that is a very intense use. Industrial would be fewer people per acre than an office situation. Also, the office space would be limited to 15,000' s.f., which would be very small. Parking was the last suggestion, and the last thing that the area needed was a parking lot. It would not serve any purpose. It was not a use that would allow the applicant to obtain any economic benefit.

Ms. Safran stated that for those reasons, they are before the Commission in a situation that was not of their making and subject to an overlay district that they did not request. With the change in circumstance, which was the Airport Plan, the best thing to do is to allow the industrial use. Otherwise, they are stuck.

Mr. Barber opened the Public Hearing at 9:08 p.m. and closed it due to no one wishing to address the Commission.

Mr. Quinn stated that they did receive site plan approval subject to certain conditions for an industrial building. They appealed two of the conditions, which were granted by the ZBA. They have a site plan approval subject to two conditions. Thereafter, the Town Center Overlay District was adopted, and the applicant filed a lawsuit claiming that the Town Center Overlay District could not be complied with by them, the Tree Ordinance was unreasonable, and there were three to four other counts to the litigation. While the litigation was pending, their site plan approval ran out. They did not seek an extension. The Circuit Judge ruled in the Township's favor, and the applicant appealed to the Court of Appeals, where it is still pending. The applicant was back to square one.

Mr. Towne stated that this piece of property is different from the earlier piece. He believed that not knowing what was going in there, they should table this until they work on the Master Plan and look to see what would be appropriate to put there. He agreed that the applicant has a right to build there.

Mr. O'Neil stated that they can build, and the court ruled that the Town Center Overlay District was not inappropriate, given the proximity of the airport and the guideline issues. It goes beyond just this property.

Mr. Barber stated that he was for tabling it too; he would like to work on the Master Plan and get it straight.

Ms. Safran stated that in this instance, they were opposed to a tabling because of the time that would be involved. They have already lost a great deal of time and the ability to use the property. They simply can't hold this out indefinitely. While they respect that the Planning Commission may want to take time to review things, they have a unique situation and would like an action taken on this application.

Mr. Towne stated that again the guidelines say that they have a right to build, and there are uses that can go there; he thought tabling and working with the Master Plan still worked to their benefit. Ms. Safran stated that she understood that, but it was Master Planned through the Township Overlay District as multiple, so they can't build office space there because it would be contrary to the Master Plan.

Mr. Barber stated that their expert has said that there are uses permitted in the Town Center Overlay that are compatible with the Airport Safety Zone Land Use Guidelines, including office. Ms. Safran stated that the uses are not consistent with the Master Plan for that property. Mr. Doozan stated that was correct until Master Plan is changed within the Town Center Overlay district to allow those uses under the current situation. All that is currently allowed is high density. They don't have to exit out of the Township Overlay District in order to have a change of use. The Planning Commission and the Township Board in essence rezoned the property by changing the Future Land Use map, which was the Town Center Overlay District designation for the property. There are land uses within the Town Center Overlay District with designations that might be appropriate. Also, I-1 might be more appropriate than I-2, given the airport. Ms. Safran stated that putting it to an I-1 zoning classification would not get them a usable zone; it would potentially create more un-useful property in the Township.

Ms. Blades stated that since the site does come close to the Huron Valley Trail, what would the solution be to buffer that area more? Ms. Safran stated that there was a prior site plan that was approved that had appropriate buffering. They would rely on the prior site plan that was approved, and it is possible to provide that kind of buffering.

Ms. Blades stated that it does not seem fair to the applicant who purchased the property as I-2 for them to come back and

say that the applicant use it as I-1. He did his due diligence and was stuck in a situation not of his making. Mr. Roberts stated that he could have come forward with the previous application and not let it lapse. Ms. Safran stated that the problem with that was that it would have created a non-conforming use.

Ms. Aniol stated that there are other properties zoned I-2 that are encumbered by the Accident Safety Zone, and the inappropriate precedence would be that by rezoning this one prior to looking at the Master Plan it could cause others to come before them. Ultimately, they would have the same problem: rezonings that are being requested that are not appropriate for the Master Plan.

Mr. Barber stated that he thought they should work on the Master Plan before they do anything.

Mr. Towne stated that the grade school was in the area, and that was a big issue with him. He would really like to take a look at the Master Plan first.

**Mr. Towne made a motion to table AP-08-19 rezoning request for 9 months. Mr. Conflitti supported the motion.**

Voice Vote:     Ayes:   6  
                  Nays:   O'Neil

Mr. O'Neil stated that he was not comfortable with assigning such a specific timetable to rewriting or modifying such a significant document as the Master Plan.

**MOTION APPROVED**

C.     AP-08-20 b. Cambrian of Lyon, Public Hearing to consider a special land use request to develop a senior housing facility on Ten Mile Road west of Johns Road.

Representing AP-08-17:   Nick Mancinelli  
                                  Tom Prendergast, WIN3 LLC  
                                  Garrett Sedley

Mr. Doozan reviewed the McKenna Memo dated September 4, 2008, summarized as follows:

The analysis revealed that the Cambrian of Lyon senior assisted living facility was largely in compliance with the nine special land use criteria set forth in Section 6.03. However, all of the issues cited in their site plan review letter must be addressed.

Mr. Doozan continued and reviewed the site plan review memo from McKenna Associates also dated September 4, 2008 which gave the following recommendation:

They recommend that the issues cited in the memo be addressed on revised plans and that all agreements and easement documents be provided for review.

Mr. Mancinelli stated, with regard to the Special Land Use application, they have satisfied all of the 9 criteria set forth in the Section 6.03. He was requesting a favorable vote on this issue, and he understood that there were some issues to discuss during the site plan review.

Mr. Barber opened the Public Hearing at 9:41 p.m. and closed the Public Hearing due to no one wishing to address the Commission.

Mr. Towne stated that he thought this was a great fit for the area, and they have been looking at this for some time. It looked good.

Mr. O'Neil raised the concern that there was an assisted living facility past 10 Mile on the west side of the by-pass road. He did not know how similar the facility was to this facility, and there was also the new Abbey Park project. Mr. Mancinelli stated that the one in South Lyon was a rehabilitation and skilled nursing facility, and the Abbey Park project

was independent living. Mr. O'Neil stated that he felt there was a need for the proposed facility.

Mr. Barber stated that the impact on traffic would be minimal, and no one had a problem with the acreage.

**Mr. Hamilton made a motion to recommend approval to the Township Board for a Special Land Use AP-08-20b. Mr. O'Neil supported the motion.**

Voice Vote:                      Ayes:    All  
                                             Nays:    None

**MOTION APPROVED**

Mr. Barber introduced AP-08-20a.

Mr. Mancinelli gave an overview of the assisted living facility.

Mr. Towne questioned the change from a studio to a one bedroom. Mr. Mancinelli stated that the studios were 375 square feet, and the one-bedrooms are 425 square feet, which would result in fewer units. It would provide a different mix.

Mr. Sedley stated that they have more of demand for one-bedroom units.

Mr. Mancinelli stated that he did not agree with putting a split face on the façade. The landscaping would cover the split face; it would be a total waste of money. Mr. Towne stated that he agreed.

Mr. Mancinelli stated that the building height was 32', which fell under the requirements. The easements would be submitted at the proper time. Regarding vehicular access, they can go to 10 Mile, if necessary. It was suggested that access via Tamarack Drive would be more appropriate because the second cut so close to Johns Road at the intersection. It could create disastrous traffic problems for the people lined up west to east.

Mr. O'Neil questioned if there were any plans for a deceleration lane. Mr. Mancinelli stated that he didn't think so, but there would be a traffic light there. Ms. Zawada stated that they have not reviewed the traffic portion.

Mr. Quinn questioned if the Fire Department has reviewed the site plans. Mr. Mancinelli stated that they did drop those plans off but did not know if it had been reviewed yet.

Mr. Mancinelli stated that they would provide seating on the patios, and they would like the seating to remain on the courtyard patios because it is a safety issue for the residents. Having the seating only on the patios provides accessibility for help if needed, and those areas are right by the doorways. They would also like to eliminate the sidewalk in the second courtyard because they prefer the green space for the residents to view.

Picture details were provided regarding the lighting in the construction plans, and they could supply separate picture details plans if needed for the Commission.

Regarding the landscaping, the surface of the parking lot would not be seen from 10 Mile Road. On the west side of the parking lot, the elevation was even with the sidewalk. As it progresses, it goes down about 2', which would be below the sidewalk. If the Planning Commission would still like to have the hedgerow, they could move some of the landscaping around to accommodate one.

Mr. Mancinelli continued that a drip line method of protection for trees would be shown on the revised plans, as well as the dumpster screening. They will also provide all easements.

Mr. O'Neil stated that this was really hard to follow when they haven't seen the plans or elevations.

Mr. Towne suggested using the stone that was presented for the sign and to use that instead of a hedgerow. Mr. Mancinelli stated he would not want to do that; it would not be cost effective. Mr. Mancinelli confirmed that the sign was located on the far east corner of their parcel. Mr. Quinn stated that they needed to provide more detail on the revised plan for the sign.

Mr. Sedley gave a PowerPoint presentation that showed the layouts for the units and pictures of the facility in Tecumseh. Mr. Sedley explained that all of the doors had alarms. Mr. Conflitti questioned the type of shingles being used. Mr. Sedley stated a 30-year asphalt architectural shingle.

Mr. Sedley stated that the HVAC unit would be hidden from the street. Brief discussion continued regarding the layout of the units and the units that are offered.

**Mr. Hamilton made a motion to table AP-08-20a until the next meeting on October 13, 2008. Mr. Conflitti supported the motion.**

Voice Vote:                      Ayes:    All  
                                             Nays:    None

**MOTION APPROVED**

Mr. Barber called for a short recess at 10:26 p.m.  
Mr. Barber called the meeting back to order at 10:30 p.m.

**5.        OLD BUSINESS**

**A.        AP-07-25, Meijer, Inc., site plan review.**

**Representing Meijer:        Bob Dunston**

Mr. Doozan reviewed the McKenna Associates memo dated September 3, 2008 with the following recommendation:

They recommend approval of the Meijer site plans dated 8/07/08, subject to the following conditions:

1.        Combination of the two B-2 zoned parcels into a single parcel will be necessary upon approval.
2.        The conditions of approval in the Township Engineer's July 29, 2008 review letter must be addressed.
3.        Review and approval by the following agencies must be obtained if required: Road Commission for Oakland County, Oakland County Drain Commissions, Oakland County Health Division (for the wells), and the Michigan Department of Environmental Quality.

Mr. Dunston stated that they currently believe that they have made all of the changes necessary to meet and or exceed the existing ordinance. The primary change was that the detention basin has been moved to the B-2 zoned property. Also, they have moved from a 192,000 square foot store to a 156,000 square foot store. They have begun to rely heavily on this new format.

Mr. O'Neil questioned the landscape center. Mr. Dunston stated it was there before, but it was more visible in this format. It has a closed in solarium type of look, and it is all glass. Mr. Roberts questioned if there would be a separate checkout located there. Mr. Dunston stated yes.

Mr. Conflitti questioned if there currently is a store in the area that was comparable. Mr. Dunston stated no, the closest would be in Davison in the beginning of October.

Mr. Hamilton questioned if they were still putting a store located at US-23 in Whitmore Lake. Mr. Dunston stated that they were not in for site plan approval at this time.

Mr. Towne questioned if going down in size would impact the traffic. Mr. Dunston stated that it wouldn't impact it much at all.

Mr. Dunston explained that the residential property was basically on its own, and they do have an option to purchase the property. They have not secured the properties, except through an option. Mr. Towne stated that the reason why he asked was that some of the tree plantings went onto that property. Mr. Dunston stated that they will buy them all at the same time.

Ms. Blades questioned if they had plans for the Niles property. Mr. Dunston stated that they have no plans at all, but they would own it.

Ms. Blades questioned the truck delivery route. Mr. Dunston stated that most would be coming from 8 Mile and I-275, but there would be some local vendors that would be coming from wherever their locations are.

Mr. Conflitti questioned which way the Meijer trucks would be leaving the store. Would they go back down 8 Mile or through South Lyon? Mr. Dunston stated that he didn't know; it would depend on where the truck was pulled from.

Mr. O'Neil commented that the sign is a lot better.

Mr. Towne made a motion to approve AP-07-25 Meijer Site Plan Approval with the conditions of the McKenna Associates letter items 1,2 and 3 dated September 3, 2008 Mr. O'Neil supported the motion with the amendment that they incorporate all of the applicable conditions of the first approval such as no overnight parking. Mr. Towne agreed with the amendment.

Voice Vote:                      Ayes:    5  
                                            Nays:    Blades, Hamilton

**MOTION APPROVED**

Mr. John Bell questioned if the back of the building was accessible all the way around. Mr. Dunston stated yes. Mr. Bell stated because they are hidden from the front, they seem to accumulate items all along the back of the building. He questioned if there was a note on the site plan that there was no outside storage.

Mr. Doozan stated that it does say no outside storage on the site plan.

B.        AP-08-12, Lyon Copperwood, LLC, Shoppes of Copperwood, consider a modification to the Copperwood Planned Development Plan.

Representing Lyon Copperwood:    Keith Thompson

Ms. Aniol stated that the applicant was requesting the approval of eliminating 28 parking spaces in the Shoppes of Copperwood parking lot due to a denial from Michcon to construct parking within the boundaries of their gas easement, which constituted a modification to the approved site plan.

Mr. Thompson stated that when they originally submitted the plans for site plan approval, they were led to believe by their engineer that they would be allowed to construct parking spaces on top of the Michcon easement. When the Chase Bank parcel was sold, they started asking for approval letters at the time of sale. Michcon allowed Chase Bank to build on top of the easement and subsequently denied their request for the parking lot that they originally had on their plan. They granted them approval for the curb cuts and the entrances off of Tamarack, but they would not allow parking.

Ms. Zawada stated that they contacted Michcon, and they would not bend on this issue.

Mr. Towne questioned if they take away the 28 spaces and there ended up being a need in the future for those spaces, would they purchase the out parcel? Mr. Thompson stated that they would prefer not to do that, and he really couldn't answer that because that lot could be sold.

Mr. O'Neil made a motion to recommend to the Township Board approval of AP-08-12, the amendment subject to all staff and consultant comments in the June 9, 2008 McKenna Letter. Mr. Towne supported the motion.

Voice Vote:                      Ayes:    All  
                                            Nays:    None

**MOTION APPROVED**

6. NEW BUSINESS

None

7. ADJOURNMENT

Mr. Barber adjourned the meeting at 11:14 p.m.

Respectfully Submitted,

Kellie Angelosanto  
Recording Secretary