

**Charter Township of Lyon
Planning Commission
Meeting Minutes
July 13, 2009**

Approved: August 10, August 10, 2009 as submitted

DATE: July 13, 2009
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
John Dolan, Board Liaison
Sean O'Neil
Carl Towne

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

Guests: 22

1. APPROVAL OF AGENDA

Mr. Hamilton made a motion to approve the July 13, 2009 agenda as written. Mr. O'Neil supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

2. CONSENT AGENDA

The Recording Secretary made a clarification and a typographical change to the minutes.

Mr. Towne made a motion to approve the June 8, 2009 minutes as corrected. Mr. Conflitti supported the motion.

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

MOTION APPROVED

3. COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

There were no comments made.

4. PUBLIC HEARINGS

A. AP-09-06, Amendments to Private Road Regulations, public hearing to consider text amendments; discussion and action to follow.

Mr. Doozan reviewed the McKenna Associates memo dated June 10, 2009, which included the recommended revisions to the Lyon Township Zoning Ordinance.

Ms. Blades asked if these changes apply to developments that are already approved. Mr. Seymour stated that if a development has not started, then they would have to comply with the standards that are in affect at the time. Ms. Blades was concerned about how many people may be caught up in this gap of time and suggested providing a safety net for projects that have gone through. She wanted to provide an opening for someone who may be caught. Mr. Hamilton stated that a Planned Development not final until the final plan is approved so it is subject to whatever changes there were; he felt it should go forward as it is.

Ms. Blades stated that she thought they were not going to address any of the private road issues outside of a subdivision or a Planned Development. Mr. Doozan explained that last month they went over the Zoning Ordinance Amendments but not the other amendments. Ms. Blades thought these were the ones that they had so much discussion on and she thought they had decided to only focus on the updates for the Zoning Ordinances, she would feel more comfortable recommending up to page 3 where it only dealt with subdivisions. Mr. Doozan explained that the Planning Commission only had jurisdiction over the Zoning Ordinances. The plan was to take this to the Board as one group. Ms. Blades stated that she was not comfortable sending this as one packet to the Board when the Planning Commission did not have any jurisdiction over one portion of it; she felt it should be sent separately. Mr. Doozan stated that a lot of it in the second part was language changes and does not change the meaning.

There was some confusion as to whether or not the public hearing had been posted for this meeting. There was not anyone present at the meeting who had seen the public notice. It was decided that a new public hearing would be scheduled to ensure the appropriate notices were published.

Mr. Doozan reviewed the Private Road Ordinance proposed changes.

Ms. Blades felt that this would be creating a hardship regarding extending a private road from the required 600' to 1000' because if a resident extended the road 400 more feet, they would be required to construct the road in full conformance with this ordinance. Ms. Blades continued that it used to say, "it may be constructed or extended within the existing easement in accordance with the previously approved plans." She felt that whenever a hardship is created for someone on a nonconforming private road, and years later the Township is instituting an ordinance that creates a hardship, she does not think it is fair to the residents.

Mr. Seymour stated that the Private Road Ordinances were given to the Planning Commission for information; it is not in their jurisdiction to make a recommendation on it. Mr. Hamilton stated it was separated in the original motion. Mr. Towne felt if they didn't have any jurisdiction then it should be sent separately. Mr. Doozan indicated that they were sent together to put the Zoning Ordinance Amendments in the proper context.

Mr. Towne made a motion to schedule a public hearing on August 10, 2009 for AP-09-06 Amendment to the Zoning Ordinance regarding private roads Sections 5, 7, and 12. Mr. O'Neil supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

5. OLD BUSINESS

A. AP-09-04, Crystal Creek Villas, Amendment to the Planned Development, residential condominium located on the north side of 11 Mile, west of Milford Road, final review; discussion and action.

Representing Crystal Creek Villas: Paul Elkow

Mr. Doozan reviewed the McKenna Associates memos dated June 16, 2009 and July 9, 2009. The revisions to the Master Deed and Bylaws are relatively minor. However, the absence of a revised Condominium Subdivision Plan is a serious issue that could hold up approval of the development.

Mr. O'Neil asked if Mr. Elkow had reviewed the McKenna Associates memo and approved of the items. Mr. Elkow stated yes, but he had a concern regarding the trees that were not put in the first time around. The residents there have not said anything to them about the lack of those trees, and there is a thick hedgerow located there. He asked if it were possible that they wouldn't have to plant the trees?

Ms. Blades questioned the spacing between the trees. Mr. Elkow stated that it was part of the plan to pull out the stumps and replant the trees with the 40' spacing.

Mr. Barber asked how much of the 100 year floodplain extends out to the lots. Mr. Elkow stated it would not be within the building envelope. Mr. Hogan explained that Ivanhoe mitigated that area.

With respect to road widths Ms. Blades inquired if there were different specifications for duplexes than for single families; if these had been duplexes, this would not have been an issue. Mr. Doozan stated that is correct. Ms. Blades stated that they should include the reason that they were okay with 27' for the road is due to the unique conditions. Mr. Elkow felt that would be fair.

Mr. O'Neil questioned if Mr. Elkow had any objection with any of the items in the McKenna Associates memos dated June 16 and July 9, 2009. Mr. Elkow stated that he was fine with them. The only concern being the missing landscaping that Ivanhoe did not put in. He would like some relief on that because it is roughly \$8-10,000 dollars in trees.

Mr. Elkow explained that he would prohibit accessory buildings along with no fences. He would also be comfortable with saying no above ground pools.

Mr. Hamilton questioned if Mr. Elkow would agree to plant the two red spire trees. Mr. Elkow stated yes.

Mr. O'Neil wondered what the landscape specifications were before. Mr. Elkow thought there were 20 some trees in that area; it was not just a row of spruces. Mr. O'Neil suggested planting a mix of deciduous and coniferous trees, location to be determined by the residents and the developer. Mr. Elkow felt that the problem in that area was the sandy soil. There was discussion as to how the trees would be watered. Mr. Elkow stated that these trees would benefit the people who are in the duplexes and condominiums. If they plant them, the odds of them living is suspect unless the residents are willing to water them because the soil is very sandy.

Mr. Elkow suggested planting the 12 trees 6 months past occupancy of the duplexes.

Ms. Blades suggested using plants that thrive in that type of soil.

Mr. O'Neil made a motion to recommend approval of AP-09-04 Villas at Crystal Creek Condominiums the revised condominium documents and Planned Development Agreement subject to the applicant making the corrections to the plans called out in the McKenna Associates letters of June 16, 2009 and July 9, 2009. The applicant has stated that in those letters he will not be asking to include accessory buildings, those will be prohibited as part of the association. Also, fences will be removed with the exception of those that are required to protect swimming pools in accordance with the Zoning Ordinance. The approval is also subject to the previous agreed upon items that were discussed at the preliminary approval dated May 11, 2009. At that time comments outlined in the McKenna Associates letter dated April 17, 2009 were included with an additional number 6 which was the condition regarding the amendments to the Master Deed and Bylaws as well as the April 8, 2009 memo from Giffels Webster with the added caveat that Mr. Elkow has agreed to make up the shortfall provided that it was \$10,000 or less for the completion of the road.

The reason for moving forward is the economic hardship associated with the SAD, the economy as a whole, the ability to solve back taxes and the completion of what is now an incomplete project. The applicant shall plant a mix of 12 trees that are deciduous and coniferous along the northerly property line adjacent to the Lake Angela apartments at a location to be determined by the residents and verified by the Township and at a time determined by the Building Official based upon occupancy of said units. Additionally, the Planning Commission is willing to accept in this motion for the reasons stated that the 27' right of way would be allowed when a 60' right of way is normally required.

Mr. Hamilton supported the motion.

Voice Vote:	Ayes:	All
	Nays:	None

MOTION APPROVED

- B. AP-07-21, Orchards of Lyon PD, Phase II, consider a request to amend the Planned Development Agreement. Located between Pontiac Trail and Grand River, west of Milford Road (tabled for up to 90 days on 4/13/09).

Representing Orchards of Lyon: Dan LeClair. P.E.
Randy Sanocki, Milestone Realty

John Crane, Traffic Study Engineer

Mr. Doozan reviewed the July 8, 2009 McKenna Associates memo. He continued that the original packet that he received did not have a vital piece of information in it, which was the update of the traffic study so he had to quickly review the traffic impact study, which explains the reviewed letter of July 10, 2009.

Mr. Doozan concluded by saying that progress has been made, particularly in dealing with the road paving issue in Phase I. Also, the Road Commission plans provide evidence that the Road Commission has studied the plans and has some practical, although limited, ideas for improving the proposed intersection at Pontiac Trail.

The major concern that remains is the proposed road onto Pontiac Trail. As expected, the Traffic Impact Update shows that the road system has adequate capacity to handle the traffic generated by the proposed development, especially when the ring road is completed. The applicant's engineer, C&W Consultants, has provided some evidence of safety measures that will be incorporated into the design of the intersection, and concluded that the measures will decrease "off road accident severity in this area."

This case has been on the Planning Commission's docket since August 2007. He did not believe additional substantive information would be forthcoming. Consequently, he recommends that the Planning Commission take action in the form of a recommendation to the Township Board.

Mr. Doozan explained that some residents received the July 8, 2009 letter, which did not make this recommendation so they may not have attended this meeting. Therefore, there was concern that there are some residents not in attendance who may have been otherwise. Mr. Barber commented that there was a lot of resident traffic at the Township Hall questioning what would happen at this meeting. The latest information that was given to them was that it would be tabled. Mr. Barber continued that it was thought that a lot of residents would have attended if they had the new letter with the traffic study information included. He felt it should be tabled in order to make sure everyone was represented.

Mr. Doozan reviewed the Wells+Associates update as follows:

1. The access points for this development will operate at acceptable levels of service during the peak traffic periods.
2. The proposed Pontiac Trail access will have adequate sight distance consistent with the requirements of RCOC.
3. Based on RCOC requirements the Pontiac Trail access will require a right turn lane for entering vehicles. No lane for left turning vehicles into the site is required, based on RCOC requirements.

4. If the developer offers to construct a left turn lane or passing lane on Pontiac Trail that would be a plus for this access location.
5. The errant vehicle evidence in the curve on Pontiac Trail in the vicinity of the proposed driveway location is most likely associated with vehicles traveling too fast for conditions, over the speed limit, etc. Given that there is appropriate sight distance for this proposed driveway, it is not likely that a greater number of this accident type will occur due to the construction of this access point.

Based on that information, the following recommendations were made:

1. The proposed access to Pontiac Trail should be constructed consistent with the design and construction requirements of RCOC.
2. The completion of the development must insure that the corner sight distance at the Pontiac Trail access will be maintained at all times. All future landscaping, fences, signs, trees, etc, must be located outside the clear vision triangles.

Mr. Sanocki stated that this was tabled in order to obtain resolution with the homeowners and to ensure that a traffic study was done. They feel that those issues have been resolved. They were not aware that it would be tabled again and were hoping to have action by the Commission.

Mr. Crane explained that he has been a traffic engineer for 35 years and would like to add one thing to the Wells+Associates report, which is that it exceeds the RCOC standards. The sight lines are excellent and he believes that when the curve is reconstructed and several of the trees are removed that are in the right-of-way, it will only improve, and the damage would be less severe.

At this point Mr. Barber opened the meeting for public comment.

Theresa Danielson, 29465 Pine View. Ms. Danielson passed out photos and information stating that since January of 2009, there have been 6 accidents along the curve. She has been a resident for 7 years and would hate to see this go through. The residents call this area "Dead Man's Curve". If the trees come down because cars have hit them, then those cars are going to hit the homes or their children. She asked that they vote against it.

Bob Briggs, 5850 Pontiac Trail. Mr. Briggs lives on the west side of the proposed boulevard entrance. He submitted 256 signatures that he has collected against the proposed entrance. He spoke about a traffic study that was done that showed 13 accidents had occurred between Martindale Road and Grace Rae from 2002-2007. Since January of 2009, there have been 6 accidents reported on the curve. He continued that the curve is not safe and is an ongoing problem. He spoke with Greg Damon, Oakland County Road Commissioner, and he has said that this is not an approved plan, it is a proposed plan. He brought up the concern about the

electrical poles that are located in the egress lane and that the proposed boulevard does cross a Consumer's Energy gas line. He questioned the school bus stopping in that area and how unsafe it would be. He suggested tying into the other entrances to the east and the west that were in the original plans. He was concerned about the cut through traffic that could happen. He also raised the concern about having a construction entrance and how dangerous it would be for a slow moving vehicle to come out on that curve.

Mr. Sanocki confirmed that the application has been approved by the Road Commission. Mr. Conflitti asked why they could not tie into the other developments. Mr. Sanocki replied that they want to create a separate identity. Mr. Hamilton asked if they were going to have a different name for Phase II. Mr. Sanocki stated yes. Mr. Hamilton stated that has never been brought up, and he wanted to clarify that they don't have an approved plan from the Planning Commission.

Mr. O'Neil asked why they would not connect to Village Drive. Mr. LeClair stated that part of the reason why they proposed to close the drive was that it goes to the apartments. Currently, there is a stormwater pond on that corner, and there have been several issues with flooding downstream. The way that it sits right now, the pond is designed to the standards of the Drain Commission. In working with the Township Engineer, they offered to close it off to allow for a future expansion of the pond into what was now the existing road.

Ms. Blades stated that there was no plan for immediate construction. Mr. LeClair stated no.

Mr. Conflitti asked if there was a serious accident at that curve would the Township or developer be held responsible. Mr. Seymour answered that he would research that but if the Road Commission for Oakland County approved the plan, he did not think that the Township would have any liability.

Mr. Towne questioned how the retention pond would be used and at what stage would that water come across Pontiac Trail. He stated that there has been a lot of flooding on the west side. He asked how the water table would be affected on the south side of Pontiac Trail and questioned the softening of the road. Mr. LeClair reviewed the improvements that would be made to the road. Mr. Towne stated that a concern of his was the water going across the road. Mr. LeClair explained the location of the culverts that go across the road; they are proposing a 100 year stormwater pond which would hold the water and discharge under Pontiac Trail at a rate no higher than what it does today. Mr. Towne asked if the utility poles would be relocated. Mr. LeClair stated yes.

Mr. Conflitti asked if there was any lighting proposed. Mr. LeClair stated not at this time.

Some of the residents that were in attendance felt that their driveways were already banked up and that they would have a hard time getting up the embankment in their vehicles because

they lose the sight vision and end up having to accelerate hard to get out onto Pontiac Trail.

Bob Henock, Pontiac Trail – Mr. Henock commented that the proposed road would be facing his property. Where he is located he is already going uphill, and in the wintertime he has a hard time getting out as it is now. He brought up a concern about a low spot on Pontiac Trail and how a small car would not be seen from the proposed road.

Bob Briggs – Mr. Briggs stated that when he spoke to Lee Liston, he was told that they would flatten the curve not bank it. He also commented that the permit for application has been approved, but Oakland County has not approved the plan.

Ms. Blades stated that she would like to confirm that after speaking to Lee Liston, the plan is to flatten the curve. He did indicate that there was some confusion of whether or not it's been approved. She commented that if the Planning Commission did not want to approve it, they don't have to approve the plan simply because the Road Commission did some plans on it.

Mr. Briggs continued that it was up to the Planning Commission and the Board to make the decision. Ultimately, if the Township approved it, then he would question the legality if there were accidents.

Mr. LeClair reviewed the history of the project since November of 2008. The plans at the Road Commission are waiting for them to submit the bond and insurance information, and the permit would be issued at that point. They are asking for the Planning Commission to make a recommendation to the Township Board that this entrance be approved as part of the overall package to be able to make this property developable and marketable in the future. That includes helping out 60 property owners who are currently living in Phase I and 30 future property owners that will be living in Phase I as well as the future property owners of their development.

Mr. Danielson – Mr. Danielson commented that it was not worth making a piece of property saleable or for the possibility that the Township could get sued. He did not feel that the cars pulling out would have a safe way of getting out onto Pontiac Trail.

Theresa Danielson – Ms Danielson commented that a UPS employee also thought it was not a good idea to add the road there due to the curve.

Ms. Blades commented that the traffic crash report from 1998-2007 showed that there were 26 accidents between Martindale Road and New Hudson Road. She was concerned that they are setting precedence when they don't even have an idea when this will take place. She brought up that there was no mention of the distance of the proposed entrance to Pine View Court because in the Planned Development Ordinance, it specifically says that "the nearest edge of any exit or entrance road shall be located no closer than 400' from any street or road

intersection as measured from the nearest intersection right of way line.” She continued that she measured it, and it was less than 200’ from center line to center line to Pine View Court and that’s a road, not just a driveway. There is no statement anywhere in “frontage and access” that says variances or modifications can take place for that distance from road to road.

Ms. Blades continued that in the conditions for a Planned Development, it says that the Township is under no obligation to approve a proposed Planned Development, so she did not think there was an obligation for them to approve an amendment to that. She continued that the Master Plan is a legal document and one of the ways to maintain a rural atmosphere is to reduce access points. She referred to an article that she found that talks about how access points generally increase accidents. She agreed that people will seek a cut through to Grand River in order to avoid the roundabout and construction. A PD must follow private road ordinances, and she felt that if their own ordinances recommended that they should try to tie into existing access points, then she thought the developer should do that. When this plan was first approved this entrance was not there. The original PD agreement says “internal roads shall be designed to permit vehicular access between and among users of the property as ultimately developed with the view and intent of minimizing the number of traffic users onto adjoining public roads.” The original intent when it was passed was not to have it, and the Planned Development Agreement talks about not having the access to the major road. She felt that with all these issues, especially the fact that there is no date to approve them coming out to Pontiac Trail, approval was not a good idea.

Mr. Barber stated that they will be continuing the public hearing until the next meeting.

Ms. Blades expressed her opposition to tabling the issue; she felt it has gone on for too long. She felt that the internal structure of the plan was excellent, but she would like to see the entrance onto Pontiac Trail excluded.

Mr. Steve Palms, Attorney for the applicant, stated that he didn’t understand why it would be tabled. Mr. Barber explained that the traffic report came in very late and some residents came to the Township Hall and were told it would be tabled due to lack of information, and those residents have a right to have their opinions heard. Mr. Palms stated that it was their understanding that the traffic study had been submitted some time ago, and they are trying to create some value here. They would prefer a vote and to move on.

Ms. Blades felt that it should be addressed tonight. She understood that there are residents who may want to have their voices heard; however, no amount of discussion from any resident will change the distance to Pine View Court or any of the information that has been brought out.

Mr. Hamilton made a motion to table AP-07-21 until the next regular meeting and continue the public hearing. Mr. O’Neil supported the motion.

Voice Vote: Ayes: 5
Nays: Towne, Blades

MOTION APPROVED

6. NEW BUSINESS

- A. AP-09-05, Quadrants Industrial Research Center, 9th amendment to the Master Deed and 6th amendment to the Condominium Subdivision Plan.**

Representing Quadrants: Chad McCormick

Mr. Doozan reviewed the memo from McKenna Associates dated July 7, 2009 and recommended approval with the following conditions:

1. The applicant shall correct the discrepancy regarding Unit 18 and the location of the Michigan Consolidated utility easement.
2. The applicant shall revise and resubmit the Master Deed and Bylaws.
3. The applicant shall submit a plot plan.

Mr. McCormick stated that he has forwarded the McKenna Associates recommendations to their attorney, and they are currently in the process of making changes as requested. He should have something in by the end of the week.

Mr. Barber confirmed that lot 7a was not buildable, and Mr. McCormick explained that it was not buildable because one of the soil borings presented a compound that went above the MDEQ standards. It just so happened to be a similar compound that Testek uses for jet engines, so in order to get a clean bill of health from MDEQ, they had to split this up. Brief discussion continued regarding the split property.

Mr. Barber asked how much fuel would be stored by Testek. Mr. McCormick stated that to his knowledge, it would be only a couple of drums, just enough to keep them going. They would purchase more as needed.

Mr. Towne asked if they would be made to update the facility when they go to testing the different fuels and let the Fire Department know. Mr. Hogan stated yes, he would be informing the Fire Chief, and there are requirements that they need to fulfill.

Mr. O'Neil made a motion to approve AP-09-05, Quadrants Industrial Research Center the 9th amendment to the Master Deed and 6th Replat of the Approved Condominium, dated 3/26/09 subject to the conditions outlined in the McKenna

Associates letter dated July 7, 2009. Mr. Hamilton supported the motion.

Voice Vote: Ayes: Unanimous
 Nays: None

MOTION APPROVED

B. AP-09-10, Kirkway Estates, schedule a public hearing to consider an amendment to the Planned Development Agreement to allow farming on 93 undeveloped parcels. Located on the north side of 9 Mile, between Chubb and Napier.

Mr. O'Neil made a motion to set a public hearing for AP-09-10 Kirkway Estates to consider an amendment to the Planned Development Agreement on August 10, 2009.

Voice Vote: Ayes: Unanimous
 Nays: None

MOTION APPROVED

7. **ADJOURNMENT**

Mr. Barber adjourned the meeting at 10:09 p.m.
Respectfully Submitted,

Kellie Angelosanto

Kellie Angelosanto
Recording Secretary