

Charter Township of Lyon  
Planning Commission  
Regular Meeting Minutes  
March 14, 2011

Approved: April 11, 2011 (as written)

The meeting was called to order by Mr. O'Neil at 7:05 p.m.

Roll Call: Lise Blades  
Ed Campbell  
Michael Conflitti  
John Dolan  
Kristopher Enlow  
Sean O'Neil  
Carl Towne

Guests: 27

Also Present: Chris Doozan, McKenna Associates  
Phillip Seymour, Township Attorney

### **APPROVAL OF AGENDA**

Mr. O'Neil explained that there were some requests from applicants that wanted to be placed on the agenda. After discussion, the Commission felt that they would not allow the additions due to not having the appropriate time to review the materials.

**Motion by Blades, second by Towne**

**To approve the agenda with the addition of adding Mr. Elkow's request for a special meeting and discussion of the policy regarding placing cases on the agenda and future meeting dates.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

### **MOTION APPROVED**

### **CONSENT AGENDA**

Approval of the February 14, 2011 and February 28, 2011 meeting minutes.

**Motion by Towne, second by Conflitti**

**To approve the Consent Agenda as presented.**

**Voice Vote: Ayes: Unanimous**

Nays: None

**MOTION APPROVED**

**COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS**

**John Bell** – Mr. Bell explained that he had photographers present and that they would be taking pictures of the commissioners for the new website.

Mr. O’Neil read a letter from Suzanne MacDonald regarding the keeping of chickens for personal use.

**PUBLIC HEARINGS**

1. **AP-11-02b, Kroger Fuel Center, northeast corner of 8 Mile and Pontiac Trail. Public hearing to consider a special land use request to all the addition of a fuel center to an existing Kroger grocery store. Will also consider AP-11-02a, Kroger Fuel Center, site plan review.**

Mr. Doozan reviewed the McKenna Associates memo dated March 11, 2011. He recommended that if the Planning Commission is comfortable with the architectural character of the columns and satisfied with the applicant’s response regarding economic well-being and need, and then they would recommend the following actions:

1. Special Land Use – Recommend approval of the special land use to the Township Board, subject to compliance with all of the conditions of the site plan approval.
2. Site Plan Approval – Recommend that the Planning Commission approve the site plan subject to the following conditions:
  - a. A 7.33 ft. front setback variance shall be obtained for the kiosk (Section 36.02).
  - b. A variance from Section 16.08(G) must be obtained to allow two gasoline price signs.
  - c. \$8,000 shall be placed in the bicycle path and sidewalk development fund (see Treasurer).
  - d. The hours of operation must be specified.

Mr. Matt Pisko, Landplan Engineering, P.A. explained that 80% of the business for the fuel center would come from Kroger customers. He explained that the kiosk would be a small transaction center with minimum retail items. The hours of operation would be 6:00 a.m. to midnight, 7 days per week, but would most likely only be open when the store is open. The fuel center would provide for 3 full time positions. There is no refuse collection. Mr. Pisko reviewed the design elements and explained that variances would be needed for the signs and the setback.

Mr. Tom Frank explained the discount program using the Kroger Plus Card. He explained that there are 40 fuel centers in Michigan and only 7 of those are open until

Midnight. Most of them close at 10:00 p.m.

Mr. Conflitti questioned if there would be pallets of merchandise for sale? Mr. Frank stated no, the ordinance does not permit it.

Mr. Towne expressed concerns regarding the turning radius. Mr. Pisko explained that the turn is softer than then rendering is showing; it has been tested and works fine.

Mr. Towne questioned how many cars could be stacked. Mr. Pisko stated 3, and that was a worse case scenario.

Mr. Towne questioned if there was plenty of room for a sidewalk. Mr. Doozan answered yes. Mr. Pisko explained that they would not be installing a sidewalk but would be contributing to the sidewalk fund so that it can be put in at a later date.

**Motion by Towne, second by Blades  
To open the public hearing at 7:54 p.m.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

**Daniel Stern** – Mr. Stern is with Lyon Creek and is the owner of the balance of the shopping center. He explained that he is very supportive of the fuel center. He thinks it would help get businesses in the shopping center, knowing that Kroger is committed to staying there since they are in the middle of doing a remodel of the store and adding the fuel center.

**Ronnie Jamil** – Mr. Jamil explained that he is the owner of the Mobil gas station, and he objects to the plans. He felt it would have a major impact on the other gas stations in the area. He explained that 8 years ago, he was selling 200,000 gallons of gas per month, and now it's half that amount. He explained that he owns the corner parcel on the west side of the Kroger parcel and was looking at a business to go there instead of another fuel station. He did not believe that the community could support another gas station.

**Motion by Blades, second by Towne  
To close the public hearing due to no further comments.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

Mr. O'Neil confirmed that there would not be a berm and suggested landscaping be sufficient to knock down any headlights that would shine across into residential areas.

Mr. Dolan questioned the setback for the kiosk. Mr. Pisko explained that it could not be

moved, and it maintains room for the tanker.

Ms. Blades explained that she looked at the land use map and the Master Plan and found the fuel center to be compatible. There was no detrimental use to public safety and welfare and she understood the competitions concerns but believes there is a market for it. She was fine with the requested variances and felt that there was the potential to pull customers east of 8 Mile Road. She felt this could help to fill the vacancies at the shopping center, and she's pleased with the plan.

Mr. Conflitti questioned if the brick on the columns should go further to help protect the column from handprints and damage. Mr. Frank explained that they like to remodel stores and fuel centers every 7 years and felt that the fiberglass would stand up very well to wear. Ms. Blades commented that she preferred the lower height of the brick.

**Motion by Towne, second by Blades**

**To recommend approval to the Township Board of AP-11-02b Special Land use Kroger Fuel Center and include all comments from the McKenna Associates memo dated 3/11/11 and the hours of operation will be 6:00 a.m.- Midnight as well as the economic statements made supporting economic need.**

**Roll Call Vote:      Ayes: Unanimous  
                             Nays: None**

**MOTION APPROVED**

**Motion by Towne, second by Blades**

**To approve Site Plan AP-11-02a, Kroger Fuel Center including comments made and the approval is subject to obtaining a 7.33' setback variance for the kiosk, and a variance obtained for 2 signs. \$8,000 donated to the bicycle path/sidewalk fund and the McKenna Associates memo dated March 11, 2011.**

**Roll Call Vote:      Ayes: Unanimous  
                             Nays: None**

**MOTION APPROVED**

**OLD BUSINESS**

- 2.      AP-10-17, Amendments to Woodwind Village Phase II, north side of 10 Mile Road, east of Currie Road. Consider amendments to Woodwind PD Agreement and the Woodwind Village Phase II Condominium Bylaws.**

Mr. Doozan reviewed the McKenna Associates memo dated March 7, 2011, which referred to the fact that the boundaries of any lot shall not be occupied by all or any portion of a regulated wetland. This provision affects units 40, 41 and 50 because the wetlands encroach on these lots. The boundaries of these units must be modified so

that no portion of the wetland is within the units.

Mr. Doozan also reviewed the McKenna Associates memo dated March 7, 2011 and recommended the following:

1. Planned Development Preliminary Plan. If comfortable with the proposed changes to the landscape plan and the building size proposal affecting Units 1 through 10, then we recommend that the Planning Commission offer a recommendation to the Township Board.
2. Condominium Master Deed, Bylaws, and Exhibit B. We recommend that action on these items be tabled to allow the developer to resolve the issues identified in this letter. Most of the issues can be easily addressed, but the 25-foot wetland setback could affect layout of the development.

Mr. Doozan also reviewed the McKenna Associates memo date March 11, 2011, which explained that the following provision has been added to Article IV, Section 3(a), of the Master Deed:

The co-owners shall be individually responsible for the cost of the installation of any street tree required to be installed on the co-owner's unit as required by the approved site plan.

Mr. Doozan explained their concern regarding having the street trees planted by the homeowners.

**Gary Fryatt, 54560 Birchwood Court** – Mr. Fryatt explained that he felt there was good dialog and thought that the builder would be supplying the street trees. They are continuing to seek reductions in the lot sizes and landscaping. He felt that the builder should put in the trees so there is a uniform look.

**David Gatt 24750 Wedgewood Drive** – Mr. Gatt was under the impression that the street trees would be provided by the builders, but if the trees died after the warranty, then it would be the homeowners responsibility. The pond area was supposed to be landscaped in the original plan but since some of it is marshland, it does not make sense to plant in that area. He did not think reducing the pond landscaping and eliminating the street trees was feasible. Some responsibility needs to lay with the developer. He did not see the need to reduce the footprint for the lots on 10 Mile. He also questioned if there would be irrigation available.

Mr. Dolan confirmed that there was a compromise between the homeowners and the builder regarding the landscaping around the pond area.

Mr. O'Neil asked for how many trees/shrubs/evergreens were previously proposed in the area and how many are proposed now. Mr. Healy explained that the divider between Phase 1 and Phase is not the original lots and that was where the majority of the landscaping was proposed on the original plan. He stated it was very close to the original and there is very little room to put anymore trees than what they are proposing and there is no sense in planting any on the east side. He thought they added 9 trees

from the last plan and there is no sprinkler system proposed, they want to keep it natural, it looks great.

Mr. Healy stated that he felt strongly regarding the size of the lots on Ten Mile. He knows the facts, and he would be negligent if they didn't reduce the size.

Mr. Healy explained that the PD agreement and the By-Laws allowed the builder to transfer the responsibility of the street trees to the homeowners. Regarding the wetland buffer, he had no problem jogging the rear lot lines. However, the buffer idea is new to him, and the rear storm sewers are already in. Mr. Seymour stated that they couldn't do anything about what is already installed. The plans that were submitted didn't properly delineate the wetlands, and the Planning Commission would be hard pressed to allow someone to build in violation of a Township Ordinance.

Ms. Blades asked if the lots on 10 Mile would be Mr. Healy's breaking point if the Commission denied the reduction of square footage. Mr. Healy stated that they have not closed on those lots yet, and now the wetland boundary has changed. There are no other options, no one is going build a home and lose money on it.

Mr. Enlow questioned how much the wetland boundary has changed. Mr. Healy stated he didn't know, he hasn't seen the plans yet; this is the first he has heard of it. Mr. Towne commented that the he was shocked the plans had changed again, and he needed time to look at the plans and review the information.

Ms. Blades stated that she didn't need anymore time. She commented that the residents worked with Mr. Healy in good faith and it is unfair to whittle away the quality of the development. People bought back lots, expecting those to be buffered.

Mr. Dolan questioned how much the homes would be sold for. Mr. Healy stated \$250,000 for an 1800 square foot home and then he thought it would be more like the \$220,000 range. Mr. Dolan stated it would be much more desirable to build a 2000 square foot home with architectural details; he felt it would be more appealing instead of the smaller home.

Mr. Campbell commented that he felt this was confusing. He knows the frustration of the homeowners and can't imagine moving forward when there has been no collaboration.

Mr. Healy explained that he thought he had preliminary approval. Mr. Seymour explained that he had preliminary approval on plans that turned out to not reflect what they found to be the facts, and not all of the documents have been submitted.

Mr. Seymour explained that he had obtained PD approval in 2006, but those plans did not reflect the actual state; those plans were not correct. The ordinance that says a lot can't encroach upon a wetland was in effect in 2006.

Mr. Conflitti and Mr. O'Neal stated that they would be willing to compromise on the landscaping but not the reduction of the minimum home sizes on 10 Mile.

Mr. Healy stated that he would agree to install the street trees.

**Motion by Towne, second by Campbell**

**To recommend denial of AP-10-17 due to the house size not conforming, the wetland encroachment on lots 40, 41 & 50 and possibly lots 32, 34, 36, 37, 42, 49 and 51. Including all comments in the McKenna Associates memo dated March 7, 2011.**

Mr. Enlow and Mr. Dolan expressed their concern that they were so close to a compromise on the lots on 10 Mile and felt that everyone was willing compromise on the landscaping.

**Roll Call Vote: Ayes: Towne, Campbell, Blades, Enlow, O'Neil  
Nays: Dolan, Conflitti**

**MOTION APPROVED**

**Motion by Towne, second by Campbell**

**To table the Master Deed and By-Laws.**

**Roll Call Vote: Ayes: Campbell, Conflitti, Dolan, Enlow, O'Neil, Towne  
Nays: Blades**

**MOTION APPROVED**

- 3. AP-11-01, Automobile Service Stations – Consider amendments to Section 3.02 and Section 30.02(B)1 of the Zoning Ordinance, which would change the definition of automobile service stations and allow them as a special land use in the B-1 district.**

Mr. Doozan recommended to revise Section 3.02 and Section 30.02(B)1.

**Motion by Blades, second by Enlow**

**To schedule a public hearing for April 11, 2011.**

**Voice Vote: Ayes: Unanimous  
Nays: None**

**MOTION APPROVED**

- 4. AP-08-21, Fellowship Evangelical Presbyterian Church, map amendment to zone an annexed parcel at 22200 Pontiac Trail to R-0.3, Single Family Residential.**

Mr. Doozan passed out a map showing the surrounding parcel's zoning and explained that the parcel needs to have a zoning classification. The recommendation was for R-0.3, Single Family Residential.

**Motion by Towne, second by Blades**  
**To schedule a public hearing in order to zone AP-08-21, Fellowship Evangelical Presbyterian Church to R-0.3, Single Family Residential.**

**Voice Vote:           Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**NEW BUSINESS**

**1.     Consideration to schedule a Special Meeting – Elkow**

**Motion by Towne, second by Conflitti**  
**To schedule a special meeting on March 28, 2011 for Elkow Farms at 7:00 p.m.**

**Voice Vote:           Ayes: Unanimous**  
**Nays: None**

**MOTION APPROVED**

**2.     Discussion Regarding Placing Case on Agendas and Future Meeting Dates**

There was brief discussion regarding adding the second meeting per month back on the calendar in order to relieve timing issues and back logs. The consensus is to stick to not accepting anything after the 21-day notice. It will be indicated that any additional plans beyond the 21 days will not be accepted prior to the meeting.

**ADDITIONAL BUSINESS**

**1.     Community Reports**

Mr. Dolan shared that the Outdoor Storage in the I-1 district passed. He also reported that the PD plan approval passed with 2 additional comments of taxes and special assessments must be up to date and making sure the surrounding area has not changed. Also, the Woodwind North PD was approved.

Mr. Doozan reported that the Grand River Sanitary Sewer is out to bid in a month. The DDA debated on having a lion or a compass on the wayfinding signage. The decision was to go with the compass.

**ADJOURNMENT**

**Motion by Towne, second by Blades**  
**To adjourn the meeting at 10:12 p.m.**

**Voice Vote:    Ayes:            Unanimous**  
**Nays:                None**

**MOTION APPROVED**

The Planning Commission meeting was adjourned at 10:12 p.m. due to no further business.

Respectfully Submitted,

Kellie Angelosanto

Kellie Angelosanto  
Recording Secretary