

Charter Township of Lyon
Planning Commission
Regular Meeting Minutes
April 11, 2011

Approved: May 9, 2011 (as written)

The meeting was called to order by Mr. O'Neil at 7:00 p.m.

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

Absent: Ed Campbell

Guests: 28

Also Present: Chris Doozan, McKenna Associates
Matthew Quinn, Township Attorney

**Motion by Towne, second by Blades
To excuse Mr. Campbell from the meeting.**

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

MOTION APPROVED

APPROVAL OF AGENDA

Ms. Blades requested to discuss Item #8: Chickens in Subdivisions before Item #7: Form-Based Code Proposal.

**Motion by Towne, second by Blades
To approve the agenda as amended.**

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

MOTION APPROVED

CONSENT AGENDA

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

**Motion by Towne, second by Blades
To approve the Consent Agenda as presented**

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

MOTION APPROVED

COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

None offered.

PUBLIC HEARINGS

1. **AP-08-21, Fellowship Evangelical Presbyterian Church – Public hearing to consider a map amendment to zone an annexed parcel at 22200 Pontiac Trail to R-0.3, Single Family Residential; discussion and possible action.**

Mr. Doozan reviewed the McKenna Associates memo dated April 8, 2011. After reviewing the nine criteria set forth by Section 9.03(E) of the Zoning Ordinance, Mr. Doozan made the recommendation that R-0.3, Single Family Residential is the appropriate zoning classification for the subject parcel and the Planning Commission could recommend approval to the Township Board based on the following key findings:

- a. The proposed zoning is consistent with the existing surrounding land use;
- b. The proposed zoning is consistent with the surrounding zoning and is an appropriate classification for the existing church;
- c. The proposed zoning is consistent with the Master Plan and Future Land Use Map;
- d. The proposed zoning is consistent with the intent and purposes of the Zoning Ordinance;
- e. The proposed zoning is the appropriate zoning to allow the church to continue as is;
- f. The proposed R-0.3 zoning is consistent with the trends in land development.

Mr. Conflitti noted there were previous discussions with regard to a private road. Mr. Doozan responded that the road extension was terminated and is no longer possible.

Mr. Towne felt the R-0.3 zoning was appropriate for the church to remain in use and would also be consistent in future years.

**Motion by Blades, second by Towne
To open the public hearing 7:15 p.m.**

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

MOTION APPROVED

There was no public comment.

**Motion by Towne, second by Blades
To close the public hearing at 7:16 p.m.**

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

MOTION APPROVED

Motion by Blades, second by Towne

To recommend approval to the Township Board to rezone AP-08-21, Fellowship Evangelical Presbyterian Church, to R-0.3 Single Family Residential.

Voice Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

2. **AP-11-01, Automobile Service Stations – Public hearing to 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; discussion and possible action.**

Mr. Doozan reviewed the McKenna Associates memo dated January 20, 2011. Changes to Section 30.02(B)1 and Section 3.02 are to update the existing definition of Automobile Service Stations.

**Motion by Towne, second by Blades
To open the public hearing 7:18 p.m.**

Voice Vote: Ayes: Unanimous
Nays: None

MOTION CARRIED

There was no public comment.

**Motion by Towne, second by Blades
To close the public hearing at 7:18 p.m.**

Voice Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

Mr. Towne expressed concern with making sure vehicles weren't stored outside and whether being fenced and containing noise levels would follow the protocol of the Zoning Ordinance.

Mr. O'Neil noted that restrictions could be placed on the site by having a Special Land Use.

**Motion by Towne, second by Conflitti
To recommend to the Township Board to amend Section 3.02 and Section 30.02(B)1 with the exact wording as stated in McKenna Associates memo dated January 20, 2011.**

Roll Call Vote: Ayes: Unanimous
Nays: None

MOTION APPROVED

OLD BUSINESS

3. **AP-10-17, Woodwind Village Phase II, north side of 10 Mile Road, east of Currie Road. Consider the Master Deed, Bylaws, Exhibit B, and Site Plan for Woodwind Village Phase II; discussion and possible action. Tabled at the 3/14/11 meeting.**

Mr. Doozan reviewed his letter dated April 6, 2011. He reported that the applicant's previous request to amend the Planned Development has been dropped. Consequently, the applicant is no longer requesting a decrease in the minimum dwelling unit size for Units 1 through 10, nor is he proposing to alter the landscaping around the pond. The applicant has submitted a revised plan, which addresses most of the concerns from March 7, 2011.

Mr. Doozan is recommending the Planning Commission approve the Master Deed, Bylaws, and Condominium Subdivision Plan (Exhibit B) for Woodwind Village II, subject to the following conditions:

- a. Verification by the ZBA that the 25 ft. setback variance was granted in August, 2003;
- b. Correction to the misspelling of "Planned" on Sheet 2 of Exhibit B;
- c. Modifications to the documents and plans as may be required by the Township Attorney and the Township Engineer.

Mr. Quinn reviewed his letter of April 8, 2011. There is conflict with the name "Woodwind Village Condominium Phase II", in that it is contradictory to those that are contained on Exhibit B to the Master Deed, which identifies the development as "Woodwind Village No. 2 Condominium". Also, the wrong name of the developer is listed within the Master Deed, Article III, Section 15. Within the same Article, Section 5 references Woodwind Glen Condominium. Article IV, Section 3, Responsibilities (j) does not reference the co-owners responsibility for maintenance of their driveways. Since this was not identified as a general common or a limited common element, maintenance of the driveway should be the responsibility of the unit owner and should be noted as such.

With regard to Article IX, Easements, Covenants and Restriction, Section 9 states that this developer is also the developer of Woodwind Glen Condominium and Mr. Quinn questioned whether this was accurate.

Lastly, the following wording was recommended within the Bylaws, page 29, paragraph 19, pertaining to Water Softeners:

"So that the Township can maintain permitted discharge limits in the wastewater treatment plant, the use of sodium chloride in water softeners is prohibited. Potassium chloride or other water treatments as allowed by the Township Building Official are permitted. Water softener discharge into the public sanitary sewer system is prohibited".

Ray Cousineau, representing Woodwind Village, stated the discrepancies noted by Mr. Quinn were an oversight on their part since Woodwind Village Phase II and Woodwind Village Condominium have the same owner, and they used the same document for both. He will make the applicable changes.

Mr. Quinn noted that when this matter went through Planned Development, the applicant asked for a determination on whether the wetlands setback applied to this development. The ordinance was adopted in January 2003, which dates after the original site plan approval. Review by the Zoning Board of Appeals determined that the 50 ft. wetlands setback did not apply because the provision was not in the ordinance at the time the plan was approved.

The current issue is that the 25 ft. setback was never discussed. There are two different paragraphs with two different setbacks. Section D1 references the 25 ft. vegetative setback and Section D2 references the 50 ft. building setback. The question is whether the Planning Commission wants this to go back to the ZBA for a determination.

Mr. Towne questioned how critical the 25 ft. setback would be. Mr. Doozan responded that the setback has an impact on the use of the lots. The wetlands setback will encroach on 11 of these lots and it will affect what the homeowner can do on that portion of their lot.

Mr. Dolan noted that when this plan was originally submitted, there was no ordinance and developers could build right up to the wetlands. The ZBA determined that the 50 ft. setback does not apply and the 25 ft. setback came after the fact too. Mr. Doozan concurred and added that when the preliminary plans were approved, they didn't show wetland boundaries. It is only now that they are at this stage that the wetland boundaries are shown and reviewed.

Mr. Conflitti questioned how often the wetland boundaries were changed. What existed in 2003 might not be the same today. He asked Mr. Cousineau whether any of the lots are located within an existing flood plain and Mr. Cousineau responded that the wetlands have no impact on the lots as proposed.

Mr. Cousineau stated that when they left the meeting in 2003, they felt they got relief from both the 50 ft. and 25 ft. setback requirement. They built several phases of the development encroaching into both setbacks. Now, Woodwind II proposes the same encroachments. There have been previous discussions with regard to a grandfather clause, and they felt they were exempt from those provisions.

Mr. Dolan noted there is a conservation easement over the wetlands right now, per the final DEQ permit, and all co-owners must be advised of this. He hasn't looked at the documents to see if there is specific language that provides additional protection, but he feels there is an obligation by the developer to the homeowner.

Norman Hyman, attorney for the developer, stated the ZBA determined that it didn't have to give a variance because the new ordinance didn't apply in this case due to it being grandfathered. This would apply equally to the 50 ft. and 25 ft. setbacks. The ordinance was adopted after the site was well along. Since this isn't dealing with a variance, he doesn't see the need to go back to the ZBA. The ZBA has already determined that this is a non-issue. Mr. Quinn agreed with Mr. Hyman's statement.

There was discussion on which site drawing should be used. It was determined to use the most recent documents dated March 22, 2011 that were received, stamped and approved by the township. Mr. Hyman also pointed out and Mr. Cousineau confirmed that the 11 lots in question did not intrude into the wetland, but only in the 25 ft setback.

Motion by Towne, second by Conflitti

To approve AP-10-17, Woodwind Village No. 2 Master Deed, Bylaws and Condominium Subdivision Exhibit B, subject to Ray Cousineau's compliance with McKenna Associates April 6, 2011 and April 8, 2011 letters, and to include the acceptance of the ZBA ruling of August 25, 2001 pertaining to the 25 ft. and 50 ft. wetlands setback no longer required, and any other documents required by the Township Attorney and Engineer.

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

MOTION APPROVED

NEW BUSINESS

4. AP-11-04, Hornbrook Estates PD Amendment

Mr. Doozan reviewed McKenna Associates memo dated April 1, 2011 requesting an amendment and a public hearing to be scheduled for May 9. This was reviewed in 2004, and an amendment in 2006 added 5 lots. The applicant would like to remove Lot 74 from the condominium and is requesting the township buy back one of the REU's. The condominium and the Planned Development require an amendment.

**Motion by Towne, second by Conflitti
To approve the PD Amendment for AP-11-04, Hornbrook Estates, and to schedule a public hearing for May 9, 2011.**

**Roll Call Vote: Ayes: 5 (less Blades)
Nays: None**

MOTION APPROVED

5. AP-11-05, Asbury Hill Condominium

Mr. Doozan reviewed McKenna Associates memo dated October 20, 2004 when approval was obtained for this development. At that time, roads were put in and attached housing units were built. The developer subsequently had financial difficulty and lost the project to the lender. They are looking to redevelop the parcel on behalf of the lender and build smaller house sizes. Since this has to go through the PD process, the applicant is requesting a waiver from the 40-acre minimum parcel size for developments.

Michael Furnari, 3650 Winwood Court, Rochester, stated the original project was attached condominiums, but in order to make this more viable, they have to now proceed with single-family detached homes.

Mr. Conflitti stated he likes the single-family homes concept with the buffer between the apartments.

Mr. Towne referenced the Twin Pines development and while he does not want to see small lot sizes and setbacks, he feels finishing this development is major criteria in approving less than 40 acres. He questioned whether the existing retention pond was still stable.

Mr. Furnari stated the infrastructure is in, and some sewer/water leads will have to be reengineered. The engineer will accomplish this transition in a few phases. Mr. Towne noted that Mr. Enlow had made it clear previously that this has to be in the Master Deed that they share maintenance on this. Mr. Enlow referenced Drawing #5, where one lead is going to 3 homes and one crosses another property. Mr. Furnari acknowledged that the engineer would address these issues.

It was questioned how large the homes would be and Mr. Furnari stated they are looking at 1,600-2,300 sq. ft.

Ms. Blades commented that this would put the property back on the tax roll and this commission needs to make accommodations for these situations where development has begun. She is comfortable with the less than 40-acre minimum.

**Motion by Towne, second by Blades
To make a recommendation to the Township Board for AP-11-05 Asbury Hill Condominium, to allow a waiver to the Planned Development from the required 40 acres through the Planning Commission's discussion this evening and letter dated March 25, 2011 with property, the economy, and the reduction in units.**

Roll Call Vote: Ayes: Unanimous

Nays: None

MOTION APPROVED

6. AP-11-06, Campground at Lyon Sand & Gravel Site

Mr. Doozan reviewed McKenna Associates letter dated April 7, 2011. The applicant is looking to construct a seasonal campground similar to Haas Lake Campground. Much of the land is occupied by open water, and unlike Haas Lake Campground, the application indicates there would be concerts, festivals, beach, indoor pool, diner, picnic area, activity hall, etc., which would be open to the public.

One issue addressed is that the Zoning Ordinance indicates that areas designated for camping shall be a minimum of 100 ft. from all property lines and that a fence be constructed around the property. Mr. Doozan reported that variances from these requirements would be before the Zoning Board of Appeals on April 18, 2011.

Mr. Doozan is recommending that the Special Land Use application be tabled pending action by the ZBA. If granted, the applicant will be expected to prepare and submit complete engineered drawings. At that time, it would be appropriate to schedule a public hearing.

Darrell Fletcher, the applicant, stated he is aware he still has to go to the ZBA for variances. He is looking for conceptual approval and feedback from the Planning Commission before he invests more money into this project.

Ms. Blades questioned where the gray and black water dumping stations would be located. Mr. Fletcher stated the county would dictate the location, but he is guessing they would be up front towards Haas Road since they would have to be located 100 ft. from the water.

Mr. Conflitti expressed concern with the overhead power lines and whether there would be a safety issue. Mr. Fletcher responded that he didn't have much control over this but he wouldn't put anything under the wires except parking or drain fields.

Mr. Towne questioned how large the property is and Mr. Fletcher responded it was 80 acres. Mr. Towne feels this would be an asset since the property would be unbuildable based on the required setbacks.

Mr. O'Neil feels there is some missing detail and he would like more information.

Gary Rickard, 25348 Buckminster, Novi, presented a visual aid and distributed copies of items for the commission to consider.

Ms. Blades questioned what Mr. Fletcher would propose for screening the residential area along Lyon Green. She would like this addressed if Mr. Fletcher comes back with a site plan.

**Motion by Dolan, second by Conflitti
To table this item.**

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

ADDITIONAL BUSINESS

7. Form-Based Code Proposal

Mr. Towne noted this would be discussed in the joint meeting at the end of the month. He encouraged the other commissioners to read the proposal and write down ideas to present to the DDA. He requested to hold off on a recommendation this evening.

Mr. Doozan reviewed McKenna Associates memo dated February 14, 2011. Since this project involves New Hudson and would require DDA funding, there was an opportunity to discuss the concept of form based coding with the DDA. The DDA is requesting discussion and input from the Planning Commission.

The goal is to contrast form based coding with traditional zoning, which focuses attention on 90% use and 10% form. This proposal would flip flop and regulate use to a lesser role. By regulating the impacts of uses and allowing any use that can conform to a set of performance standards, form based codes allow greater latitude in the uses that can occur.

Mr. Towne questioned sustainability and Mr. Doozan explained that the build-to line would provide uniformity.

Ms. Blades questioned whether the DDA could still use this if the Planning Commission weren't interested. Mr. Doozan stated the DDA would need a majority of interest from the commission to move forward.

Discussion continued with whether this could be discussed as a form based overlay district, but Mr. Doozan stated this proposal is intended to get away from the overlay.

Mr. O'Neil would like to know the expectation of the DDA. The Planning Commission has to work with them to develop an ordinance amendment to send to the Board and he is not sure if the commission is in locked-stepped with the DDA. There appears to be a gap with identifying some key elements that the DDA would like to see.

It was decided to discuss this again at the joint meeting.

8. Chickens in Subdivisions

Previously, resident Suzanne MacDonald had asked that the Township consider allowing keeping chickens for the purpose of acquiring eggs for personal use in subdivisions in residential areas. It was found that her Deed Restrictions do not allow chickens and she would have to go to her subdivision to discuss this further.

The larger issue is that other communities are looking into this and some are allowing 4 chickens per house, but no roosters.

Ms. Blades referenced the ordinance and the definition of a farm. The ordinance doesn't say anything about chickens or farms, but this may fall into the recreation category. Discussion continued with trying to clarify the intent of the ordinance, or lack of it.

Jay Howie is in favor of allowing chickens and noted that chickens eat mosquitoes.

Mr. Enlow feels the main issue is with the size of the property and the concern with odor. He referenced Ann Arbor, which allows chickens on less than 1.5 acres.

Mr. O'Neil doesn't foresee this as being feasible on small lots, but would consider 1 acre or more possibly acceptable.

Discussion continued with identifying what is a domestic animal versus nuisance animals. Mr. Quinn will do further research and provide an email back to the Commission. If this is not

covered by police power and it is in fact a zoning matter, it could be discussed again at the next meeting.

9. Community Reports

Mr. Doozan reported that Blue Cross Blue Shield would come in with a new landscaping plan that includes meadows and uncut areas that will be more sustainable.

He also noted that there is renewed interest in the Copperwood non-residential site. There have been 3 developers and 1 bank that have shown recent interest.

Mr. Doozan stated the Board approved the Woodwind North Condominium Program and the Kroger Fuel Center.

Mr. O'Neil stated he responded to an email from Michelle regarding the agenda for the joint meeting. He felt the issue with having a financial update of where the township stands should be addressed. The Planning Commission's job is to worry about development and land use, but it is also thinking in terms of dollars and cents. He is looking for this conversation to get a feel of where the board is coming from and hopefully come to a mutual understanding that benefits both groups moving forward.

ADJOURNMENT

**Motion by Towne, second by Blades
To adjourn the meeting at 9:16 p.m.**

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

MOTION APPROVED

Respectfully Submitted,

Lynn Lindon

Lynn Lindon
Substitute Recording Secretary