

Charter Township of Lyon
Planning Commission
Meeting Minutes
February 22, 2016

Approved: March 28, 2016

The meeting was called to order by Mr. Conflitti at 7:00 p.m.

Roll Call: Patricia Carcone, Board Liaison
Jim Chuck
Michael Conflitti, Chairman
Kris Enlow, Secretary
Stephan Hoffman
Kurt Radke
Carl Towne, Vice-Chairman

Guests: 29

Also Present: Leann Kimberlin, Township Attorney
Patrick Sloan, McKenna Associates

APPROVAL OF AGENDA

**Motion by Chuck, second by Towne
To approve the agenda as presented.**

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

MOTION APPROVED

APPROVAL OF CONSENT AGENDA

A. Approval of the February 8, 2016 Minutes

**Motion by Towne, second by Chuck
To approve the February 8, 2016 minutes as presented.**

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

MOTION APPROVED

COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

DDA Report – A printout of Ms. Archer's report was provided to the Planning Commissioners.

PUBLIC HEARINGS

1. **AP-14-56, Devonshire PD – Preliminary Review. Property located on the north side of 8 Mile Road, west of Napier Road. Public Hearing to review a proposed single-family residential development consisting of 84 homes on 71 acres.**

**Representing Devonshire PD: Dan LeClair
Bruce Michael**

Mr. Doozan reviewed the McKenna Associates memo dated February 15, 2016. If the Planning Commission is comfortable with a 1.2% density increase, in consideration of the benefits provided by this project, then it was recommended to approve the preliminary planned development plan to the Township Board, subject to the minor revisions outlined in the letter, and subject to any revisions called for by the Township Engineer or Township Attorney.

Mr. Doozan spoke about the values of the homes and how the Commission should consider the information provided since that is one factor of multiple factors to be considered.

Ms. Zawada referenced the CES memo dated February 19, 2016. She reviewed the following items:

1. The right-of-way from ITC for the section of road through their property that will connect to the proposed Windridge PD will be required prior to recommending approval of the Final PD.
2. The exact configuration of water main, sanitary sewers and storm sewers will be reviewed during detailed engineering review and the applicant has noted this on the plans.
3. An offsite extension of public water and sanitary sewer will be required for this project as part of a five-property consortium. The plans for the off-site water and sewer shall be reviewed and approved prior to execution of a final PD Agreement. The off-site plans shall be included as part of the Final PD submittal and the applicant has noted this on the plans.

Grading plan South - Sheet 9

1. Improvements may be needed to the Sump Drain, the downstream storm water outlet. The capacity will be required to be evaluated and any improvements will be required.
2. Detailed grading review will be completed during the review of the detailed engineering plans.
3. The overland overflow route shall remain in the development in the area near lots 40-43 and 54-58, this should be evaluated during detailed engineering review.

Parallel Plan – Sheet 27

1. There is an existing 24" gas main (Consumers) and an easement throughout the development. Consumer's also has an existing easement through this site. During this review they contacted Consumers and sent them this plan, their

feedback is included in the Commissioners packet. Their opinion is that it is approvable.

2. The parallel plan also shows a boulevard and the highway easement over the existing gas easement. The Road Commission would not approve this on an existing gas easement. Based on this, the parallel plan requires revision. She spoke with the design engineer the afternoon of February 19, and he may attempt to revise the parallel plan prior to the Planning Commission meeting.
3. The parallel plan does not show the regulated wetlands to be filled so it is difficult to evaluate the amount of fill and placement of the fill on the parallel plan. I have reviewed the Brooks Williamson correspondence. She does agree with the majority of the report, including that it is likely the large road crossing would most likely be approved. She also agrees with the statements regarding permitting through MDEQ and EPA and when mitigation is required.

Mr. LeClair provided a brief history of the project which dates back to 2013. A power point presentation was provided.

The following proposed public benefits are as follows:

14 acre land conservancy donation
Contribution to 8 Mile/Napier traffic signalization
Additional tree plantings
Upgraded 8 Mile Road streetscape
Construction of public sanitary sewer system
Construction of public water system
Sump drain improvements

Mr. Hoffman asked if there is any room on the property to retain any of the water. Mr. LeClair stated if this was to move forward with an approval, each property is being designed to detain/retain the water.

**Motion by Chuck, second by Towne
To open the public hearing at 7:52 p.m.**

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

MOTION APPROVED

Anne Marie Emsley, 51824 Eight Mile Road – Ms. Emsley commented that the current plan creates several hardships for their home. Two massive detention ponds abut their land; 1300 feet of their property line will be lined with homes and run off ponds. This plan traps their home between two roads with 2 separate deceleration aprons. The distance of the roads from their driveway will make turning out of their driveway dangerous. The Road Commission recommended a full length left turn lane to help in this matter, and their recommendation should be a requirement of this project.

The detention pond at the southeast corner of the plan intends to have a static water level of 3-4 feet and no fencing. The one surrounding the northwest corner appears to

have a static level of 5' of water. This represents a hazard to their small children. It will devalue the land and is not safe for their family. This plan places 3 detention ponds within their wellhead, and all of the homes in the back of their property drain towards their wellhead, not the street. The design is not safe for their water and will create a hardship for them.

This plan intends on clearing all the trees and back filling all of the large non MDEQ EPA protected wetlands surrounding their home. No attempt at all has been made to work within the nature of this long, untouched and unique area. The detention pond in the lower right corner is an infinite loop, this overflow route will flood their property.

They have come to accept their home is now unsaleable. If they did sell, it would be at a massive loss. Their home has become a frozen asset. They currently farm a portion of their land. As the operation expands, will it will create incompatibility and issues with their neighbors. They currently host family barbecues and parties, they race quads and dune buggies and shoot large legal fireworks. They also often camp in the backyard and have an archery range. They legally hunt on their land as well so every reason they live here will be taken away from them. Every inch of their property will be overlooked by two story houses. The screening proposed is not enough to provide screening. No real attempt is made to preserve their privacy. Extensive screening should be provided. The design is incompatibly with the shape of the land. All objections should be applied to their lot. There will be light and sound pollution. Their property is currently fenced to contain their pets and children. They have no intention to have anything prettier than cattle fencing. She asks for help with all of these areas. This PD has an unreasonable negative impact.

Stephen Emsley, 51824 Eight Mile – Mr. Emsley stated the map is misleading with the way it is drawn to look like detention ponds are green space when they are not. Devonshire is not a single development, it is two developments totally bisected by protected wetlands. The vast majority of the proposed greenspace is not accessible to the northern section. It appears the Township has given up on the idea of contiguous open space. The PD does not comply with the open space and should be rejected.

The fiscal impact statement provided by the developer uses a greatly inflated plan. Regardless of their opinions, actual sale comps do not support this evaluation. The average comps they provided average \$173 square foot. 3200 sq. ft. homes currently fetch \$131 per square foot, or half of what the developer has put forth in their impact statement. The entire document should be rejected.

The developer has chosen to fill every non 303 protected wetlands, some of which measure over 1.5 acres in size, two of which are mere feet from his property line. The developer has also decided to dice protected wetland 3 into several tiny areas which will be incapable of supporting the animals that thrive in this wetland per the DNR. They have definitive proof that area B does indeed have prolonged standing water over half the year and in most areas all year. He requests the Township look closely at what is really being protected. He noted that many of the fills and clear cuts are in Oakland County priority 2 natural conservation areas, which is a rare designation in Lyon Township.

Given the issues with the financial impact statement the Township will rapidly lose more than the \$250,000 the signal probably won't cost.

Regarding offsite drainage, the issue will be resolved when the County fixes the ditches and the sump drain. The area has been that way for decades and they aren't sure who the developer is claiming this will benefit other than Soave and his property.

The loss of all mature trees is not offset by 45 tiny trees. The public water and sewer benefit is self-serving. The developer states that "overall the project will extend water along a route traversing from its present location to the end of Kirkway down 9 Mile to Chubb Road, down Chubb Road to Eight Mile, from Eight Mile all the way to Napier and up Napier back to their sub." Hold them to that. It does not say the water lines will cut through Devonshire. The developer has stated water will be run to the corner of Eight Mile and Napier. If this PD is to be considered, then the developer must be held to this statement.

This PD does not represent design excellence in any way; it represents cramming tiny lots against neighboring lots simply because it is the only way to fit them. He has not had time to review the recently submitted parallel plan and felt that this is a public hearing and they had the right to do so. The citizens should have a right to review that input. He would reject anything that Mr. Michael says, since he provided a direct contradiction to a question that was asked regarding a highway easement and a gas easement. They are having to trust Trowbridge to follow through to protect their property, finances and children. In the end it cannot be a positive financial impact to the Township. The developer is trying to leverage the PD ordinance to maximize profit per unit at the expense of the residents. They have not met the legal requirements.

Sandra O'Brien 52655 Nine Mile – Ms. O'Brien questioned if the wetlands are being obliterated. If so, has a study been done concerning the animals? She questioned how deep the gas line is buried. She questioned if they really want houses that close to the gas line. She commented on how full the ditch is. Her main problem is the wetlands.

David Bares, 20805 Hunters Ridge – Mr. Bares lives on the west side of the development. He stated that corner of the Township is a very rural area with large lots with equestrian areas. This development would not be consistent with the surrounding areas. Hunters Ridge has multi-acre lot. The wetlands restrict what can be put in there, and the feel of this portion of the township will change. He is not convinced that the parallel plan is better and is not convinced it is achievable. He felt the Township should hold the developer to the existing zoning with no waivers. There is plenty of land to develop larger land to capture the \$550,000 that is desired.

Motion by Chuck, second by Towne

To close the public hearing at 8:18 p.m. due to no further comment.

Voice Vote: Ayes: Unanimous

Nays: None

MOTION APPROVED

Mr. LeClair explained they are doing what they can to screen Mr. and Mrs. Emsley's property and provide fencing around the detention ponds. With respect to the utilities, the plan does include an extension of the sanitary sewer and water lines to their property. The gas pipeline was probed, and the depth of it is between 3 and 4 feet deep. They will be doing fill over that pipeline. With respect to wetland mitigation, the amount of wetland impact is under 1 acre of fill.

Mr. Doozan explained the minimum house size is just that, a minimum. In all likelihood, they have not seen a 2000 square foot house in these developments in years. Secondly, they were talking earlier about the home sales in other developments in the township and they are reaching or exceeding \$500,000 or \$550,000 and in some development as high as \$700,000. It is not unheard of to reach \$550,000. This is one of many things the Planning Commission needs to take a look at.

Mr. Michael confirmed the homes will be built in the range of 2800-3200 square feet.

Ms. Zawada explained that the 3 counties will have to determine what is necessary regarding the sump drain. It will be improved.

Ms. Zawada commented on the Emsleys' well location and the possibility of anything leeching from the detention pond into their well. She said it depends on the well location, the depth of the well, and the soils.

Mr. Towne stated that the landscaping is not adequate around the Emsley property; he would like to see more mature trees planted with something smaller in between. The plantings on the Eight Mile side will restrict the Emsleys from entering their property, and those plantings should be eliminated. He thought they should look at how close detention ponds are to the road in the future, since they are unsightly and an attractive nuisance for kids.

Ms. Carcone stated she would feel exactly the same way Mr. and Mrs. Emsley feel if it were her, but they also knew when they bought their property that it was zoned for half acre parcels. It has been zoned that way for over 50 years. Mr. Emsley stated they are asking for reasonability.

Mr. Enlow stated the biggest benefit will be the signal at 8 Mile and Napier, depending on the improvements of the sump drain. He felt the utilities are a self-serving benefit.

Brooks Williamson from the environmental consulting firm explained that they have been involved with the property for quite a while. There are quite a few wetlands on the property. They have defined which ones are subject to regulation and some which are not. The plan that was being presented does in fact restrict the wetland impact to less than one acre. The one acre stays under a state review; if it exceeds one acre the EPA gets involved. To his knowledge they have been through the property, everything has been flagged, nothing extensive has been done about what is in the wetlands primarily because it is similar to what is already throughout the Township. Should the plan be approved the properties will have to go through the wetland permitting process and there will be input from 20-30 groups to provide comments. That is where there will be

questions that could be addressed regarding animals/plants. The initial look shows nothing at this point in time.

Mr. Chuck asked if they would be willing to meet with the Emsleys with regard to buffering their property. Mr. LeClair stated absolutely.

Mr. Towne stated there has been great information brought forth tonight. This project meets all eight criteria for a planned development. If there is any discrepancy, he would like to see that done before it goes to the Board. The playscape is a nice piece, he would make it to be handicap accessible and to make sure there are enough benches. He liked the landscaping because it's not so labor intensive. He liked the greenbelt and liked the removal of the two lots. He liked the open space and loved the fact that all the wetlands are staying with very little fill. He would recommend approval to the Board.

Mr. Hoffman commented that he was sorry the Emsleys had to go through this, but it would probably not be as upsetting as they think it will be. He did not see much hindrance, since they are welcome to continue to farm and do whatever they are able to do on their property. He felt that the Emsleys did have some merit when it came to the architecture; he felt the renderings are deficient in style and compatibility. The plans and elevations are deficient in professional design.

Ms. Carcone asked how much the developer is contributing to the traffic light. Mr. Michael stated he believes it is \$200,000. Ms. Zawada asked if the traffic light would be installed with phase one. Mr. Michael stated yes.

Motion by Towne, second by Chuck

To recommend approval of the preliminary PD AP-14-56, Devonshire PD to the Township Board including the comments in the McKenna Associates memo dated 2/15/16 and the CES memo dated 2/19/16. Also, including developer contribution of \$200,000 for the full construction of the traffic signal. Detailed engineering will meet Oakland County Health Department requirements for the distance from the well and heavier landscaping along the Emsley property.

**Roll Call Vote: Ayes: 6
 Nays: Conflitti**

MOTION APPROVED

OLD BUSINESS - None

NEW BUSINESS

- 2. AP-16-03, Legacy of Lyon PD – Conceptual Review. Property located on the north side of 10 Mile Road, west of Chubb Road. Conceptual review of a proposed PD that would consist of 48 single-family homes on 26.7 acres.**

**Representing Legacy of Lyon PD: Howard Fingerroot, Pinnacle Homes
 Brad Botham, Pinnacle Homes**

Mr. Doozan reviewed the McKenna Associates memo dated 2/17/16. The review letter revealed three principle issues with respect to Legacy of Lyon planned development; traffic impact, relationship to the Master Plan, and density of development. He recommended that the Planning Commission focus on these issues during its review. Meanwhile, he recommended that the applicant address the revisions and provide additional information as called for in this review letter.

Ms. Zawada referenced the CES memo dated February 18, 2016. She explained they have reviewed the sanitary sewer capacity at ultimate buildout per the Sanitary Sewer Master Plan. There will need to be additional sewer built as it stands right now, whether this development is approved or not. Also, the storm sewer downstream capacity through Woodwind Village has not been provided.

Howard Fingerroot, Pinnacle Homes, gave a brief PowerPoint presentation regarding the project.

Mr. Fingerroot explained in the other developments he has done, 90% of the homes are empty nesters. The nature of the houses really lends themselves to the empty nester lifestyle since the homes are approximately 1700-2100 sq. feet. There are basically 3 rooms that make up the living space, so it lends itself well for a couple and not a family with school aged kids. The value is not there.

Mr. Towne stated that he had an issue with the density, since they had decided that on one acre parcels the square footage of a lot would be no less than a 35,000. This proposal is way below that size. They have not approved a development with only 15 feet between houses either. He felt that space should be 30'. He felt it is a great looking project though. Mr. Towne stated the Planning Commission listened to everyone in the Township, and those residents expressly said that they didn't want a density increase.

Mr. Fingerroot explained the Master Plan amendment was approved, so he is following the rules. Mr. Doozan stated that single family residential B could be considered for empty nesters, recognizing the lower traffic generated by the less intense housing. Mr. Towne stated that everyone agreed they would stick to the 35,000 sq. ft. requirement.

Mr. Chuck stated that they rarely see letters of approval from residents who are in support of a project. This is unique, in his opinion. This shows that this kind of project would be best suited to the traffic, given the circumstances. He stated that colonial homes can be intrusive, but this type of home is not. He likes the project and stated this is not a typical plan. It's something they need to provide to the residents.

Mr. Enlow stated that this is being presented as an empty nester community, but the developer wouldn't guarantee it would be sold to a certain age group. Mr. Enlow stated he would want the age to be guaranteed. Mr. Fingerroot stated he would market it to empty nesters. He stated that they don't like to age restrict because people don't want to feel old; it's not a good marketing thing. The value is not there for families, and the floorplan is not set up for families. Mr. Enlow stated that does not satisfy him, as it could easily turn into families living in there.

Mr. Radke asked if there would be items in the bylaws that would discourage swing sets, sheds, etc. Mr. Fingerroot stated yes.

Ms. Kimberlin asked how they would handle the neighbors using the property. Mr. Fingerroot stated a lot of those specific things are addressed at the next step. They are open to it and felt they had some flexibility there.

Ms. Carcone stated she went to see the product and wished she could live in one; they are beautiful. There were no outbuildings or play structures of any kind. She felt this kind of product is needed. She has heard from several of the surrounding homeowners, and they like it. She is leaning more towards it after talking and listening to the existing surrounding homeowners.

Steve – He thought the terms should be clarified and a new traffic study obtained, especially since people work a lot later in life, even after retirement. Should the housing bubble burst again, he questioned what would happen then. What would guarantee these homes would be built?

Sandra O'Brien 52655 Nine Mile – Ms. O'Brien stated if it's a case of increased density, get it rezoned. It's a good concept that she likes, but she would like to see smaller homes. People who are on opposite shifts would live there too or people who don't want children. Her main issue is the traffic.

Todd Allen, 54055 Birchwood Drive – Mr. Allen stated that the developer did meet with them, and having the tree line remain is a big buffer for them. He is in support of the project. He commented that the traffic wouldn't be that much different than it is now. People who have kids and families would not be the target market for these homes.

Erika Burke, 54490 Birchwood Drive – She stated that they did meet with Mr. Fingerroot and at one time there was going to be 20 feet between the houses and now she is hearing 15 feet. She questioned how the spacing is in Farmington development. She suggested taking some lots from the back and adding those to the center and add landscaping in the back.

Karen Gatt, 24750 Wedgewood Drive – Ms. Gatt commented that she is very concerned with the density, and the Township needs to be proactive. A middle school is projected to go next door by 2020 or 2021, which will increase the traffic significantly. There is no guarantee these homes won't be sold to families. She commented that 88 acres east of this just went up for sale and will probably become another development. Low density is something she would support.

Jeff Mack, 24810 Wedgewood Drive – Mr. Mack stated he was originally against this plan, but after meeting with Pinnacle he is in support of it. He likes that the tree line was kept.

Mr. Doozan stated that there would be a planned development agreement. If the applicant would want to change something due to a market drop, then they would have to come back to the Township and get an amendment to the planned development.

Mr. Enlow stated he would like to meet the minimum setback of 40' in the front and felt that an updated traffic impact study is needed. Mr. Doozan stated he does have a more current traffic study that he got today, and he can provide it to them. Mr. Fingerroot explained this development would generate less trips per day. Mr. Fingerroot stated pushing the setbacks back would infringe on the tree line, so he didn't know if he could do that and still preserve the tree line.

Mr. Radke stated that he respected his colleagues' opinions but felt that the idea of the letter of the law vs. the spirit and intent of the law is something he struggled with. He thought this would be good for the community and there is a need. This would increase property values and is a type of development that is needed. He heard positive feedback from the residents, and Mr. Fingerroot met with the residents and that was important. He felt this is the best use of the land.

Mr. Enlow stated this is a 100% increase in density. Ms. Carcone stated under the master plan it is allowed; you can have two homes per acre. Ms. Carcone stated it was amended and voted on. Mr. Enlow responded that the Master Plan Amendment states, "Until improvements are made to increase the capacity of Ten Mile Road, it would be inappropriate to allow increased density on the remaining large developable parcels along Ten Mile Road (such as Mulligan's Driving Range). Consequently, these parcels are designed Single Family Residential on the Future Land Use Map."

Mr. Fingerroot stated 20' setbacks between the homes would be the max they could go. He didn't think 30' would be good because people want to feel safe and have that sense of community.

ADDITIONAL BUSINESS

Community Reports

Treasurer Carcone brought the Commission up to date regarding the last special Board meeting.

ADJOURNMENT

**Motion by Chuck, second by Enlow
To adjourn the meeting at 10:33 p.m.**

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

MOTION APPROVED

The Planning Commission meeting was adjourned at 10:33 p.m. due to no further business.

Respectfully Submitted,

Kellie Angelosanto

Kellie Angelosanto
Recording Secretary