

Charter Township of Lyon
Planning Commission
Meeting Minutes
October 11, 2016

Approved: October 24, 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
Carl Towne, Vice-Chairman

Absent: Kurt Radke

Guests: 31+

Also Present: Leann Kimberlin, Township Attorney
Chris Doozan, McKenna Associates
Leslie Zawada, Civil Engineering Solutions

**Motion by Towne, second by Chuck
To excuse Mr. Radke's absence.**

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

MOTION APPROVED

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 September 26, 2016 Minutes

**Motion by Towne, second by Chuck
To approve the September 26, 2016 minutes as presented.**

Voice Vote: Ayes: Unanimous

Nays: None

MOTION APPROVED

COMMENTS FROM PUBLIC ON NON-AGENDA ITEMS

Debra Lapensee, 57299 Hidden Timbers Drive – Ms. Lapensee stated she just found out a few days ago regarding the Township Board approving the shooting range, and she felt it is too close to Dolsen Elementary School. She knew nothing about this and is dismayed to find out that this was approved. She wondered what the final conclusions were to approve it. Mr. Conflitti commented that a public hearing was held. Mr. Doozan explained that the Township Board held a lengthy discussion of about 2 hours. He suggested obtaining the Board minutes once those are approved, and those will provide the comments of the Township Board and the comments from the public. Mr. Towne provided an explanation of the decision making process regarding the approval. Ms. Carcone also provided information regarding the Board meeting and how they came to the decision to approve the gun range.

DDA REPORT – None

PUBLIC HEARINGS

1. **AP-16-31, 10 Mile and Milford Road – Rezoning. Property located on the northeast corner of 10 Mile Road and Milford Road. Public hearing to consider a proposed rezoning of 17.84 acres from R-1.0 (Residential-Agricultural) to B-2 (Community Business District).**

**Representing AP-16-31: Nicole Jeffries, Versa Development
Todd Wyett, owner**

Mr. Doozan reviewed the McKenna Associates memo dated October 2, 2016. He explained that the analysis revealed the following:

1. Subject to compliance with zoning regulations, the proposed rezoning would:
 - a. Further implementation of the Future Land Use Map; and
 - b. Provide needed commercial facilities for the growing population;
 - c. Provide the opportunity for a well-designed shopping center, rather than strip commercial development.
2. The evaluation based on the nine criteria in Section 9.03(E) favors rezoning.

Based on the above findings, it was recommended that the Planning Commission recommend to the Township Board approval of the proposed rezoning From R0-1.0, Residential Agricultural to B-2, Community Business District.

Ms. Zawada referenced the CES memo dated October 5, 2016. She explained that without a site plan, it is difficult to tell if there is any impact on sanitary sewer. When they are designing the sanitary sewer for the Township, a B-2 district would have 2.4

times the amount of flow. Mr. Towne asked, if there was a buildout of the site, how would it affect the sanitary? Ms. Zawada stated that it's really dependent on the use for the site.

Ms. Kimberlin referenced her memo dated October 3, 2016 where she questioned the proper legal description and tax ID; there was discrepancy between the application and survey plan that was provided.

Ms. Jeffries provided an overview of the site and explained they are proposing to rezone the property to match the zoning across the street. They would like this to match the Master Plan Amendment from last year. There have been many homes built in the area in the last 10 years. The Future Land Use map calls for this type of development to serve this additional residential growth. They are not proposing any site plan at this time.

Mr. Towne explained that a gas station was turned down by the Planning Commission, and they are not looking to add one there. He questioned what kind of businesses are interested in putting something there. Ms. Jeffries stated that they don't have anyone interested right now, but it would most likely be a retail store use. They would be 2 years out before they would have a site plan ready. They could do something more on this property than on the CVS property, since it is larger. Mr. Towne stated that there is a problem with not knowing what will go in there. Ms. Jeffries confirmed that the site would be tight for a Meijer. Mr. Towne stated it makes it very difficult to make a decision when they don't know what they would be approving. He felt he needed more explanation before he would be ready to rezone this.

Treasurer Carcone stated she would like to see a site plan. She is not opposed to some commercial, but she is not comfortable not knowing what it can be.

Mr. Enlow provided a list of permitted uses that would be allowed on B-2 zoning, and special land uses were provided.

Mr. Chuck stated part of the reluctance is perhaps a big box store. Mr. Doozan stated that a Meijer would need about 25 acres. Mr. Chuck stated that they didn't want a convenience store and gas station. He has driven by that corner and seen unsightly weeds and at some point and time we need some business commercial in this Township. There has to be proper planning. He can understand Ms. Jeffries' concern that they can't market since they don't have the rezoning. The 9 criteria have all been met. He felt the first step is to rezone the property. He would like additional choices in the Township now that they have the growth.

Mr. Hoffman explained there is another safeguard after this approval. To delay this project seems senseless when it can easily be marketed better if the property was rezoned. He did not perceive a problem with rezoning it without a site plan.

**Motion by Towne, second by Chuck
To open the public hearing at 7:34 p.m.**

Voice Vote: Ayes: Unanimous

Nays: None

Steve Samoranski, 57201 Meadow Creek Circle South – Mr. Samoranski asked how many people live along that corridor. He is new to the neighborhood. They have a problem with the Township already, since there is unused commercial property already at Kroger. One of the reasons he moved here is the quaint feeling of the Township. There is a quaint feeling of neighbors and camaraderie, and now we want to throw up another concrete jungle. How lazy are we that we need commercial property on every corner when we have other infrastructure problems that need to be fixed first? We should focus on taking care of the infrastructure first. Take care of the traffic, and fill the commercial buildings that are already there.

Derek Brezinski, 24074 Meadow Creek Circle East – Mr. Brezinski asked what the reason is that people moved here. He stated he moved here so he could provide his daughter with a good education. They don't say they want to live here because there is a store at the corner or a dress shop. They come to live here to have the opportunity to have something better than what they came from. There isn't a person in this room who won't solicit people to be at the next meeting. When there is any type of business, there will be dumpsters. With that come pests, and that needs to be taken into consideration. We all have our favorite places to go to, but when there are other facilities, there are other people that come here. When vehicles come here, it creates surface water runoff. We are on a well-based system, and Ann Arbor is dealing with issues where they have contaminants that are leaching to the water supply. The one thing that is unique to our area is the water that we have; he didn't know if they needed to add more things that could potentially contaminate that. Noise pollution is another concern. Anytime there is commercial, there is a direct correlation to crime. He is also concerned with the safety of the children. Light pollution is also a concern because it takes away from the ambiance of living here. Increased cars will also increase the air pollution. He felt this will also affect their home values. He encouraged them to think long and hard about this decision. If this can remain residential, that is a completely different thing.

Eugene Cabadas, 57166 Meadow Creek Circle North – Mr. Cabadas doesn't have anything against progress but most of his neighbors are against changing the rezoning from residential to B-2. The applicant wants the zoning changed, but they aren't presenting a plan for what they want to put on those 17 acres. He would think the procedure should be changed so that when a zoning change is considered, the specific layout should be provided. He is also concerned with having a big box store and questioned if the Township have the legal documents if this is approved that no big box store can be put on that property. Ms. Kimberlin stated that the available process for that will come from the developer where they voluntarily present a plan; that's under an ordinance that the Township has in place. That is not something the Township can initiate or force the property owner to do. Mr. Cabadas asked what the problem would be to have a legal document that says he will not put a big box building on this site. Ms. Kimberlin explained State Law mandates what is required for rezoning properties, and that is not a provision that is in the law. Mr. Cabadas stated he is concerned because he has been here 18 years now. He used to live in the Winding Creek subdivision, and a developer wanted to put a Meijer in near there. They had to get an attorney to stop them from putting it in there. He has a bad feeling about this, since a big box is not being addressed. Mr. Doozan stated there is no way that a Meijer would fit on this lot, it

is the wrong configuration; it would need 5 times the footprint of the building in acreage. Mr. Cabadas asked if they would want a Meijer next door to them. He also commented that it took him 10 minutes to make a left hand turn to come to this meeting. He thought a roundabout at 10 Mile and Milford Road would be a good idea. He would rather see 17 homes on one acre parcels on that corner.

Frank Sakorafos, 24233 Tara Drive – Mr. Sakorafos commented that Meijer could buy Dandy Acres and put in a Meijer. With the right price, anything is for sale. Mr. Doozan stated Dandy Acres is zoned R-1.0. Mr. Sakorafos stated that could be rezoned as well. He is concerned with a restaurant going in, since they produce oil that gets in the air.

Chriss Roberts 56645 McKenzi Lane – Mr. Roberts had a letter from Ms. Zawada asking for any last minute additions. He stated this property could bump out to 53.52 REU's, which would basically pull away from any future residential development. Lowe's builds on ten acres. He knows Versa Development has been in contact to purchase more land already from the Christadelphians. He spoke to the preacher, and they have looked at the footprint. One area is zoned commercial, and residential gets pushed out. He stated he walked McKenzi Lane, and no one there wants to see commercial development of any kind. They thought it might mirror CVS; he expected it to go that way. No one wants any commercial development. He has never encountered anyone that wants commercial except for the developer. No one wants it to be a destination site; it is already a dangerous corner. He provided a petition with 36 signatures. These are the people that all agree this is a bad idea. If they are going to do commercial, push it to the corner. In 2006, the Township was sued by this company for this request. He had 250 million dollars in lawsuits. Mr. Doozan had said at that time that there was an overabundance of commercial property in the Township. All of Mill River was approved, all of Crystal Creek, all of Elkow properties were approved, all of Woodwind, all of Raney's property and Hutto's property was approved already on paper when Mr. Doozan said we had too much commercial, and commercial belonged on Grand River. Approving this entire piece is not a good idea. He commented that a dealership could go there as well. It's important to the Township to have some commercial, but giving blanket approval has the potential to grow. It's not a taking to have this residential with a little bit of commercial in the corner. He didn't want to hear the dumpsters or delivery trucks. He came here to get away from that. He looked everywhere, and they picked Lyon Township.

Matt Diffin, 24353 Tara Drive – Mr. Diffin stated that they bought their property 8 years ago because it was quiet. He owns a civil engineering firm in New Hudson and specializes in rezoning properties. The first point that you can't put a big box store on that acreage is false. A Kohls, Target, or Sam's Club could go there. 12-13 acres is consistent with those types of stores. To say it can't be done is incorrect. If there wasn't already a Kroger, they would have jumped on this site in a second. His property value will be devalued. They should not rezone that whole property commercial without looking at conditional zoning, which they should be looking at. Once the cuffs are off and it's zoned B-2, they can pick up more property, and it can get a lot bigger. The residents did not buy into that. There were no concessions to the changes. You can limit the amount of land that will be commercial. The Township can't handle a lawsuit of that magnitude if someone with deeper pockets came in. He is begging them to not

blanket rezone it.

Bob Cue, 56900 Appaloosa Lane – Mr. Cue has been here 21 years to be in a rural environment. 21 years later, he can't see the stars at night and can't get out of his street. We don't need more commercial. He did not want to see a gas station or a car wash. The Township is turning into another Novi. Rezoning this right now without knowing what is going in just leads the way to something they don't need. Vote with the people in the area instead of what the developer wants.

Laura Williams, 56645 McKenzie Lane – Ms. Williams stated that once this is rezoned to B-2, you will lose all control over what this property will be. Any of those types of stores like Meijer can come in here, and they won't have a choice. Don't give it away. The Master Plan is only one part of it, and the decision should be based on the existing conditions, not just future decisions. She went back and read the text of the Master Plan and when she looks at the amendment it calls for additional commercial on the corner but does not say anything about the size. The meeting minutes from June 2015 say that after deliberation, the Commission was comfortable with keeping Dandy Acres R-1.0 and the L-shaped parcel. Change the residential parcel south of the church to commercial with no residential on the corner. To her that sounds like they were intending to change the future land use map for just the corner instead of the whole enchilada. The Master Plan also talks about wanting to avoid strip development; she did not know how rezoning this to B-2 would avoid strip development. She explained that the Master Plan states it would support convenience commercial. By rezoning these 18 acres, they are now in the realm of community retail. Community retail supports areas of 10-30 acres. They are not supporting the Master Plan by changing this to B-2. The Master Plan also stated there should be no more high density growth due to the traffic, and isn't that what a B-2 zoning would do? She does not think this supports the Master Plan. Now this will create a destination in the middle of the Township, and that is not what they want. The idea was to have small commercial areas in the middle of the Township to support the immediate residents but keep the destination stores on the edge so they aren't drawing people in and creating more traffic issues. She doesn't know what happened to the proposal where there were homes and a node of commercial that was presented before. She felt that was more reasonable. She explained that the REU issue is also a concern.

Norene Yuskowatz, 23565 Millwood – Ms. Yuskowatz has lived here for a year and enjoys the CVS. They could put this off and wait to have a site plan; it's not their job to market this for the developer. There are signs that say zoning changed proposed, so there must be signs of something in the air. To do this it is putting the cart before the horse. When they have an idea, then look at it. Right now, they don't have any idea. To give them a blank page is a mistake and bad for that corner due to the traffic. It would be in all of their best interest not to do the rezoning now.

Marshall Labadie, 57251 Hidden Timbers – Mr. Labadie stated he loves his neighbors. He cautions giving the applicant this blank canvas for 17 acres; you don't know what you're going to get. All commercial development ages and needs facelifts. Be careful with what they add to our community.

Steve Emsley, 51824 Eight Mile – Mr. Emsley stated this is the most well-informed

public hearing he has sat through. His problem is the comment that they will get it at the next step. He thought there was time to work with the developer instead of giving this blanket rezoning. He suggested looking for some sort of compromise.

Karen Schmidt, 56770 McKenzie Lane – Ms. Schmidt commented, not in her backyard. The Master Plan analysis showed that the Township already has more retail space than the Township residents can support. She moved here 7 years ago. She explained that out of 78 communities, they chose Lyon Township because it offered affordable greenspace and a shorter commute. She is concerned with what could go in. What's to stop it from being medical marijuana or a Mr. Vapor?

Amy Deeds, 57431 Hidden Timbers Drive – Ms. Deeds disagreed with the whole idea that more houses means more commercial. New Hudson was supposed to be a commercial area; she didn't see why there needed to be more commercial on Ten Mile Road. She waits through 3 red lights to get to the high school as it is. She did not understand the difference between CVS and a strip mall; that is a strip mall. The person bought this land knowing what it was zoned; that's the applicant's problem if they are having trouble marketing that land. It's not the resident's issue.

**Motion by Towne, second by Carcone
To close the public hearing at 8:30 p.m. due to no further comments.**

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

MOTION APPROVED

Ms. Carcone provided a history of how the CVS came to be on the Erwin's property. She also gave a brief history when Meijer bought property at 8 Mile and Pontiac Trail. She would like to see what this is going to be. She felt the corner could be some commercial, but she wants to see what it is first.

Mr. Doozan explained that conditional rezoning is provided for in the ordinance, but that has to be at the initiative of the developer.

**Motion by Chuck, second by Hoffman
To recommend approval to the Township Board of AP-16-31 based on the McKenna Associates memo dated October 2, 2016 and the CES memo dated October 5, 2016 and legal Counsel as it relates to rezoning.**

Mr. Chuck commented that there were many good comments. Based on what he heard tonight, it was still a good proposal. He did think that rezoning all of it needed to be revisited.

Mr. Enlow stated that Target and Sam's Club are a little less than 15 acres and would fit in that type of zoning. We did discuss that corner and say that they could look at possible commercial, and they did say in the minutes that they would keep Dandy Acres and the "L" shaped parcel as R-1.0. He wasn't sure if something changed. He knew there were several steps in the process. He went that way in one other development,

and it ended up making its way through. Lesson learned for him. He is against the entire 18 acres being rezoned.

Mr. Hoffman stated that they have to look at this community-wide. As a developer, the applicant has every right to do in the legal parameters that are set up. They could sue us for denial. They have to balance it. They can't control people coming in here, but they can control the growth. As principal urban planning, more people need more amenities. The Master Plan was worked on for months, and they have to work on this globally.

Ms. Jeffries stated that she agreed with some of the comments. They are not proposing a business right now. Giving a rezoning is not giving a blanket rezoning; it's one of many steps. As far as the Future Land Use map, these parcels are all included in the Retail Service Office designation. If there is a problem with these parcels being commercial, why was the Master Plan looked at for 6 months or more and approved last year? They will be looking at the REU's in depth and will work with the Township Engineer to make sure there is sanitary sewer capacity. If improvements are needed, then they would be made. They want to work with the Township; they don't want to force something. A site plan is not a requirement for a rezoning.

Roll Call Vote: Ayes: Hoffman
Nays: Chuck, Enlow, Carcone, Conflitti, Towne

MOTION FAILED

OLD BUSINESS - None

NEW BUSINESS

- 2. AP- 15-24, Windridge PD – Final Review. Property located on the west side of Napier Road, south of 9 Mile Road. Final review of a proposed single-family residential development consisting of 102 homes on 85 acres.**

Representing Windridge PD: Brent LaVanway, Boss Engineering
Chris Cousino, DEI Properties

Mr. Doozan reviewed the McKenna Associates memo dated September 30, 2016. The applicant has strived to address the concerns of the Planning Commission and Township Board. Consequently, he recommended that the Planning Commission recommend final approval of the plan for Windridge Planned Development (Case No. AP-15-24), subject to the following conditions:

1. Subdivision entranceway signage shall be subject to administrative review and approval.
2. Street names and phasing shall be shown on the sheet C2.
3. A written agreement with the developer of Devonshire must be submitted to demonstrate the commitment for both developers to construct the connecting road. It is our understanding that an application to purchase easement for his road was filed with ITC on August 31, 2016.

Ms. Zawada referenced the CES memo dated October 4, 2016. She commented that there are several comments regarding the PD Agreement. The applicant has revised the agreement, however she has not reviewed it per her comments.

1. Regarding the plans, the offsite water main and sanitary sewer plans shall be required to be reviewed prior to the execution of the final PD Agreement.
2. The highway easement for the section of road through the ITC property and connecting to the proposed Devonshire Development will be needed prior to scheduling a preconstruction meeting. This will need to appear in the PD agreement.
3. This project is in the upper portion of the Sump Drain, which will require OCWRC review and approval. This site will drain into the existing wetlands and then through the wetlands on the proposed Devonshire development ultimately outletting through a residential parcel on 8 Mile.
4. This project should evaluate any capacity issues at 8 Mile Road as depicted on the map that was sent with their first Preliminary PD review.
5. Also, there are proposed board walks behind lots 45 and 48 which need to be hard surfaced which was a requirement for them obtaining their wetland permit from the State of Michigan.
6. A sidewalk shall be provided along lots 31 and 32 and through the ITC property connecting to the Devonshire development.

Ms. Kimberlin explained that the Planned Development Agreement provided by the Township Planner has been revised by the applicant. Review of this revised Agreement by the Township consultants is required to ensure that it contains all necessary legal provisions and that has been done.

Mr. Cousino explained this is the next step of the process, and the site plan is the same that was presented a year ago. They did receive the MDEQ permit as well.

Mr. Towne stated he liked the setbacks and the walkability and thought the product was great.

Mr. Enlow commented they are asking for the 5% density bonus which is the maximum under the ordinance. The community benefits are that they are extending a little bit of pathway to the sports park. He asked to look for additional benefits such as a payment for a signal at 8 Mile and Napier. Mr. Cousino stated that they increased the contribution to \$40,000. Mr. Enlow stated that's for like a quarter of the signal. Mr. Cousino stated they also agreed to make improvements to the sump drain. Mr. Enlow stated he didn't feel contributing to a 1/4 of a signal and some outside pathway work was enough of a community benefit.

Treasurer Carcone commented the sump drain improvements are a big benefit since the work is being done at no cost to the residents.

Mr. Chuck confirmed that the applicant had no issues with the items in the McKenna Associates letter and the CES letter.

Motion by Towne, second by Chuck

To recommend approval to the Township Board of AP-15-24 Windridge PD – Final Review. Property located on the west side of Napier Road, south of 9 Mile Road. Contingent upon the conditions stated in the McKenna Associates memo dated September 30, 2016 and the CES letter dated October 4, 2016. Subject to approval by the Township Consultants.

Steve Emsley, 51824 Eight Mile Road – Mr. Emsley found it interesting that the actual PD Agreement didn't appear in their packet until about 11:00 a.m. today. Then he heard the engineer say that she hasn't looked at the amended PD Agreement, so she can only speak to what was previously done; he found that to be concerning. He is not sure that they have reviewed the PD Agreement in front of them, and he is not sure that it was in their packet giving them enough time to review it. As for the sump drain, Mr. Nash's letter specifically states, "he fully intends to do everything he can to have the developer pay for this." This is not in the control of anyone at the Township to have that drain be an SAD on his home. The drain was built in 1913 and has not been functioning for about 60 years. Everyone in that area is used to the water they get. There is not a benefit to any of the existing residents. On the public hearing on the 19th, the decision will be made as to who pays for it. It is not a statement of fact that the developers will pay for this. As to the traffic signal, these things don't add up as to who is giving what. Ms. Zawada confirmed in the CES letter that it states all of the improvements to the sump drain will be paid for by the developers, or the projects will not move forward.

Mr. Emsley stated that the only community benefit is \$40,000 towards a traffic light, that's it. A path to a park in Novi is not a benefit. He didn't think the \$40,000 was a good tradeoff.

**Roll Call Vote: Ayes: Towne, Carcone, Chuck, Conflitti, Hoffman
 Nays: Enlow**

MOTION APPROVED

- 3. AP-16-34, Bader & Sons – Accessory Building. Property located on the west side of Pontiac Trail, north of 3 Mile Road. Site plan review of a proposed 6,000 square foot accessory building.**

Mr. Doozan reviewed the McKenna Associates memo dated September 30, 2016. He explained that based on their review, they have found that the accessory building for Bader & Sons complies with Ordinance requirements, so they recommend approval.

Ms. Zawada referenced the CES memo dated October 4, 2016. In the letter they are recommending approval, but there is one item of concern. When Bader & Sons purchased this property they had discussions about participating in a regional detention basin, and they were hopeful that the Ruggiero property wouldn't still be owned by the Township. She thought they should craft some sort of agreement with Bader & Sons. Their current storm water management facilities do not meet the standards, but she recognizes it might make sense to be more of a regional participation with the site to the north. The other comment is if they need to connect to the Township sanitary sewer that capital charges will be required prior to connection.

Ms. Kimberlin stated that the Fire Marshal notes that the required fire suppression system has not been installed in the existing principal structure on the site. This site plan for the accessory building indicates that a fire protection reservoir and pump will be installed in the accessory building. This installation is intended to satisfy the fire suppression requirement for the principal structure.

Mr. Mickey explained that they have been talking back and forth, and they would like to put the storm water issue to bed. Originally, when they wanted to remodel the bus garage, they were going to go into a partnership with whomever bought the property behind Lyon Grille. They are still willing to go into a joint venture and do whatever needs to be done. They are looking for some kind of cap just so they have a rough idea of what they are required to do. Their building is going to house their water suppression, and they would like to continue that.

Ms. Zawada explained she would be comfortable if a site plan approval is conditioned on an acceptable agreement within a certain amount of days. Mr. Mickey agreed.

Motion by Chuck, second by Carcone

To approve AP-16-34, Bader & Sons – Accessory Building contingent upon the letter being drawn up for the storm water management agreement that must be completed within 90 days. Including the CES memo of October 4, 2016 and the McKenna Associates memo of September 30, 2016 and the September 27, 2016 letter from the Fire Department.

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

MOTION APPROVED

COMMUNITY REPORTS

Treasurer Carcone provided an update regarding the last Board meeting.

Mr. Doozan provided a hand out to the Commission.

ADJOURNMENT

Motion by Chuck, second by Enlow

To adjourn the meeting at 10:03 p.m.

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

MOTION APPROVED

The Planning Commission meeting was adjourned at 10:03 p.m. due to no further business.

Respectfully Submitted,

Kellie Angelosanto

Kellie Angelosanto
Recording Secretary