

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARING
August 12, 2019**

PRESENT: Blough, Batchelor, Simmonds, Clements, Edwards

TOWNSHIP PLANNER: Tim Johnson

CITIZENS IN ATTENDANCE: 16

The Regular Meeting of the Lowell Charter Township Planning Commission was called to order by Chairperson Simmonds at 7:01 pm.

APPROVAL OF MINUTES:

The Minutes of the Regular Meeting and Public Hearing of July 8, 2019 were presented for approval. Mr. Edwards suggested three minor edits. He then moved to approve the Minutes as amended. Motion seconded by Mr. Batchelor. All in favor and the Minutes of July 8, 2019 as amended are approved.

CHANGES OR ADDITIONS TO THE AGENDA:

There were no changes or additions to the agenda.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

The meeting was opened to public comment at 7:04 pm. Five people spoke. Public comment was closed at 7:18 pm.

PUBLIC HEARING:

Rezone Request from Ag-1 to Ag-2 for property at 10451 Cascade Road SE

Chairperson Simmonds opened the Public Hearing at 7:18 pm. He explained the hearing process to those present. Mr. Clements read the Notice of Hearing into the record.

The Applicants were not present. They have requested rezoning of their 61 acre parcel at 10451 Cascade Road SE from Ag-1 to Ag-2.

Tim Johnson advised that the request may be withdrawn.

There being no questions or comments from members of the Planning Commission, the Public Hearing was opened to public comment at 7:22 pm.

Carol Venneman – pass

Mary Beth Reed – pass

Heidi Olesko – pass

Darlene and Jim Hawkins - pass

There being no further questions or comments from members of the public, the public input portion of the Public Hearing was closed at 7:24 pm.

There being no further comments or questions from members of the Planning Commission, the Public Hearing was closed at 7:25 pm.

The Regular Meeting was resumed at 7:26 pm.

Chairperson Simmonds moved to table the rezoning request until the Applicants advise the Township whether they wished to proceed with their request or withdraw it. All in favor and the matter is tabled.

UNFINISHED BUSINESS:

Special Use Permit Request from Doug Klahn for a Private Road at 14148 Oberley Road

The Planning Commission received a copy of the letter of August 7, 2019 from Peter Buurstra, P.E. of Land & Resource Engineering, Inc, advising that the Kent County Road Commission has no concerns with accepting any additional runoff from the proposed development onto their right of way.

The Report from Planner Johnson dated August 12, 2019 indicated that with this resolution of the water runoff issue, the Applicants have submitted all required materials, and approval with conditions is recommended.

Mr. Edwards suggested adding a requirement regarding the request for a right of way permit for the private road. Chairperson Simmonds agreed. Planner Johnson indicated it would be enough to require approval.

There being no further questions or comments, Chairperson Simmonds moved that the Lowell Township Planning Commission approve the site plan dated June 26, 2019, and the Private Road Request, on property located at 14148 Oberley Road, subject to the following conditions:

1. The Private Road Maintenance Agreement must be approved by the Township Attorney and recorded with the County Register of Deeds before a Final Private Street Permit is issued by the Zoning Administrator per Section 19.03(c)(4) of the Zoning Ordinance.
2. The proposed five lots shall be subject to approval by the Township Assessor under the Land Division Ordinance before a building permit is issued.

3. Two copies of the approved site plan dated June 26, 2019 shall be signed and dated by the Planning Commission Chairperson with one copy provided to the Applicant and one retained by the Township.

4. The Kent County Road Commission has indicated that they will perform a more detailed review when the applicant submits a right of way permit application. Approval is required.

Review draft of Fill Ordinance

Chairperson Simmonds noted that the review begun last month was half way through. He also recognized a document made available by Mr. Clements from MSU Extension titled “Zoning and police power ordinances are not the same, and should not be mixed together”.

Mr. Clements summarized his two concerns. First, since the draft Fill Ordinance would require licenses be issued for specific parcels, rather than regulating an activity throughout the Township, it is a zoning ordinance. If passed as a regulatory ordinance, it would not be valid and enforceable. Second, the draft Fill Ordinance provides for both license suspensions and revocations by the Planning Commission, and for fines by the Township. He felt these two penalties conflict, and he is concerned that applying both remedies for a single violation might not be valid. If this is correct, there is no provision for coordinating Planning Commission penalties with Township penalties.

Planner Johnson indicated the draft Ordinance was based on the Mining Ordinance for the Township, which was enacted as a Regulatory Ordinance. He does not view license suspension or revocation as a penalty. Planner Johnson feels that a regulatory ordinance will allow better control of fill operations. Both Mr. Clements and Mr. Edwards understand why that is the preference of the Township.

Mr. Edwards expressed his general concerns about the terms and conditions set out in the current draft Ordinance, as well as Draft #3 not being available in a timely fashion to allow full review before the Planning Commission meeting. Mr. Batchelor felt the Planning Commission should continue their review of the draft Ordinance to provide the requested feedback to the Township Board.

Review of Draft #3 of the Fill Ordinance was begun from Page 1, given the changes that had been made since Draft #2 last month.

Mr. Edwards expressed concern that there were no provisions for farm operations in Article 2, Intent and Purpose, on Page 1. After discussion, it was decided that this concern was addressed by new language on Page 3, Article 5.D.5.

On Page 2, it was decided that Article 2.C be dropped and Article 2.D be renumbered. It also appears that the Ordinance referred to in the prior Article 2.D was enacted in 1994 rather than 1974 as shown.

Article 4 had been bolded accidentally, and did not represent any change to that part of the Ordinance language.

There was extensive discussion of the Article 5.D.6 options presented. Neither option was seen as completely satisfactory, as the first would be hard to monitor, and the second may be too restrictive regarding the acreage allowed to be filled (3 to 4 acres was suggested). Also discussed was the possibility that the filled land would maintain an elevation equal to that of the neighboring property for a distance of 50 feet into the fill area. Alternatively, water runoff and related issues could be handled by procedures already in place. Concern was expressed that the Ordinance be kept general and not written specifically for any one operation in the Township. It was questioned whether there was an overall time limit on fill operations. Mr. Edwards felt the Ordinance could be simplified, and referred to a similar ordinance from Exeter Township, Monroe County, Michigan, which is much shorter.

Planner Johnson felt that ultimately it is the number of truck trips in and out of the property that determines how disruptive the operations would be to neighbors.

Both options were left in the Ordinance without a specific recommendation.

On Page 6, Chairperson Simmonds asked that Article 7.B.12 have the word 'screening' added between the words 'fencing' and 'landscaping'. Other Planning Commission members agreed.

With respect to Article 8 and other areas of the Ordinance, Mr. Edwards questioned how standards like 'reasonable', 'detrimental' and 'excessive' could be consistently applied, and favored more specific standards in the Ordinance. He also favors the use of setback requirements to control noise levels at neighboring properties.

Mr. Batchelor reiterated that the time period for completion of a fill operation was the biggest concern of neighbors.

Mr. Blough questioned Article 10.D and whether gravel drives could also be allowed. After discussion it was decided to remove the word 'improved' at the end of line 2 of Article 10.D.

There being no further matters for discussion, it was agreed that Planner Johnson would prepare a revised Fill Ordinance draft for the Township Board before their August 2019 meeting. A copy of the new revised Ordinance will also be sent to members of the Planning Commission.

NEW BUSINESS:

None.

COMMISSIONER COMMENTS:

Chairperson Simmonds stated that the Joint Planning Commission meeting will be held October 7th at 7:00 pm in Vergennes Township. The specific building where the meeting will be held will need to be determined. He also handed out recent photographs from RRR Landscaping.

There will be no meeting on August 26th.

ADJOURNMENT:

Mr. Clements moved to adjourn. Motion seconded by Mr. Edwards. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 9:56 pm.

Submitted _____ Secretary

Timothy Clements

Approved _____