

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARINGS
July 10, 2017**

PRESENT: Blough, Batchelor, Simmonds, Clements, Edwards
TOWNSHIP PLANNER: Bob Toland
CITIZENS IN ATTENDANCE: 15

The regular meeting of the Lowell Charter Township Planning Commission was called to order by Chairperson Simmonds at 7:00 pm.

APPROVAL OF MINUTES:

The Minutes of the Regular Meeting of June 12, 2017 were presented for approval. Mr. Edwards provided one correction and an additional sentence to the section on Fairgrounds Zoning Amendment, then moved to approve the Minutes as amended. Seconded by Mr. Batchelor. All in favor and the Minutes of June 12, 2017 as amended are approved.

CHANGES OR ADDITIONS TO THE AGENDA:

Mr. Simmonds moved to remove Item 8, New Business from the agenda, and to approve the Agenda as amended. Motion seconded by Mr. Edwards. All in favor and the Agenda as amended is approved.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

The meeting was opened to public comment at 7:03 pm. One person spoke. Public comment was closed at 7:07 pm.

PUBLIC HEARINGS

Riverside Motorsports – Rezoning

Mr. Simmonds outlined the hearing process for those present. Mr. Clements read the Notice of Hearing.

Jason Ghareeb presented on behalf of Riverside Motorsports LLC. The request is for a Commercial Conditional Rezoning on the front 500 feet of property located at 14043 Fulton Street, which is currently subject to a Commercial Conditional Rezoning for a wrestling club and associated activities. The new use requested is for conducting small engine repair including but not limited to the sales and service of lawn and garden equipment and powersports equipment. Activities would occur inside and around the outside of the current building on the property, and existing parking would be used. It was indicated that Riverside Motorsports LLC will not own the property, but the actual owner of the property signed the rezoning request and was present at the hearing in support of the rezoning.

Mr. Blough asked if the new Commercial Conditional Rezoning is in addition to the prior zoning, or would replace the previously allowed activities. He was advised that it would replace the prior allowed activities. Mr. Clements asked if any site plan was available, and was told by the Township Planner that the site plan would be part of subsequent requirements to be met by Applicant. As to parking, there is currently more than enough to meet Township requirements, even if retail sales are allowed in the future.

Township Planner Toland then reviewed his Report of June 29, 2017 concerning the requested rezoning. He advised the Planning Commission that Applicant verbally requested rezoning of just the front 500 feet of the property, and that a review of the Site Plan and compliance with the Ordinance would follow later. He noted that the back portion of this property would remain zoned Ag-2.

Mr. Edwards asked if the Ag-2 zoning could be used as a test site for motorcycles. Township Planner Toland indicated it could probably be used for recreational purposes.

There being no further questions or comments from members of the Planning Commission, the hearing was opened to public comment at 7:19 pm.

Karen Perkins – owns property above site. She expressed concern about noise. Mr. Ghareeb indicated that there would be mower engine noises during the day.

William Perkins – expressed concern about noise in the back section of the property zoned Ag-2.

There being no further questions or comments, the public input portion of the Public Hearing was closed at 7:22 pm.

Mr. Clements asked about current business hours and was told they were 8 am to 5 pm weekdays, 8 am to noon on Saturdays.

There being no further questions or comments from the Planning Commission, Mr. Simmonds moved to close the Public Hearing. Motion seconded by Mr. Batchelor. All in favor and the Public Hearing was closed at 7:25 pm.

Mr. Blough inquired if operating hours could be set. Mr. Clements agreed, and asked if they could be made a condition of the rezoning. Mr. Edwards felt that they could not. After discussion, it was agreed that noise concerns would be handled through the Noise Ordinance rather than by setting hours of operation.

Mr. Batchelor asked for clarification on how the Commercial Conditional Rezoning worked with General Rezoning. Mr. Simmonds advised that the commercial use was limited to the agreed-upon uses, and that those uses would continue to be allowed until any future request to amend the zoning for different uses.

There being no further questions or comments, Mr. Simmonds moved that the Planning Commission recommend to the Township Board the approval of the request of Riverside Motorsports LLC to allow “small engine sales and service, and sales and service of lawn equipment and power sports equipment” as a conditional use at 14043 Fulton Street on parcel number 41-20-01-200-003, in the C, General Commercial Zoning District, and further described as “the south 500 feet of the W 330 feet of the SW ¼, NE ¼ North of the center line of M-21, Section 1, T6N R9W. Only these listed uses are permitted to utilize the property; any other use listed in the C, General Commercial Zoning District is not permitted”. In addition, all previously approved and allowed uses are hereby rescinded. Motion seconded by Mr. Clements. All in favor and the Commercial Conditional Rezoning is recommended to the Township Board for approval.

Kissing Rock Condominium – Private Road

Mr. Clements read the Notice of Hearing.

David Rapp represented Kissing Rock LLC, which is seeking approval of a private road for the Kissing Rock Estates Site Condominium project. An overview of the road project was presented. A potential conflict with the Township over whether Condominium Units can include the land beneath the private road for purposes of calculating Unit Area has been resolved by the developer adjusting Unit lines to assure each has the required 4 acre minimum apart from any interest within the road right-of-way. An updated plan for the site condominium was presented. The Kent County Road Commission has approved the connection of the private road to Kissing Rock Avenue. The Master Deed will be in conformance with requirements of the Township.

Mr. Clements raised the issue of the private roadway across Parcels B and C, which is part of the private road servicing the site condominium. With the road easement running through the parcels rather than along the edge of the parcels, there is no ‘frontage’ as required by the zoning ordinance. Restrictions on acreage prevent splitting these parcels along the center line of the proposed private road. After discussion, it was agreed that Applicant could create an 86-foot wide private road right-of-way over the South end of Parcels A, B and C, with the road being constructed as far to the North, within the road right-of-way, as is practical. Road frontage for Parcels B and C (and optionally Parcel A) will be measured along the South property line of those parcels, along the South edge of the right-of-way.

Mr. Edwards discussed Section 5.8 of the Master Deed, and the need to adequately cover the general common elements of the Site Condominium, in particular the private road maintenance and repair obligations, in the Master Deed. Mr. Clements noted that those obligations must extend to the private road over Parcels A, B and C as well as the private road lying within the Site Condominium. Mr. Edwards and Mr. Clements stressed the need for the Master Deed to include provision to make every effort to cover the costs of maintenance and repair of the private road before approaching the Township to request a special assessment district for that purpose. Mr. Clements also asked that a determination be made as to whether the land beneath the private road would be general common area, and to reflect that decision in the Master Deed.

Township Planner Toland commented on structures and piping shown within the private road right-of-way, and requested an Engineer's Report before the approval is given by the Planning Commission.

There being no further questions or comments from the Planning Commission, the meeting was opened to public input at 8:20 pm. No one spoke. Public input was closed at 8:21 pm. There being no further comments or questions from the Planning Commission, the public hearing was ended at 8:21 pm.

Mr. Simmonds expressed his belief that approval of the private road should be tabled until all requirements had been met. Mr. Clements felt that the matter could be approved subject to conditions. Mr. Simmonds moved table the matter until the August 14, 2017 Planning Commission meeting, with the Applicant to complete all requirements before that date. There was no second of the motion, so the proposal failed without a vote.

Mr. Clements then moved to approve the request from Kissing Rock LLC, David S. Rapp, Owner Representative for a Private Street on parcel number 41-20-17-100-044, located on Kissing Rock Avenue, further described as N 1237.50 FT NW ¼ LYING E OF CL OF KISSING ROCK AVE EX COM 605.0 FT N 89D 11M 55S W ALONG N SEC LINE FROM N ¼ COR TH S 2D 54M 24S W 465.32 FT TH N 89D 11M 55S W 752.58 FT TO CL OF KISSING ROCK AVE TH NELY ALONG SD CL TO N SEC LINE S 89D 11M 55S E ALONG N SEC LINE 723.61 FT TO BEG ALSO E 578.48 FT OF FOL DESC – E ½ OF S 85 A. OF NW ¼ EX S ½ SE ¼ NW ¼ ALSO N ½ SW ¼ NE ¼ SEC 17 T6N R9W, 60.70 Acres, for a Private Street as required by the Michigan Zoning Enabling Act (Act 110 of 2006) as amended, subject to the following conditions:

1. All requirements of the Ordinance must be met and approved by the Township Planner and the Chairman of the Planning Commission.
2. The Road Easement across Parcels A, B and C must be the South 86 feet of said parcels, with the actual road to be built as far North within the easement as is practical.
3. A Private Road Maintenance Agreement will be completed to the Township's satisfaction, and must include the private road crossing Parcels A, B and C as well as the private road within the Site Condominium.
4. The Private Road Maintenance Agreement within the Master Deed must clearly state that all other available means to maintain the road must be met before the Township can be petitioned to create a Special Assessment District for the private road.

Motion seconded by Mr. Batchelor. All in favor and the motion approving the private road subject to conditions is approved.

At the request of Applicant, Mr. Clements moved to take up the previously tabled consideration of the proposed Kissing Rock Estates Site Condominium. Motion seconded by Mr. Simmonds. All in favor and the matter is taken up for further discussion and decision.

Mr. Clements then moved to recommend to the Township Board approval of the request from Kissing Rock LLC, David S. Rapp, Owner Representative, for a Site Condominium on parcel number 41-20-17-100-004, located on Kissing Rock Avenue, N 1237.50 FT NW ¼ LYING E OF CL OF KISSING ROCK AVE EX COM 605.0 FT N 89D 11M 55S W ALONG N SEC LINE FROM N ¼ COR TH S 2D 54M 24S W 465.32 FT TH N 89D 11M 55S W 752.58 FT TO CL OF KISSING ROCK AVE TH NELY ALONG SD CL TO N SEC LINE S 89D 11M 55S E ALONG N SEC LINE 723.61 FT TO BEG ALSO E 578.48 FT OF FOL DESC – E ½ OF S 85 A. OF NW ¼ EX S ½ SE ¼ NW ¼ ALSO N ½ SW ¼ NE ¼ SEC 17 T6N R9W, and also EXCEPTING Parcels A, B and C as shown on the Preliminary Plan of July 10, 2017 for the proposed Kissing Rock Estates Site Condominium and Land Division, subject to the following conditions:

1. All requirements of the Ordinance must be met and approved by the Township Planner and the Chairman of the Planning Commission.
2. The Road Easement across Parcels A, B and C must be the South 86 feet of said parcels, with the actual road to be built as far North within the easement as is practical.
3. A Private Road Maintenance Agreement will be completed to the Township's satisfaction, and must include the private road crossing Parcels A, B and C as well as the private road within the Site Condominium.
4. The Private Road Maintenance Agreement within the Master Deed must clearly state that all other available means to maintain the road must be met before the Township can be petitioned to create a Special Assessment District for the private road.
5. Receipt of approval from the local fire chief.

Motion seconded by Mr. Batchelor. All in favor and the recommendation to the Township Board for approval of the Site Condominium with conditions is approved.

OLD BUSINESS

As there were people in attendance for the Fairgrounds Zoning Ordinance Amendment – Discussion on the agenda, Mr. Simmonds moved to amend the Agenda to address the Fairgrounds matter first, with the Zoning Ordinance Amendment – Home Based Businesses to follow. Motion seconded by Mr. Edwards. All in favor and the order of the Old Business matters to be addressed is reversed.

Fairgrounds Zoning Ordinance Amendment – Discussion

Mr. Simmonds explained to those present that the Township would need an Application requesting a Fairgrounds Zoning Ordinance Amendment before the Planning Commission could proceed. Township Planner Toland provided additional information on the application process.

Currently the Ordinance only allows a fairground to be owned and run by a governmental unit. The request would be for a private organization to own and run a fairground. Representatives of the potential applicant were encouraged to detail how they would use the fairground if permitted. The Township was advised that the current fairground in the City of Lowell was created by Michigan's Public Act 80.

Mr. Edwards shared his thoughts and concerns about a private owner of a fairground compared to a governmental owner of a fairground.

Zoning Ordinance Amendment – Home Based Businesses – resolution of intent to set the date for a Public Hearing

Draft #10 of the draft Ordinance was discussed, particularly with respect to new language added after attorney review of the earlier draft.

With respect to inconsistent references to private businesses being allowed or not allowed in two-family dwelling units (duplexes), it was decided to limit home based businesses to one-family dwellings only.

New provision 4.46 d) was discussed at length. Mr. Edwards felt that this provision, addressing what constitutes a Home-Based Business, is quite subjective, compared to the more specific provisions developed by the Planning Commission in prior drafts. Mr. Blough agreed that it was very subjective. It was decided to leave this section in for purposes of public hearing, but to request further information from the attorney regarding the reasons for its addition to the draft ordinance.

New Sections 6, 7 and 8 appear to address lot area calculations and a time limit for appeal of a decision to the Zoning Board of Appeals. These did not appear to be directly related to the Home-Based Business ordinance, and it was decided to drop them from this matter and take them up separately at a later date.

There being no other questions or comments, Mr. Clements moved to set the public hearing for the proposed Home-Based Business and Home Occupation Zoning Ordinance Amendments Draft # 10, with the changes noted, for the August 14, 2017 Planning Commission meeting. Motion seconded by Mr. Blough. All in favor and the hearing date shall be set for August 14, 2017.

Items for Potential Discussion

None of these items were discussed.

Commissioner Comments

Mr. Blough advised that there would be an agricultural land preservation presentation before the next Township Board meeting on July 17th at 6:00 pm for those interested in attending.

Mr. Edwards requested a correction to the formatting of the ordinance language allowing churches in the Commercial District (words running together). He also inquired whether there had been any application received by the Township for use of property for commercial social events (none has been received). Also acknowledged were some outstanding questions regarding the rebuilding of a horse barn and a dispute on a condominium landscaping issue.

Mr. Simmonds indicated that there would be a workshop meeting on July 24, 2017 at 7:00 pm, primarily to discuss fairground matters. Mr. Edwards noted that this should include discussion of the general police powers ordinance of the Township with respect to a fairground, as well.

ADJOURNMENT:

Mr. Clements moved to adjourn. Seconded by Mr. Edwards. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 9:48 p.m.

Submitted _____ Secretary

Timothy Clements

Approved _____