

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARING
June 11, 2018**

PRESENT: Blough, Batchelor, Simmonds, Clements

DELAYED ARRIVAL: Edwards

TOWNSHIP PLANNER: Tim Johnson

CITIZENS IN ATTENDANCE: 13

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 Hearings of May 14, 2018 were presented for approval. Mr. Blough noted that “Blue Sky”, appearing three times on the first page, should be corrected to “Blu Sky”. With those changes, Mr. Blough moved to approve the Minutes as amended. Seconded by Mr. Batchelor. All in favor and the Minutes of May 14, 2018 as amended are approved.

CHANGES OR ADDITIONS TO THE AGENDA:

Chairperson Simmonds moved to reverse Item 8.1, Request from Forest Hills Homes to rezone 7.41 acres from Commercial to Planned Unit Development, with Item 8.2, Request from Forest Hills Homes to amend the PUD density regulations. Motion seconded by Mr. Batchelor. 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. No one spoke. Public comment was closed at 7:03 pm.

PUBLIC HEARING:

An Amendment of Section 18.08(b) of the Township Zoning Ordinance to change the number of billboards allowed in the Township at any one time from 15 to 18

Chairperson Simmonds opened the Public Hearing at 7:04 pm. He explained the hearing process to those present. Mr. Clements read the Notice of Hearing into the record.

Planner Tim Johnson explained that the prior amendment to Section 18.08(b) was based on an incorrect count of existing billboards in the Township. The correct number of billboards is 18. This amendment corrects that error by increasing the number of allowed billboards from 15 to 18.

Mr. Batchelor asked if the number of billboards allowed was limited by highway restrictions. Planner Johnson indicated they were not, but that an overall cap on billboards in the Township was desired.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was opened to public comment at 7:09 pm. No one spoke. The public comment section of the Public Hearing was closed at 7:09 pm.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was closed at 7:10 pm.

Chairperson Simmonds moved that the Lowell Charter Township Planning Commission recommend to the Township Board approval of the Draft Amendment to Revise the Number of Billboards Allowed in the Township dated June 11, 2018, being Section 18.08(b) of the Ordinance, to reflect the actual number of billboards currently in the Township and not allowing the total number of billboards to exceed 18. Motion seconded by Mr. Clements. All in favor and the amendment to Section 18.08(b) is recommended for approval.

OLD BUSINESS

Request from Westview Capital LLC to rezone a 42.30 acre parcel from R-2, Medium Density Residential to the Open Space Planned Unit Development Zoning District and request for Tentative Preliminary Plat approval for a 70 lot subdivision

Planner Johnson reviewed his report of June 9, 2018 regarding the Twin Oaks OS-PUD Rezoning & Tentative Preliminary Plat. Several issues have been outstanding, including the showing of all sidewalks on the plat drawings, the need for approvals from the Township Engineer, the ambiguity regarding building sites and 20 degree slope preservation on Parcels 18, 19 and 20, the need for a better description of where Do Not Disturb areas are located, and a request to provide screening between the entrance drive and neighboring property to the East of that drive.

Sidewalks are now shown correctly on the Phase 1 Preliminary Site Plan last revised May 29, 2018. A letter of approval with conditions has been received from the Township Engineer dated June 1, 2018. Applicant presented a revised drawing of the entrance drive showing it had been shifted to allow plantings to be placed between the drive and the neighboring property.

Mr. Clements reiterated his disagreement with an interpretation of Sections 14.05(c)(2) and 14.05(c)(3) of the Township Ordinance, which would allow the re-grading of natural slopes in excess of 20 degrees. He felt that the more specific prohibition of re-grading these natural slopes, contained in Section 14.05(c)(2), was not intended to be nullified by the more general language of the next Section 14.05(c)(3). He went on, however, to note that the history of the property in question is unique in that bulldozing by a prior owner had destroyed some natural slopes which were in excess of 20 degrees, and had created new steep slopes. It therefore

appeared to him that allowing the Applicant to re-grade some natural slopes in excess of 20 degrees as part of repairing the prior damage done to the parcel was justified.

Mr. Edwards referenced Section 14.08(c)(6) which requires illustrating the tentative location of house sites, and Section 14.08(c)(8)(iv) concerning lots extending into a Primary Conservation Area, and questioned whether there were buildable house sites in Parcels 18, 19, 66 and 56 through 61.

Chairperson Simmonds noted that the need for a better way to inform lot owners of areas to be preserved was Item 4 on Planner Johnson's report.

Mr. Edwards noted the absence of detailing this information on Drawing 2. Mr. Larabel of Westview Capital LLC indicated that this information does appear on Drawing 1, and that the information was contained in the Declaration of Restrictions which will be recorded. He went on to say there would be room for homes on these lots, that there will be a boundary survey and that there was more robust language for Lots 18, 19 and 20 proposed in a handout given to members of the Planning Commission at the meeting. He will do the same for Lots 56 through 60 as well as lots 66 and 67.

Mr. Clements objected to the language in Article IV Paragraph B of the Declaration of Restrictions in that it suggests that Primary Conservation Areas on Parcels can be altered in use so long as the slope is maintained. He asked that this paragraph be changed to make clear that Primary Conservation Areas on Parcels are strictly Do Not Disturb areas. Applicant agreed to this change.

Planner Johnson noted that the prior ambiguity in the drawings regarding Parcels 18, 19 and 20 has been resolved.

Mr. Larabel indicated that the entrance drive had been shifted to the West, to improve sight distances and to move it further from the neighboring land, and allow screening plants.

Chairperson Simmonds then reviewed the June 1, 2018 report from LRE, the Township Engineer. He noted that the report listed some approvals which are still needed.

It was decided to address the rezoning request first, then the approval for the tentative preliminary plat. The rezoning was determined to give flexibility in developing the land, and to not violate the Township Ordinance.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved that the Lowell Charter Township Planning Commission recommend to the Township Board approval of the Draft Ordinance of June 11, 2018 to establish the Twin Oaks Open Space Planned Unit Development Zoning District. Motion seconded by Mr. Batchelor. All in favor and the proposed rezoning is recommended for approval.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved that the Lowell Charter Township Planning Commission recommend to the Township Board approval of Phase 1 of the Tentative Preliminary Site Plan for the Twin Oaks Plat, last revised May 29, 2018, subject to the following conditions:

1. To clearly set out the Do Not Disturb areas in Phase 1 of the Tentative Preliminary Site Plan
2. Receipt of approvals required by the Township Engineer in the LRE letter of June 1, 2018 regarding the Phase 1 Preliminary Site Plan – Twin Oaks Plat (Open Space PUD)
3. Change the Declaration of Restrictions Article IV Paragraph B to clearly indicate that Primary Conservation Areas within a given parcel are Do Not Disturb areas

Motion seconded by Mr. Edwards. All in favor and Phase I of the Tentative Preliminary Site Plan with conditions is recommended for approval.

Draft of Fairgrounds Ordinance

Planner Johnson presented his Memorandum of June 4, 2018 regarding Draft Ordinance #3 for Fairgrounds as a follow-up on comments received during discussion of Draft #2. He discussed the Township Noise Ordinance, number 2002-1 effective September 22, 2002, noting that noise is controlled by observation rather than equipment. Absolute sound levels have only been applied to concrete crushing and mineral mining operations in the Township. He further noted that the City of Lowell had never had complaints about fair activities, even though the housing density was higher than it would be in Lowell Township. The fair in Hudsonville has never set sound limits. Finally, he observed that if sound levels were 80 dba next to fair equipment, the natural reduction of sound levels as distance increases would cause the sound level to drop to 55 dba at the fair property line.

Chairperson Simmonds indicated his uncertainties about the existing noise ordinance, noting that it was somewhat subjective, but he also noted that there would be several issues with attempting to measure sound levels with equipment.

Mr. Edwards added that the Hudsonville fair, while not limiting sound levels, did restrict the use of loudspeakers to between 8 am and 9 pm. He also observed that the Coast Guard Festival had no sound limits and no complaints. Measuring sound levels with equipment would require attempting to duplicate sound levels after the measuring equipment arrived, and use of the equipment required a trained operator, and the equipment would need to be re-certified annually.

Mr. Clements suggested that an Enforcement Officer could schedule a time to be at the fair to evaluate noise levels as they occurred. Chairperson Simmonds clarified that the ~~sound~~ noise [RTC] ordinance was not part of the zoning ordinance, but was a part of the general Township ordinances. Mr. Blough agreed that the Enforcement Officer could be present to modify sound levels if necessary.

Chairperson Simmonds acknowledged the information on sound levels which has been provided by nearby residents, while fairground representatives expressed concern about how to get exact sound levels for every piece of equipment used at the fair. Mr. Clements expressed the view that the fair would only need to get approximate sound levels to assist in working with the Township on acceptable levels of noise.

Mr. Edwards note that sound would continue until 11 pm three days a week, but that the Township could work with this with regard to the fair.

At this point, Chairperson Simmonds indicated that he was now leaning towards relying on the existing Township noise ordinance with respect to fairgrounds. While Mr. Edwards felt that it might be easier to determine sound levels at the boundary of the fairgrounds along the roadway, Planner Johnson thought it would be better to make the determination at the location of the nearest house.

With respect to requiring berms, Planner Johnson pointed out that Section 4.26 of the Ordinance gives the Planning Commission the ability to require a berm, which would reduce the amount of landscaping required. Mr. Clements thought that this question would be addressed at the time an actual Special Land Use request was received, as part of the noise review of the request. He would stay with the Ordinance language currently in place. Chairperson Simmonds and Mr. Edwards agreed.

With respect to prohibited uses, Planner Johnson [RTC] explained that if a use was not expressly allowed, then it would be prohibited. There would be difficulty if prohibited uses had to be expressly set out, as any use not so prohibited might have to be allowed.

Mr. Batchelor expressed some concern that future planning commissioners might allow some activities when there was an intention to prohibit these uses forever. Mr. Edwards questioned why some of the proposed uses were being banned, and after discussion Mr. Batchelor agreed that the primary reason for banning some activities was noise control. Mr. Edwards felt that noisier activities could be set back further from property lines, and wasn't sure what the penalties might be for violation of the Ordinance. Also discussed was whether louder noises might be allowed during core fair activities. Mr. Clements favored relying on the sound ordinance to control activities. Planner Johnson noted that in any event the Township Board can grant a license allowing a higher than normal sound level.

Planner Johnson noted that a specific prohibition list could be included in the Regulations. Mr. Blough expressed concern about the legal outcome if the Township prohibited activities which are allowed at other fairgrounds. He felt it was better if the Township could say no to an activity at a time when the Township could also give a good basis for that denial.

Mr. Batchelor reached the conclusion that he would prefer to rely on the sound ordinance. Mr. Clements also preferred to rely on the sound ordinance.

A member of the fair group expressed concern that they would have to come in for a license for each activity. Mr. Blough felt that in his experience activities which might require a license would not come up that often. Mr. Batchelor also noted that there would be an annual review of the Special Land Use. Any new uses would need to be approved after initial approvals were given. The fair representative indicated that they wished to make things work for everyone. Chairperson Simmonds suggested that concerned members of the public check the Planning Commission agenda on line to stay abreast of any new request to extend fairground activities.

After a survey of the members of the Planning Commission, it was determined that the existing ~~sound~~ noise [RTC] ordinance would be used to control sound levels, and that Section 22.09 (d) listing specifically prohibited activities would be dropped.

Mr. Clements suggested that Section 22.09(c)2), second paragraph be changed to precede the word “detrimental” with the word “significantly”, so the end of the sentence reads “...will not be significantly detrimental to nearby residents and uses.” He further suggested that the third paragraph of the section, be changed to precede the word “disturbance” with the word “significant”, so the end of the sentence reads “...do not create a significant disturbance to nearby residents.” Other members of the Planning Commission agreed with these two changes. One other proposed change, by Mr. Edwards, after discussion was not made.

There being no further questions or comments from members of the Planning Commission, Mr. Batchelor moved to set a public hearing on Draft #3 of the proposed Fairgrounds Regulations, with the changes noted, for the July 9, 2018 Regular Meeting of the Planning Commission. Motion seconded by Mr. Blough. All in favor and the public hearing on the proposed Fairgrounds Regulations is set for July 9, 2018.

Request from Blu Sky Farms to rezone land at Alden Nash and Cascade Road to the Commercial District.

Mr. Blough recused himself from participation in this matter.

This request was tabled at the November 2017 Commission Meeting.

Planner Johnson summarized his report of June 6, 2018 regarding Blu Sky Farms Rezoning. He indicated that this rezoning was allowed under the Township Master Plan. Any use of the building currently on the property would require significant improvements to meet code. Rezoning would allow the Applicant to run an Open Air Business as a Special Use under Section 11.03(b) of the Ordinance.

Chairperson Simmonds explained that the original request to rezone had been tabled after the September 25, 2017 Public Hearing. At that hearing, Mr. Timpson had expressed some concern about a drain field. An alternative Public Hearing was held March 15, 2018, with Blu Sky Farms requesting a Light Industrial Special Land Use as a lumber and wood products activity, but this was determined to not be valid under the Ordinance.

Chairperson Simmonds felt that another Public Hearing on the original re-zoning request was unnecessary. Other members of the Planning Commission agreed.

Mr. Clements objected to rezoning to Commercial if the rezoned parcel would only be 27,500 square feet in size, when the Ordinance Bulk Use Table required a minimum lot size of 30,000 square feet. Mr. Edwards agreed. After further review, it was determined that Township records showed the parcel to be rezoned was actually 1 acre in size. Mr. Edwards and Mr. Clements consequently withdrew objection to the rezoning.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved that the Lowell Township Planning Commission recommend to the Township Board approval of the rezoning of one parcel of land, pp # 41-20-28-200-007, from Light Industrial to Commercial. Motion seconded by Mr. Batchelor. All in favor and the rezoning from Light Industrial to Commercial is recommended for approval.

Mr. Blough rejoined the other members of the Planning Commission.

NEW BUSINESS

Request from Forest Hills Homes to amend the PUD density regulations

Planner Johnson presented his report of June 7, 2018 regarding the Request from Forest Hills Homes to Amend PUD density Requirements. Based on the R-3 zoning density requirements, the maximum number of allowed dwelling units per acre is 8. Applicant is requesting an amendment to the Township OS-PUD ordinance to grant the Planning Commission discretion to allow a zoning density greater than 8 dwelling units per acre. Applicant would like to be allowed 80 units in total.

Todd Stivey presented on behalf of Forest Hills Homes. He summarized the nature and amenities included with these apartments. There would be 31 percent dedicated open space, which would also serve as a buffer to properties in the Whispering Hills development to the North of the project. They would like to have 10.8 units per acre, and compared this with the two phases of Stone Ridge Apartments to the West, which have densities of 8.7 and 9.8 respectively.

Planner Johnson noted that these densities for Stone Ridge Apartments are based on their current parcel sizes, and may have been developed under an earlier version of the OS-PUD ordinance. More research will be made on the history of Stone Ridge Apartments. He also noted that, with added amenities, the Planning Commission did have authority to increase density so as to allow up to 59 units on the 7.41 acre parcel.

Chairperson Simmonds expressed concern about an increase in density to allow an additional 3 units per acre.

Mr. Edwards discussed the height of the proposed buildings, which would have a high point of 39 to 40 feet. He also commented on the smaller parking spaces being requested, which Planner Johnson indicated were not something which the Planning Commission was authorized to change. Planner Johnson also clarified that for purposes of the 35 foot limitation on building heights, the height was measured to the mid-point of the roof, and not to the absolute top of the roof.

Chairperson Simmonds questioned whether the amenities offered justified the increase in density requested. Mr. Blough thought allowing higher density in Commercial areas would help the Township preserve agricultural land. Mr. Stivey noted that these would be good-sized apartments which would attract long-term residents.

Mr. Batchelor expressed his appreciation of the well-prepared materials and presentation, as did Mr. Edwards. He noted the change to OS-PUD is consistent with the Master Plan. Mr. Clements inquired about the need for a second drive entrance, as required for an OS-PUD in subdivision areas. Planner Johnson said would not apply in this case as the current request is not for a subdivision. Mr. Batchelor would not be concerned with having only one drive into this development.

Chairperson Simmonds summed up by asking if it would be worthwhile to pursue the density issue when there are also issues with height and parking space size. After discussion it was decided to seek Township Board input on whether the Planning Commission should pursue amending the OS-PUD section of the Ordinance to account for the issues which had been raised. Mr. Batchelor would like Township Board members to also give feedback on the maximum density levels they would approve.

Mr. Hale stated that there was water and sewer capacity for 80 units and the balance of the Commercial Zone, but after that the Township would need to talk to the City of Lowell about expansion of these systems. The number of students coming from this proposed development also would not be a problem.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved to table the request of Forest Hills Homes for amending the OS-PUD ordinance to allow for greater density of dwelling units and smaller parking spaces, as well as their request for rezoning to an OS-PUD and presentation of a Preliminary Site Plan, until the next Regular Meeting of the Planning Commission on July 9, 2018, while Township Board input is sought. Motion seconded by Mr. Edwards. All in favor and these matters are tabled.

Request from Blu Sky Farms for a Special Land Use to operate an Open Air Business on property at the Southwest corner of Alden Nash and Cascade Road.

Mr. Blough recused himself from participation in this matter.

Planner Johnson reviewed his report of June 7, 2018 regarding the Blu Sky Farms Special Land Use and Site Plan. Some questions were included in the report, along with identification of missing information.

Chairperson Simmonds indicated that if the necessary materials were received no later than June 21, 2018, a public hearing could be scheduled for the Regular Meeting of the Planning Commission on July 9, 2018. He then addressed the questions raised in Planner Johnson's report.

With respect to Items 1 and 2, it was decided that none of the current driveways into the property would need to be closed.

With respect to Item 3, parking setback did not appear to be an issue, and could be addressed at the public hearing.

With respect to Item 4, parking and drives are already made of concrete.

With respect to Item 5, the size of the barrier free parking space needs to be shown on the plan, and appropriate signage installed.

With respect to Item 6, lot lines need to be labeled.

With respect to Item 7, landscaping to be added will be shown on site plan.

With respect to Item 8, there will not be any on site lighting.

With respect to Item 9, only one freestanding sign will be shown on the site plan.

There being no further questions or comments from members of the Planning Commission, Mr. Batchelor moved to set a public hearing date for the requested Special Land Use for the next Regular Meeting of the Planning Commission on July 9, 2018, if Applicant submits the needed documentation no later than June 21, 2018. Motion seconded by Mr. Edwards. All in favor and the public hearing will be planned for July 9, 2018.

Mr. Blough rejoined the other members of the Planning Commission.

COMMISSIONER COMMENTS

Mr. Edwards advised that the State of Michigan was considering legislation to allow weddings in barns.

There will be no special meeting on June 25, 2018.

ADJOURNMENT

Mr. Edwards moved to adjourn. Motion seconded by Mr. Batchelor. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 10:26 p.m.

Submitted _____ Secretary
Timothy Clements

Approved _____