

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION  
REGULAR MEETING AND PUBLIC HEARING  
October 8, 2018**

**PRESENT:** Blough, Batchelor, Simmonds, Clements, 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 7:00 pm.

**APPROVAL OF MINUTES:**

The Minutes of the Regular Meeting and Public Hearings of September 10, 2018 and Findings of Fact for Ground Hawg and Blu Sky Farms Special Land Uses were presented for approval. Mr. Edwards moved to approve the Minutes and Findings of Fact. Motion seconded by Mr. Batchelor. All in favor and the Minutes of September 10, 2018 and Findings of Fact are approved.

**CHANGES OR ADDITIONS TO THE AGENDA:**

There were no changes to the Agenda.

**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:**

**Request from Ryan Riebel for a Special Land Use to establish a Home Based Business at 1767 Parnell Avenue SE**

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.

Ryan Riebel presented on behalf of RRR Lawn and Landscape. The home and two barns have existed since 1988. Chairperson Simmonds asked if the landscaping activities were performed off-site, and was told that it were. There are no retail sales at the site. Some material is brought in from time to time. Hours of operation are 7:00 am to 5:00 pm Monday through Thursday, with Friday as a 'makeup' day if needed.

Mr. Edwards confirmed with Mr. Riebel that their drive connected with Parnell Drive, and that employees parked on the West side of the barn.

Mr. Riebel continued by stating that his barn was 116 feet from the neighbors' outbuilding, and 156 feet from the neighbors' house. Vehicles with equipment generally pulled out around 7:30 am, and were then gone for the day. There are generally two non-family employees, with some additional employees as needed. They are now out of the snow plowing business.

Mr. Clements asked where equipment was ~~was~~ [TC] parked and was advised it is often in the barn. He also asked about loading of equipment along-side [TC] Parnell Avenue and was told that this only involved new equipment deliveries.

Chairperson Simmonds asked about the geography of Mr. Riebel's land to the West and South. It is wooded to the West, and the family home and yards are to the South, as is a wooded area between the home and Parnell Avenue. A six-foot privacy fence has been installed by Mr. Riebel between the barn and the neighboring Thompson home. Mr. Batchelor confirmed that Parnell Avenue was the only drive on the property, and Mr. Riebel noted that the drive is narrow. He also asked of Mr. Riebel would commit to no snow removal work and was told that he was done with snow plowing and the equipment was being sold.

Mr. Edwards found that Mr. Riebel might have four non-family employees during a busy month. He did indicate that he would be willing to work within the staffing requirements of the Home Based Business Ordinance.

Planner Tim Johnson then reviewed his report of October 3, 2018. He indicated that the Planning Commission would need to resolve the complaint about outside storage of vehicles, and equipment being stored outside and in sight of the Thompsons. Ms. Riebel indicated that no materials were stored on-site.

There being no other comments or questions, the Public Input portion of the Public Hearing was opened at at 7:23 pm.

George Thompson – he owns the property to the North of Mr. Riebel. His concerns include traffic and his house being on higher land and facing the Riebel property where equipment is visible.

There being no other comments or questions, the Public Input portion of the Public Hearing was closed at 7:25 pm.

Mr. Edwards asked about the screening fence installed, which is six feet tall and forty feet in length. Mr. Thompson said that due to their property being five feet higher than the Riebels' property, and the fence being installed along a line five feet lower than typical on the Riebel property, they still had a view over the top of the fence, so screening was inadequate.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was closed at 7:27 pm.

Deliberations on the Request were then begun.

Mr. Edwards suggested that evergreens be planted to provide screening. Both the Riebels and the Thompsons do not feel that the trees would grow in that location.

Issue Number 3 of Planner Johnson's report was discussed. Chairperson Simmonds had visited the Thompson property and was able to see materials and equipment. He was advised that the materials were a pile of waste from the Riebels' own property. He also asked if there was room for the equipment in the barn, but apparently there is not.

Mr. Batchelor suggested the Planning Commission help Mr. Riebel determine the issues which need to be resolved, to avoid future conflicts.

Mr. Clements proposed reversing the area for equipment storage with the area for parking, which would conceal the equipment behind the Thompson's outbuilding. The Thompsons were favorable to this, but Mr. Riebel expressed his concern about the need to expand the West parking area and what would be involved in doing so.

Issue Number 5 of Planner Johnson's report was next to be brought up. At this point, Mr. Edwards suggested that both the Riebels and the Thompsons review Planner Johnson's report and work on finding solutions. Mr. Edwards then moved that the matter be tabled until the next Planning Commission meeting on November 12, 2018. Motion seconded by Mr. Batchelor. All in favor and further consideration of the request of RRR Lawn and Landscaping is set for November 12, 2018.

Both the Riebels and the Thompsons agreed that members of the Planning Commission could visit their properties before the next Planning Commission meeting.

### **NEW BUSINESS**

With Eric Schelhaas now present, Mr. Edwards moved that the annual review of Red Creek Waste Services be moved ahead of the AFC discussion. Motion seconded by Mr. Batchelor. All in favor and the annual review was moved to be the next item of business by the Planning Commission.

#### **Annual Review of Red Creek Waste Services Land Use Permit**

Eric Schelhaas presented for Red Creek Waste Services. He presented members of the Planning Commission with a written summary of the current and planned facility use. He indicated that not much had changed since the last annual review, and there were no significant upcoming plans for the property. Supervisor Jerry Hale advised that there had been no complaints about the company in the past year.

Mr. Blough had heard that there were plastics mixed in with the composting waste on the property. Mr. Schelhaas indicated that he was working hard to not allow plastic into materials to be composted.

There being no further questions or comments from members of the Planning Commission, Mr. Batchelor moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Red Creek Waste Services Special Use Permit and finds that it is in compliance with the Special Use Permit and its conditions granted in October 2015 and that the next annual review will be held in October 2019. Motion seconded by Mr. Edwards. All in favor and Red Creek Waste Services is found to be in compliance with its Special Use Permit.

## OLD BUSINESS

### **Continued review of proposed amendment to permit AFC homes in the R-2 Zoning District by Special Land Use**

Planner Johnson presented his report of October 1, 2018. The new approach proposed would address only those matters raised in the original directive from the Township Board, being the allowance of an Adult Foster Care ~~facility~~ Large Group Home [TC] in the R-2 Zone as a Special Land Use.

In the Definitions section of the report, Mr. Clements asked that the Adult Foster Care Congregate Facility definition be dropped, as it applies only to an Adult Foster Care (AFC) facility for more than 20 adults, and the State of Michigan no longer licenses AFC facilities for more than 20 adults. He also suggested that all references to Adult Foster Care Congregate Facility be removed from the current Ordinance. Mr. Edwards noted that a facility for 20 or fewer residents would make the facility look more appropriate in a residential district. Applicant acknowledged the change in licensing and further indicated that they would need to get three 20-resident AFC licenses for the facility they would like to build.

Mr. Edwards also cited the court case of Larkin v State of Michigan Department of Social Services (1996) which eliminated the right to separate AFC facilities by at least 1500 feet, and also discrimination about who can occupy an AFC, so residency could not be limited to just adults 60 years of age or older. Applicant agreed that the AFC facility must allow any use specified by statute. Mr. Edwards further noted that the Planning Commission can decide how many AFC ~~buildings~~<sup>2</sup> licenses [TC] can be allowed on a parcel of land. Under the applicable statute, a 'building' can be two or more 20-resident facilities separated by a ~~two-foot thick~~ two hour [TC] firewall, but otherwise would appear to be a single structure. The issue of shared staffing between 'buildings' was also raised.

Mr. Batchelor felt that the discussion should focus on all uses of an AFC, and the Applicant agreed to focus the discussion on AFC uses rather than just care based on age.

Mr. Edwards further noted that Applicant has indicated that it would seek two other uses, being a multi-family units for those requiring little or no care, and another for those seeking a mid-level amount of care. Neither of these uses fall under the AFC regulations. After a brief discussion, a majority of the Planning Commission decided it did not want independent living facilities with the AFC facilities.

Mr. Clements was concerned about controlling the number of AFC ‘buildings’ on one parcel of land. Planner Johnson indicated that the number allowed would be determined on a case by case basis for each variance request.

The ability of the Planning Commission to determine if an AFC facility would be required to connect to a sewer line or could use a septic system was next discussed.

Mr. Clements requested that any Applicant seeking to use a septic system be required to meet the requirements of the Michigan Criteria for On-Site Wastewater Treatment, which is a final edited draft dated January 29, 2013. This draft is a proposed replacement for the current Michigan Criteria for Subsurface Sewage Disposal, revision dated April 1994. In support of this he directed attention to a letter from the Kent County Health Department dated June 27, 2018 to Applicant Barriger, regarding the property to be used as an AFC facility, indicating that both the Health Department and the Michigan [TC] Department of Environmental Quality (MDEQ) [TC] would ask Applicant to ‘consider’ sizing according to the 2013 Standard, even though the 1994 criteria are currently in effect.

In Planner Johnson’s report of October 1, 2018, Mr. Johnson states that he spoke to Mr. Jason ~~Beek~~ Buck [TC], the Environmental Health Specialist who had written the letter to Mr. Barriger, and that Mr. ~~Beek~~ Buck [TC] felt the current Health Department requirements for an AFC facility would be inadequate, and that the system will likely fail within a year.

Applicant indicated that the MDEQ [TC] would ultimately license the septic system, and said they would apply high standards to the system. Mr. Clements would like the explicit Criteria of 2013 to be required by Lowell Township. Mr. Batchelor indicated that he was comfortable with the current standards. Planner Johnson asked that Applicant provide a letter from the MDEQ [TC] indicating that they will apply the 2013 criteria in their review. It was clarified that the Township was only asking for a letter applicable to Applicant’s property and not general to the Township. Mr. Edwards contrasted the significantly different septic requirements of an AFC facility from requirements for a Home For the Aged (HFA) and questioned why they would be so different. Applicant indicated that the HFA requirements were under review and revision by the State. Ultimately a majority of the Planning Commission directed Planner Johnson to look into the matter further and report his findings to the Planning Commission.

Next, in reviewing the Section 22.03(k) Ordinance section set out in Planner Johnson’s report, the following decisions were made:

1. Limiting the age group for the facilities to 60 or older would not be allowed by law.
2. Independent living units would not be allowed as part of the AFC Large Group Home Special Land Use.
3. Consideration of whether on-site septic systems be required to comply with the Draft Michigan Criteria for Onsite Wastewater Treatment is still in progress.

Under the Standards from Draft Ordinance section of Planner Johnson's report, the following decisions were made:

1. The minimum lot size for an AFC facility will be five acres, with 200 feet of road frontage.
2. The facility will be served by public water and sanitary sewer services if either or both are located within 1000 feet of the parcel containing the facility, if those services are available at the time of the Special Land Use application.
3. Private water and sanitary sewer disposal systems may be permitted by the Planning Commission, with Applicant to indicate the agencies having jurisdiction over the private systems, and Applicant providing documentation as to how the facility will comply with the regulations. The Planning Commission may require connection to public water or sanitary sewer disposal systems when such services become available within 1000 feet of the parcel containing the facility.

Mr. Blough raised the issue of setting the distance for required connection, but after discussion, it was decided to set the distance at 1000 feet.

Mr. Clements suggested that the Bulk Use Table requirements also be included in the discussion. The current standards for R-2 All Other Permitted Principal Uses and Special Land Uses, with respect to setbacks and building height, will be followed. Items such as setbacks can be increased during an individual Special Land Use application.

Mr. Edwards noted that, based on his research, allowing more than two AFC facilities licenses for a single structure was unusual.

Mr. Clements asked that the second draft of the Ordinance amendments be reviewed and discussed by the Planning Commission at the November 12, 2018 Regular Meeting. Planner Johnson will work towards providing the requested information to members of the Planning Commission within the next two weeks.

Mr. Blough had another commitment and left the meeting at 10:03 pm.

Mr. Batchelor asked that a maximum number of living units for a parcel be set. He suggested that it might be a good idea to base the number of units allowed on a 'per acre' basis. Mr. Edwards agreed with this.

## **COMMISSIONER COMMENTS**

There will be no special meeting on October 22, 2018.

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**ADJOURNMENT**

Mr. Batchelor moved to adjourn. Motion seconded by Mr. Clements. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 10:07 pm.

Submitted \_\_\_\_\_ Secretary  
Timothy Clements

Approved \_\_\_\_\_