

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARING
October 9, 2017**

PRESENT: Blough, Batchelor, Simmonds, Clements, Edwards
TOWNSHIP PLANNER: Bob Toland
TOWNSHIP ATTORNEY: Clifford Bloom
CITIZENS IN ATTENDANCE: 17

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 Hearing of September 25, 2017 were presented for approval. Mr. Edwards requested two changes to the Minutes as presented, which were accepted by the other members of the Planning Commission. Mr. Edwards then moved to approve the Minutes as amended. Seconded by Mr. Batchelor. All in favor and the Minutes of September 25, 2017 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 7:05 pm. No one spoke. Public comment was closed at 7:05 pm.

PUBLIC HEARING

County Fairs, Youth Fairs etc. Zoning Amendment

The Public Hearing was commenced at 7:06 pm. Chairperson Simmonds explained the procedures for the public hearing to those present. Mr. Clements read the Notice of Hearing into the record.

Attorney Bloom presented the proposed language for amending the current Ordinance, which would allow fairs to be operated by private non-profit and other organizations; the current language limits fairgrounds to those which are operated by a municipality. Article 5, Section 5.03(f) would remove fairgrounds from this Special Land Use, while a new Section 5.03(y) would be added to allow an agricultural youth fair or county fair, along with additional uses of the fairgrounds throughout the rest of the year to make the annual fair financially viable. These additional uses would be limited to property subject to the new Special Use. He also commented that a new public hearing on changes to this section of the Ordinance was being held as there may not have been proper notice given of the prior hearing.

A member of those in attendance requested a copy of the new proposed language, and the meeting was briefly adjourned to allow copies to be made and given out to those requesting it.

Mr. Edwards expressed concern about using a “catch-all” use in the new section, saying that the Michigan Court of Appeals has stated that each use needs to be listed with specificity. It was suggested that all uses traditional to fairs would be allowed. Mr. Toland noted that 4-H would be allowed to use the property even though it is not specifically listed as a potential user.

Mr. Edwards then advised that the Michigan Supreme Court has ruled that auto racing is allowed at fairs. He does not wish to have fairground uses decided by the courts but feels a specific list of allowed uses is required. Attorney Bloom indicated that car racing could be excluded at the Special Land Use hearing if there is a good reason to do so.

Mr. Clements asked if Section 5.03(y) could have a list of activities specifically excluded, such as auto racing, and was told that such could be done. Mr. Edwards asked if the fair can request additional uses in the future, and was advised that they could by requesting an amendment to the Ordinance.

Mr. Edwards asked about portions of a large parcel being leased out to others. Attorney Bloom indicated that the uses allowed by those leasing the property would need to be consistent with the terms of the Special Land Use. Mr. Clements sought clarification on the question of whether other leased property could hold activities traditional to a fair, but not as part of a fair. He was advised that how the separately leased property would be used would be under the control of the fair owners. Mr. Toland stated that there can be unexpected uses desired, which can be addressed later in the Special Land Use request, and that specific conditions can be developed later.

Mr. Edwards was concerned that Act 80, authorizing fairs, requires a report to the Department of Agriculture four to six months after the fair is completed, and asked how that could impact on other uses allowed for the non-fair weeks of the year. Attorney Bloom made clear that the Act would not pre-empt any local zoning conditions.

There being no further questions or comments from members of the Planning Commission, the hearing was opened to public comment at 7:31 pm.

Cathy Newman – expressed many concerns, including State involvement in allowed uses, needing more than light and nuisance ordinances to control activities, the inability to tell private corporations what to do, the lack of a specific list of allowed uses, possible uses traditional to fairs such as monster truck racing, and the need for a traffic study. Attorney Bloom advised that the State could not interfere with local zoning without a new State law.

Gary Reitsema – felt the currently listed uses were very broad and could allow most activities. He would like the attorney to determine if the language would allow monster trucks on the property. He would like both those uses specifically allowed and those uses specifically not allowed to be listed. He would like to be involved in the planning process with the fair people from the start.

Gar Allison – Supported what others had said. Would like the list of approved/not approved uses to be as specific as possible. He would like to see time considered in special uses given the seasonality of their lives. Suggested updates to allowed and not allowed uses be made only annually so those affected could be present at the public hearing. He is more than 300 feet from the property expected to be used as a fair, and he thinks notices should be sent to owners further than this in this particular case.

There being no further comments or questions from members of the public, the public input portion of the hearing was closed at 7:45 pm.

Discussion of the hearing topic by members of the Planning Commission was commenced at 7:45 pm.

Chairperson Simmonds made clear that any action taken by the Planning Commission would only be a recommendation to the Township Board, which would make the final decision on the ordinance change. Mr. Edwards noted that the actual fair event would likely last, at most, for two to four weeks. Attorney Bloom stated that some activities might be allowed all year on the property. It would be possible to limit uses implied as fair activities only to times when the fair is actually in session.

Mr. Clements suggested allowing fairs and their implied activities for the necessary two weeks now, and to come back to a separate hearing on specific non-fair activities at a later time, to allow members of the Planning Commission adequate time to create that list.

Mr. Edwards again expressed concern about specific uses which have been allowed by the courts during fair week. Attorney Bloom indicated that this is again a situation where local zoning pre-empt.

Mr. Allison favored having a list of what can be done in a reasonable time. Mr. Reitsema would like to see restrictions also applied during fair times.

Mr. Batchelor recognized that the two weeks of the fair would be the busiest time of use, with the rest of the year being less busy. Mr. Edwards indicated that demolition derbys were popular at fairs, and that allowance of them needed to be looked into.

Attorney Bloom closed the discussion by stating that he had a good understanding of what the Planning Commission was looking for, and that he could bring back appropriate language for discussion at a Special Meeting in two weeks.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved to table the matter of county fairs and youth fairs until October 23, 2017. Motion seconded by Mr. Edwards. All in favor and the matter is tabled until October 23, 2017.

The Regular Meeting of the Planning Commission was then opened.

OLD BUSINESS

Impact Church – Special Land Use – Site Plan Review

Aaron Stanski was the primary presenter and responder on behalf of Impact Church.

Bob Toland presented a quick overview of the status of a possible MDEQ permit as well as MDOT decisions on the location of drives connecting to roadways such as M-21. Apart from those two questions, only a few final questions need to be discussed.

The Planning Commission then addressed the List of Issues prepared by Mr. Toland dated September 25, 2017, with respect to the Impact Church request for a Special Land Use.

1. Traffic Impact Study – Mr. Toland updated members of the Planning Commission regarding his discussions with MDOT, including the possible use by them of a Study, an Assessment, or just a review based on their prior experience with church traffic. Impact Church indicated that they did not feel a Traffic Impact Study was necessary. Mr. Simmonds also questioned the need for an Ordinance-based study if MDOT was going to do their own study. Mr. Edwards asked about the information provided in the communication with Mr. Keene of MDOT. He felt the most stringent study should be used, and that so far, the information regarding the likely traffic generated by Impact Church has come from the church itself.

A discussion between members of the Planning Commission then addressed making the MDOT response a condition of the Special Use Permit, the ability to have a traffic impact study under the terms of the Ordinance, the role of MDOT in recent years in reviewing drive requirements, whether an assessment might be good to do, the requirement of the Ordinance that would require the MDOT response before a final approval of the Site Plan could be made, the fact that the current Site Plan shows four drives into the Impact Church parking area, and the validity of using two drives not directly connecting to M-21 under existing easements, and the need for drives to be across from corresponding drives out of the Meijers parking lot onto M-21.

Mr. Batchelor asked if this was a Preliminary Site Approval, and was advised by Mr. Toland that it was a request for a Final Site Approval, but then indicated that this was likely a Preliminary Site Approval under Section 21.04 of the Ordinance. As the application is ambiguous on this question, Applicant was asked to confirm that a Preliminary Site Plan is being requested at this time. Mr. Batchelor was in agreement with this option, as was Mr. Clements. Mr. Edwards expressed concern about the impact of MDOT drives on the location of the church building and required green spaces after a Final Site Plan was accepted.

Mr. Kresge on behalf of Impact Church agreed that the current review should be considered a request for a Preliminary Site Plan.

At this point, the requirement to do a Traffic Impact Study under the Ordinance was dropped.

2. Waiver of the right to oppose the issuance of a liquor license within 500 feet of church - This has been met by letter from Impact Church dated April 13, 2017, waiving that right. The requirement is met.
3. The Site Plan should note that two parcels at 11840 Fulton Street and 11930 Fulton Street will be a requirement of approval - Applicant will apply for combining those two parcels into one parcel this week. This requirement will be met when documentation of the combination of the two parcels is provided.
4. Discussion of use of parking lot for public parking - Mr. Edwards proposed allowing parking only for users of the neighboring Township park. Mr. Clements felt that this requirement reduces the number of spaces available to the church at the same time as they are indicating that they need more spaces than allowed under the Ordinance. After discussion, this requirement was dropped.
5. The Site Plan currently shows three parcels, when two of them were previously combined. Should be noted to this effect on Sheet CS - This remains a requirement.
6. Existing buildings need demolition permits, and these should be a condition of approval – demolition would interfere with a current lease to Noon Equipment, and will be required before the church can receive a Certificate of Occupancy. Mr. Kresge indicated that no meetings are planned on the property before issuance of the Certificate of Occupancy; Mr. Batchelor suggested that such a meeting might still be allowed if a one-day Permit was acquired in advance. This requirement has been dropped.
7. Recommend existing overhead utility be moved to underground – This recommendation has been made. This requirement has been met.
8. Existing Noon Equipment lease of building on property until July 2018 will complicate approval process – Discussed with Applicant. This requirement has been met.
9. Parking spaces requested exceed Ordinance limits – Impact Church requested 410 spaces, as explained by undated letter from Arron Kresge on behalf of Impact Church. 410 spaces are approved by the Planning Commission. This requirement has been met.
- 10 through 14. These are requirements from the reviewing Engineer. Approval of actions taken or to be taken by Applicant remains a requirement.
15. Fourteen barrier-free parking spaces are required, under the Ordinance, but only nine are shown on the Site Plan – The Site Plan has been changed accordingly. This requirement has been met.
16. Requirement for documentation of approval of drive entrances by the Kent County Road Commission and MDOT – This remains a requirement.

17. Requirement for documentation from MDEQ showing determination of necessity of a Part 31 permit – This remains a requirement.

18. Financial surety may be required to guarantee construction of required improvements – This requirement has been dropped.

Review of comments made by Mr. Edwards as to possible requirements to approval of the Site Plan.

a) Trash container too close to flood plain – Will not be allowed to spill into flood plain. This requirement has been met.

b) Inconsistencies in showing existing drives on M-21, preventing determination of distance between them – this will be handled by the MDOT review. This requirement has been met.

c) Signage on the building will need to be reviewed against signage requirements of the Ordinance – This will be established as a separate step. This requirement has been dropped from the Site Plan requirements.

d) Need landscaping detail – This remains a requirement.

Newly added e) Facade of building must meet requirements of Ordinance Section 11.07. This will be established as a separate step. This requirement has been dropped from the Site Plan requirements.

A letter from LRE Engineering dated September 1, 2017 contains several technical requirements to be met. These requirements are addressed as part of the previously discussed requirements.

Mr. Clements suggested that Applicants check with their own attorney regarding their use of easements across neighboring properties for private drives intended to provide access to the Impact Church property. Doing so now could avoid possible future delays in issuance of a Final Site Approval if additional easement grants are found to be required.

There being no further questions or comments from members of the Planning Commission, Mr. Clements moved that the Planning Commission approve the Preliminary Site Plan of Impact Church, subject to the remaining Requirements not resolved or met in the list of September 25, 2017 from Bob Toland, consistent with the requirements of Section 21.04 of the Township Ordinance. Mr. Edwards noted that the Site Plan does not yet meet the requirements for a Final Site Plan. Motion seconded by Mr. Blough. All in favor and the Preliminary Site Plan of Impact Church, subject to outstanding requirements, is approved.

NEW BUSINESS

Red Creek Waste Services – SLU permit annual review

Eric Schelhaas presented a summary of last year's activities and future plans in a document provided to members of the Planning Commission at the meeting, along with photographs. The facility, including offices in the existing house on the property, is operational. Composting of yard waste has begun, with the necessary MDEQ permit having been acquired. Construction of the planned waste transfer station is planned for sometime in 2018.

Mr. Blough asked if the operations were working out as expected, and was told that they were. Mr. Batchelor noted that the facility was difficult to see from the road, and overall looked good. Mr. Schelhaas said that there was no sign for the facility out by the road.

Kurt Sterzick addressed members of the Planning Commission. He owns the property to the North of the facility. He objects to the pressure-washing of trucks on Sundays; Mr. Schelhaas indicated this work is outsourced and this is the only day all trucks are on the property. Mr. Sterzick claimed outside storage of vehicles which are not used for long periods of time. Trucks are visible when coming off the freeway. There is no landscaping around the pre-existing barn. He wants a full berm on the North side of the property.

Mr. Schelhaas indicated that all trucks on the property are licensed, one truck burned but was removed within a week, and noted the current berm is eight feet high.

Mr. Blough noted the impossibility of building a berm high enough to block out sound, and suggested evergreens might do a better job. Mr. Simmonds also inquired about possible trees on the berm. Mr. Batchelor suggested having the township enforcement officer visit the land and compare current conditions to the original Site Plan. Mr. Schelhaas indicated that both the township enforcement office and the township supervisor were welcome to visit the property.

There being no further questions or comments, Mr. Simmonds moved to table a decision on the annual review of Red Creek Waste Services until receiving a report from the township enforcement officer and the township supervisor, taking up the matter again at the Regular Meeting of the Planning Commission on November 13, 2017. Motion seconded by Mr. Batchelor. All in favor and the matter is tabled until the meeting of November 13, 2017.

Mr. Edwards expressed his desire to not make this dispute a continuing issue.

Noise Ordinance Amendment – Target Practice

Due to the lateness of the hour, it was decided to postpone this matter until the next meeting.

Items for Potential Discussion

None of these matters were discussed.

Commissioner Comments

There were no comments from any of the commissioners.

There will be a Special Meeting on October 23, 2017 at 7:00 pm.

ADJOURNMENT:

Mr. Edwards moved to adjourn. Seconded by Mr. Batchelor. All in favor and the Regular Meeting of the Lowell Charter Township Planning Commission was adjourned at 10:43 p.m.

Submitted _____ Secretary

Timothy Clements

Approved _____