

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
REGULAR MEETING AND PUBLIC HEARINGS
September 10, 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 August 13, 2018 were presented for approval. Mr. Edwards asked for two changes. Mr. Edwards then moved to approve the Minutes as amended. Motion seconded by Mr. Blough. All in favor and the Minutes of August 13, 2018 as amended are approved.

CHANGES OR ADDITIONS TO THE AGENDA:

Mr. Clements proposed dropping Item 6c, the third public hearing scheduled for the evening, from the Agenda, citing the greatly expanded subject-matter to be covered by the hearing contrary to the motion to hold the public hearing approved at the prior Planning Commission meeting, and the lack of opportunity to discuss the matter before the public hearing began. Mr. Blough suggested input from the public could instead be offered through the Public Comment section of the meeting. Chairperson Simmonds considered the possibility of limiting the hearing to just the matters approved for hearing at the prior meeting. Mr. Edwards asked if the materials presented to the Planning Commission but not yet discussed by them had been available to the public for inspection. The need to cancel a public hearing not less than three days before the scheduled hearing date was suggested by the Applicant. After further discussion, Mr. Clements moved to remove item 6c from the agenda and 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 7:23 pm. No one spoke. Public comment was closed at 7:23 pm.

PUBLIC HEARINGS:

Request from Chad DeWaard for a Special Land Use Permit to Operate a Home-Based Business on property located at 10216 Cascade Road SE

Chairperson Simmonds opened the first Public Hearing at 7:24 pm. He explained the hearing process to those present. Mr. Clements read the Notice of Hearing into the record.

Chad DeWaard presented for Ground Hawg Excavating & Landscaping. He explained that this was a small excavation company. Chairperson Simmonds noted the detailed information which had previously been submitted.

Tim Johnson summarized his Report of August 30, 2018. He noted that setback requirements had been met and that equipment was 400 feet from the road but visible to passing traffic at one point. Three employees are allowed. A dumpster in the front yard of the house would need to be moved to the back. Equipment is moved out and back again infrequently.

Mr. Clements asked if the Applicant planned on relocating the dumpster appropriately and was told that it would be moved. Chairperson Simmonds noted that prior aerial images of the property did not show the drive and workshop included in the site drawing. Applicant confirmed that both are currently in place.

There being no other comments or questions, the Public Input portion of the Public Hearing was opened at at 7:32 pm.

Marjorie Mayhew – pass

Evelyn Nowakowski – pass

Patrick Russell – pass

Jill Russell – pass

Cheryl Wisdom – lives down the hill from Applicant and has no objections.

There being no other comments or questions, the Public Input portion of the Public Hearing was closed at 7:34 pm.

Mr. Edwards noted that adjoining properties should be shown on the site drawing. He asked about materials stored on the property and was told that it was pipes, traffic barrels and cones.

Mr. Blough asked about the location of farmland adjoining the property. That land is now wooded. Mr. Blough suggested that there be a note on the site drawing to indicate this is no longer being used as farmland.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was closed at 7:38 pm.

Chairperson Simmonds then led a review of Section 4.46 e) of the Ordinance, specifying the Standards for Approval of a Home-Based Business.

(1) Compliance with the requirements of this Section, including any conditions of the Special Land Use permit. Met, with specific conditions to be addressed as part of an approval.

(2) Whether the vehicle traffic generated by the business will worsen the travel condition of the road serving the business or if the business vehicles will create unsafe travel conditions for other vehicles using the road. Met, as disruption will not be an issue.

(3) Whether the business will be disruptive to nearby residents due to noise, vehicle traffic, lights, visibility of employees and equipment taking into consideration the number of nearby dwellings, the distance of the dwellings from the business, the condition of the roadway used by business vehicles and the visibility of the business to residents of nearby dwellings. Met, as disruption will not be an issue.

(4) The impact which the business may have on the operation of nearby farming operations. Met, impact on farming operations not an issue.

(5) The general standards for a Special Land Use approval found in this Ordinance. The Special Land Use Approval Standards of Section 20.03 were reviewed.

Standard A. The Special Land Use shall be established, designed, and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof, and will be compatible with the character of the area in which the Special Land Use is proposed. Standard is satisfied.

Standard B. The Special Land Use must not have a substantial adverse effect on water and sewer services, storm water drainage, road capacity, volume of traffic, traffic safety and circulation, and pedestrian safety and shall not result in lighting which is contrary to the purposes of the lighting regulations of this Zoning Ordinance. Standard is satisfied.

Standard C. The Special Land Use must not have a substantial adverse effect on police and fire services and other public safety and emergency services. Standard is satisfied.

Standard D. The Special Land Use must not have a substantial adverse effect on the need and demand for other public services. Standard is satisfied.

Standard E. The Special Land Use must not have a substantial adverse effect on the natural environment of the site and nearby properties. Standard is satisfied.

Standard F. The Special Land Use must be consistent with the intent and purposes of this ordinance and the Lowell Charter Township Master Plan. Standard is satisfied.

Chairperson Simmonds confirmed that the Special Land Use meets all of the specific standards of Section 20.03 and /or other specific special land use standards of the Ordinance.

With respect to any required screening, it was determined that none would be required. Applicant acknowledged that the dumpster would be moved. Mr. Blough asked if fuel tanks were in containment. That is not planned by Applicant as it is not required for 500 gallon tanks.

Chairperson Simmonds stated that three non-resident employees are normally allowed, since the property is comprised of 11.07 acres. Proposed employees would include two sons of the owner and three non-related employees. One son no longer lives on the property, and Mr. Blough noted that the other son could become non-resident in the future. The Planning Commission has discretion to change these requirements. Mr. Clements suggested viewing this as three non-resident non-family employees, and up to two non-resident family employees.

Chairperson Simmonds then moved that the Planning Commission, having examined the application of Chad DeWaard for a Special Land Use Permit for a Home-Based Business at 10216 Cascade Road SE, 11.07 acres, for use as an excavating business called Ground Hawg Excavating, after considering the standards for approval of a Home-Based Business in Section 4.46 e) of the Ordinance, and the Special Land Use Approval Standards set out in Section 20.03 of the Ordinance, finds the request to be in compliance with the Ordinance and standards, and grants the Special Land Use Permit subject to the following conditions: 1) a total of five employees, being three non-resident non-family employees and two non-resident family employees, are allowed 2) an annual review shall be held beginning in September 2019 and in September of each subsequent year.

Mr. Batchelor seconds. All in favor and the requested Special Land Use Permit, with conditions, is approved.

Request from Howard Barriger to Rezone 7.45 acres from R-1, Rural Low Density Residential to R-2, Medium Density Residential for Property Located at 12054 Foreman Street SE

Chairperson Simmonds opened the second Public Hearing at 7:58pm. Mr. Clements read the Notice of Hearing into the record.

Howard Barriger presented. He is seeking to build an Adult Foster Care facility in Lowell Township based current needs. He would like current residents to have the option of remaining in the community. Other facilities are currently filled. He needs at least five acres of land and city water for this facility, and this is the only location in the Township meeting those requirements.

Mr. Edwards raised questions about the planned use for the property, but was advised by Chairperson Simmonds that only the zoning issue should be discussed at this time.

Tim Johnson summarized his report of August 30, 2018. The requested rezoning from R-1 to R-2 is consistent with the Township Master Plan. A water main is available, but there is no sewer line nor sewer capacity available. Currently the Adult Foster Care facility planned by Mr. Berriger is not allowed in the R-2 zone. The Planning Commission will be making a recommendation to the Township Board regarding the requested rezoning.

Mr. Batchelor noted that Section 8.02 of the Ordinance currently allows Adult Foster Care Family Home, but only up to six adults. Tim Johnson noted that the rezoning would allow any permitted uses and was not related to a specific planned use.

There being no other comments or questions, the Public Input portion of the Public Hearing was opened at at 8:07 pm.

Marjorie Mayhew – both she and her father reside next to this property. They think the facility is a good idea and that it is needed.

Evelyn Nowakowski – thought this would be good for the community.

Patrick Russell – favors the plan.

Jill Russell – favors the plan. More people are moving into the Township, and people want to be fairly close to family members in these facilities.

Cheryl Wisdom – no longer present.

Sarah Thompson – lives on Northwest corner from property. Thinks Alden Nash is over-used and opposes additional traffic and the project.

Jill Russell spoke again, stating that there won't be an increase in traffic from residents, just visitors. Chairperson Simmonds referred to the Tim Johnson's report which shows the road is well below its designed capacity. Sarah Thompson clarified that she is concerned about traffic on Foreman. She also feels that the proposed use would change the visual appearance of the area.

Sarah Ross indicated that their request was to change zoning to R-2 consistent with the Township Master Plan. She also stated that her Internet search confirmed that a public hearing could only be canceled with three days' notice.

There being no other comments or questions, the Public Input portion of the Public Hearing was closed at 8:18 pm.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was closed at 8:19 pm.

Mr. Blough confirmed that the requested change from R-1 to R-2 zoning district was consistent with the Master Plan.

There being no further questions or comments from members of the Planning Commission, Mr. Blough moved that the Lowell Township Planning Commission recommend to the Township Board the rezoning of the 7.45 acres of the original 67.74 acres at 12054 Foreman Street SE from R-1 Low Density Residential to R-2 Medium Density Residential, which conforms with the

Township Master Plan. Motion seconded by Mr. Batchelor. All in favor and the rezoning from R-1 to R-2 is recommended to the Township Board.

Amendments to the Lowell Charter Township Zoning Ordinance Regarding the Following Matters:

- Add Definitions of Nursing Home, Home for the Aged and State Licensed Care facilities;**
- Allow State Licensed Care Facilities in the R-2 Zone by Special Land Use Permit;**
- Delete Language in the R3, AG-1, AG-2 and General Commercial Zoning Districts Regarding AFC and Assisted Living Facilities, Retirement and Elderly Housing, Convalescent and Nursing Care Facilities;**
- Amend Current Language in the R3, and General Commercial Zoning Districts So State Licensed Care Facilities as Defined are Allowed by Special Land Use Permit.**

Mr. Batchelor moved that this item be returned to the Agenda for Public Hearing and discussion this evening. Motion seconded by Mr. Blough. Three in favor, two opposed. The Public Hearing will be held as originally set forth in the Agenda.

Mr. Clements read the notice of hearing into the record.

Planner Tim Johnson summarized the information in his Draft 1 of September 10, 2018 for Amendments to Define & Allow State Licensed Care Facilities in Certain Zoning Districts, and his Draft 1 of September 10, 2018 for Amendment to Section 22.03(k) to Provide Requirements for State Licensed Care Facilities. He noted that the Notice of Hearing for these amendments was consistent with the proposed amendments.

Chairperson Simmonds asked about the types of units Applicant proposed, and was advised it would be eight independent living units, twenty-five assisted living units and twenty memory care units. Mr. Barriger indicated that residents of the independent living units would need only some assistance.

Mr. Edwards noted that only twenty units were allotted for Adult Foster Care facilities and that the use of LARA terms was needed. He then gave examples of various State Licensed facilities and the differences between these different care facilities. Mr. Blough agreed that the proper definitions were needed. Chairperson Simmonds noted it was easy to tangle up the definitions.

Ms. Ross stated that the Township could use qualifiers to limit different facilities to just senior housing. She felt that no more than six labels would be needed to identify the different uses intended. Mr. Batchelor stated that the Planning Commission normally just looks at the space taken up by a facility. He inquired as to whether it was better to look at percentages rather than listing the number of units.

There being no other comments or questions, the Public Input portion of the Public Hearing was opened at at 8:57 pm.

Marjorie Mayhew – spoke about how difficult the decision to sell this property had been. She felt this was a nice setting for the facility, and that she expected her father to eventually become a resident of the facility. Her impression is that others in the community seem to favor it. Mr. Clements asked for clarification on ownership of the 7.45 acres of land involved, and was advised that it was subject to a Buy/Sell agreement with the Applicant.

Evelyn Nowakowski – pass.

Patrick Russell – supports it and likes the idea of these services being near home.

Jill Russell – supports it and likes the idea of a continuum of care.

Cheryl Wisdom – no longer present.

There being no other comments or questions, the Public Input portion of the Public Hearing was closed at 9:00 pm.

Mr. Batchelor sought more instructions from Planner Tim Johnson. Mr. Clements noted that only matters listed in Notice of Hearing should be discussed. He received confirmation that both Draft 1 documents were part of the Notice of Hearing.

There being no further questions or comments from members of the Planning Commission, the Public Hearing was closed at 9:03 pm.

Mr. Clements moved that discussion of the previously identified proposed amendments to the Lowell Charter Township Ordinance be tabled until the October 8, 2018 meeting of the Planning Commission. Motion seconded by Mr. Edwards. Mr. Edwards expressed doubt that the discussion could be completed at the next meeting, and noted this would involve definitions in the Ordinance and getting into the State licensing laws. All in favor and the matter is tabled until the October 8, 2018 meeting of the Planning Commission.

OLD BUSINESS

Blu-Sky Farms Special Land Use request to establish an Open Air Business at Alden Nash Avenue and Cascade Road

Mr. Blough recused himself from this matter.

Gary Blough spoke. He indicated that Dutch Barns will remove their storage barns if this matter is not resolved this evening.

Chairperson Simmonds acknowledged receipt of the new, more detailed site plan drawing. It now shows that the existing drive to Alden Nash will be closed and barrier-free parking will be available. Mr. Batchelor asked if the Open Air Business approval would last only so long as it is being used by Dutch Barns. Planner Tim Johnson advised that a condition to that effect could be

placed on any grant of a Special Land Use. Mr. Edwards reviewed conditions listed at the last discussion of this matter, and noted that curb cut approval by the Kent County Road Commission had not yet been requested. Mr. Batchelor suggested that a better site plan might be needed. He is agreeable to a condition for obtaining the necessary approval from the Kent County Road Commission. Note was made that the current Site Plan is dated August 27, 2018.

There being no further questions or comments by members of the Planning Commission, Chairperson Simmonds led the review of the Section 20.03 standards for the granting of this request.

Standard A. The Special Land Use shall be established, designed, and operated so as not to have a substantial adverse effect upon adjoining or nearby lands or any of the uses thereof, and will be compatible with the character of the area in which the Special Land Use is proposed. Standard is satisfied subject to conditions.

Standard B. The Special Land Use must not have a substantial adverse effect on water and sewer services, storm water drainage, road capacity, volume of traffic, traffic safety and circulation, and pedestrian safety and shall not result in lighting which is contrary to the purposes of the lighting regulations of this Zoning Ordinance. Standard is satisfied.

Standard C. The Special Land Use must not have a substantial adverse effect on police and fire services and other public safety and emergency services. Standard is satisfied.

Standard D. The Special Land Use must not have a substantial adverse effect on the need and demand for other public services. Standard is satisfied.

Standard E. The Special Land Use must not have a substantial adverse effect on the natural environment of the site and nearby properties. Standard is satisfied.

Standard F. The Special Land Use must be consistent with the intent and purposes of this ordinance and the Lowell Charter Township Master Plan. Standard is satisfied.

Chairperson Simmonds concluded that the Special Land Use meets all the specific standards of Section 20.03 and /or other specific special land use standards of the Ordinance.

Mr. Edwards noted that there are currently three signs on the property advertising the Dutch Barns, when only one is allowed. He would like to see the big sign on the existing building come down. Gary Blough indicated that there are three signs on the building, and that they will be consistent with the Ordinance concerning signs. He also confirmed that parking space lines will remain painted.

There being no other questions or comments from members of the Planning Commission, Chairperson Simmonds moved that the Lowell Charter Township Planning Commission grants a Special Land Use Permit to Blu-Sky Farm for an Open Air Business for the sale of Accessory Buildings on land located at 12000 Cascade Road, and approves the Site Plan of August 27,

2018, based on meeting the Standards of Section 20.03 of the Ordinance, and waiving the requirement of Section 22.03(g)(3) of the Ordinance requiring an office building of at least 500 square feet, subject to the following conditions:

1. Closure of the drive onto Alden Nash as shown on the August 27, 2018 Site Plan.
2. Signs on the property must meet the sign ordinance.
3. Obtain a report from the Kent County Road Commission for the driveways to and from the property.
4. The existing building on this property cannot be used for this Special Land Use.
5. There will be an annual review of the Special Land Use beginning September 2019 and in September of each subsequent year.

Motion seconded by Mr. Clements. All in favor and the Special Land Use with conditions is approved.

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

NEW BUSINESS

Annual Review of Special Use Permit for Barn for Equine Learning

Kat Welton presented. Barn permits were granted. They are working with many children, including eight girls on probation through an intensive program. There are programs every day of the week.

Chairperson Simmonds asked about the number of horses on the property. There are eight full size horses and seven miniatures.

Future plans include a new office building.

There being no further questions or comments from members of the Planning Commission, Mr. Edwards moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Barn for Equine Learning Special Use Permit and finds that it is in compliance with the Special Use Permit and its conditions granted in September 2017, and further moves that no further annual reviews be required. Motion seconded by Mr. Batchelor. All in favor and the Special Land Use is found to be in compliance, and no further annual reviews will be required.

COMMISSIONER COMMENTS

There will be no special meeting on September 24, 2018.

ADJOURNMENT

Chairperson Simmonds 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 9:53 pm.

Submitted _____ Secretary
Timothy Clements
Approved _____