

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION  
PUBLIC HEARING AND REGULAR MEETING  
March 13, 2017**

**PRESENT:** Blough, Batchelor, Simmonds, Clements, Edwards  
**TOWNSHIP PLANNER:** Bob Toland  
**CITIZENS IN ATTENDANCE:** 25

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 February 13, 2017 were presented for approval. Mr. Edwards asked for correction of the 2017 Work Plan section, adding to the last line 'and our current noise ordinance'. With that change, Mr. Edwards moved to approve the Minutes as amended. Seconded by Mr. Batchelor. All in favor and the Minutes of February 13, 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 7:03 pm. No one spoke. Public comment was closed at 7:03 pm.

**OLD BUSINESS**

**PUBLIC HEARING – Special Land Use, Timpson Orchards, Inc Driveway**

The Public Hearing was opened at 7:04 pm. Mr. Simmonds summarized the hearing process to those present. Mr. Clements read the Notice of the hearing into the record.

Applicant Colleen Timpson presented members of the Planning Commission with a Project Description dated March 13, 2017, for the proposed Old Orchard Dr. into Timpson Sand Pit at 2000 Alden Nash SE.

Applicant John Timpson explained that there would be two-way traffic on the proposed driveway during most of the day, other than the busiest times of the morning and afternoon. There would still be some traffic on Segwun Avenue. He presented drawings for the project dated March 13, 2017.

Township Planner Bob Toland noted that the plans had just been received prior to the meeting, with Page C3 missing. Mr. Edwards asked for topology information for the driveway, and was

advised that the slope was still being created. The house on the property containing the drive is not shown, and there was concern expressed that the minimum 4 acres for the house would not be met if the driveway area was deducted from the total parcel acreage. After discussion, it was determined that the driveway could be installed on an easement, preserving the total acreage for the house.

Mr. Edwards asked about how two-way traffic would be limited during busy times of the day. Applicants proposed signage to indicate when two-way traffic was allowed during the day. Applicants also indicated that they can monitor traffic from third-party trucks, and that they have radio contact with those trucks when they are entering and exiting the sand pit and proposed driveway. When asked about when mining operations were expected to be completed, Applicants indicated that they they did not know at this time.

The exit onto Alden Nash Avenue has been approved by the Kent County Road Commission.

There being no further questions or comments from the Planning Commission, the hearing was opened to public comment at 7:21 pm.

Roger Grahan – pass

Randy Wilcop – pass

Ray Jones – pass

Mary Nelson – asked how much wider the road will be, and was advised that each side of the road would be about six feet further out than currently, to allow for the new center turn lane, with another seven feet on each side for the shoulders. The taper for the new center turn lane would extend about 200 feet on either side of the new entrance to Alden Nash.

Philip Roth – resides across the street from the new drive. He asked about any traffic studies, and was told that there were none. He would like to see the new drawings, and was told that those are available to him. He noted that there are already five driveways onto Alden Nash within 7/10 of a mile of the new driveway. He favors reducing traffic at the driveway entrance during busy hours.

Joe Nelson – asked about loss of his land, and was told that the widened road would be in the existing permanent easement. He was concerned about the additional traffic, and was also advised about the limited hours of operation of the mine.

Rose Schussler Guevara – she operates a non-profit organization across from the proposed driveway. She asked how many lanes there would be after the work, and was told that there would be three, including the center turn lane. She expressed concern about the impact on her steep driveway, and the ability of seniors to access the property, as well as the truck which empties their dumpster. Applicant John Timpson expressed his opinion that the widened road would not encroach on the concrete of her driveway. Applicant Colleen Timpson noted that sand

hauling trucks from the sand pit are currently using Segwun Avenue to access Alden Nash, so total traffic on Alden Nash is not being increased by addition of this driveway.

Davina Bryan – was concerned about sound reaching her property since trees had been removed for the proposed driveway. Applicant John Timpson indicated that 250 replacement trees had been ordered. He also indicated that a 'hump' in the driveway would prevent viewing down the full length of the driveway. She also asked about any traffic study conducted.

Mr. Edwards asked if traffic would be busy during load limit times, and was told that it would not be.

Mike Grant – indicated that Timpsons were trying to solve the problem of truck traffic on Segwun Avenue, which was not designed for such heavy use. Alden Nash is an A1 highway designed to handle such truck traffic. He supports the driveway.

Don Hall – asked where the third lane would merge back into a two-lane road, and asked if that narrowing could be extended. This will need to be addressed by the Kent County Road Commission.

John Timpson – pass

Colleen Timpson – pass

The Public Hearing was closed at 7:54 pm.

The Regular Meeting was re-opened at 7:54 pm.

Mr. Simmonds asked what exactly the Applicants needed from the Planning Commission at this time. Applicant John Timpson indicated that the Kent County Road Commission just wanted to know that the Township did not have any significant issues with allowing this driveway to be constructed.

Mr. Edwards noted that a reduction in setback on the North side of the sand pit, to a total setback of 50 feet, was only needed to allow grading and reclamation on the property. This will be discussed further in the Annual Review of the Special Land Use for the Timpson Sand Mine operations later in the meeting.

There being no further comments or questions, Mr. Batchelor moved that the request for approval of the proposed driveway be tabled until the April 10, 2017 meeting of the Planning Commission. Motion seconded by Mr. Edwards. All in favor and the matter is tabled.

### **Annual Review of the Four Timpson Special Land Use Permits**

### **Timpson Motor Carrier Freight Warehouse**

Mr. Timpson provided an update letter dated February 27, 2017, and indicated that there had been no significant changes since the last review. Most of the driveway and some parking space will be paved in 2017. There have been no complaints received by the Township in the past 12 months.

There being no further questions or comments, Mr. Batchelor moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Timpson Motor Carrier Freight Warehouse Special Use Permit and finds that it is in compliance with the Special Use Permit and its conditions granted in February 2008 and that the next Annual Review will be held in March 2018. Motion seconded by Mr. Blough. All in favor and compliance with the Special Use Permit is confirmed.

### **Timpson Controlled Atmosphere Storage**

Mr. Timpson provided an update letter dated February 20, 2017. No complaints have been received by the Township in the past 12 months.

There being no further questions or comments, Mr. Edwards moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Timpson Controlled Atmosphere Storage Special Use Permit and finds that it is in compliance with the Special Use Permit and its conditions granted in February 2008 and that the next Annual Review will be held in March 2018. Motion seconded by Mr. Clements. All in favor and compliance with the Special Use Permit is confirmed.

### **Timpson Concrete Crushing Operation**

Mr. Timpson provided an update letter dated February 21, 2017. There were some communication issues last August, but the Township is now being advised when crushing operations are commenced. Mr. Timpson indicated that he has purchased land in Clarksville, and anticipates moving the concrete crushing operation there in the next couple of years. Mr. Blough noted that the crushing operation was surprisingly quiet compared to what he had expected. A couple of complaints had been received about the pile of concrete created between crushing operations, but there are no outstanding complaints.

There being no further questions or comments, Mr. Blough moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Timpson Concrete Crushing Operation Special Use Permit and finds that it is in compliance with the Special Use Permit and its conditions granted in May 2015 and that the next Annual Review will be held in March 2018. Motion seconded by Mr. Edwards. All in favor and compliance with the Special Use Permit is confirmed.

### **Timpson Sand Mining Operation**

Mr. Timpson provided an update letter dated February 21, 2017. He will work through the driveway issues with a focus on safety. At this time he is not aware of any large projects requiring sand in 2017. He would like to finish mining on the North side of the property, and perform reclamation operations on that side of the sand mine, including proper grading. Mr. Blough indicated that he had examined the property, and that it would be good if enough sand were removed to allow the surface to continue flat from the neighboring land, then slope down, for safety reasons. This can be performed most easily by temporarily allowing mining to within 50 feet of an existing fence. Mr. Simmonds emphasized that this is a temporary change to the Special Land Use Permit, until reclamation.

After discussion, the Planning Commission determined that this requested change constitutes a Minor Change under the Zoning Ordinance.

There being no further questions or comments, Mr. Edwards moved to confirm that the Lowell Charter Township Planning Commission has reviewed the Timpson Sand Mining Operation Special Use Permit, will temporarily reduce the North side line by 100 feet for temporary reclamation, and finds that it is in compliance with the Special Use Permit and its conditions granted in April 2004 and that the next Annual Review will be held in March 2018. Motion seconded by Mr. Blough. All in favor and compliance with the Special Use Permit is confirmed.

### **NEW BUSINESS**

#### **Conflict of Interest Issues – Bylaws**

The determination of whether a member of the Planning Commission has a Conflict of Interest with respect to a matter before the Planning Commission is controlled by the Lowell Charter Township Planning Commission By-laws and Rules of Procedure dated January 11, 2010, Section 6.

The potential Conflict of Interest of two members of the Planning Commission was reviewed. The Planning Commission is currently reviewing a request from Impact Church to add a Special Use to the Commercial Zone, which would allow the building of churches in the Commercial Zone. The conflict involves familial relationships between these Planning Commission members and landowner Sam Noon, whose property in the Commercial Zone is currently subject to a buy/sell agreement with Impact Church.

Mark Batchelor – Mr. Batchelor disclosed that he is related to Sam Noon, who is Mr. Batchelor's mother's cousin. Mr. Batchelor has had occasional social interaction with Mr. Noon through his family connection in the past two years. Mr. Batchelor indicated that he is able to be impartial in consideration of the request to add a new Special Use which would allow churches in the Commercial Zone.

Mr. Clements indicated that he does believe Mr. Batchelor would act impartially in this matter. However, he was concerned that the combination of the familial connection to Mr. Noon and the

social interaction at family events created an appearance of a conflict of interest, and that Mr. Batchelor should abstain from participating in the Planning Commission's consideration of the Special Use request.

Attorney Mark Nettleton, participating on behalf of Lowell Township, noted that Conflicts of Interest were discussed in his opinion letter to the Township dated February 13, 2017, and that the Planning Commission should consider going into a Closed Session to discuss the contents of that letter.

Mr. Simmonds moved that the Planning Commission go into a Closed Session under Section 8(h) of Michigan's Open Meetings Act to discuss the attorney's opinion letter. Motion seconded by Mr. Batchelor. Under the terms of the By-laws, a Roll Call Vote is required, and a 2/3 favorable vote is necessary, to enter a Closed Session.

Mr. Blough – aye

Mr. Batchelor – aye

Mr. Simmonds -aye

Mr. Clements – nay

Mr. Edwards – nay

Less than 2/3 of the members of the Planning Commission voted in favor of entering a Closed Session, so the motion failed.

Mr. Nettleton then advised the Planning Commission that they can vote on whether Mr. Batchelor had a conflict of interest sufficient to exclude him from further involvement in the Special Use matter. Mr. Simmonds then moved that the Planning Commission determine that Mark Batchelor does not have a conflict of interest, and should be allowed to participate in discussions and votes for matters related to the request to add churches as a Special Use in the Commercial Zoning district. Motion seconded by Mr. Blough. All in favor and Mr. Batchelor will continue to participate in the Special Use request matters.

**Carlton Blough** – Mr. Blough disclosed that he is related to Sam Noon, who is Mr. Blough's first cousin. Mr. Blough has had occasional social interaction with Mr. Noon through his family connection in the past two years. Mr. Blough indicated that he is able to be impartial in consideration of the request to add a new Special Use which would allow churches in the Commercial Zone.

Mr. Edwards expressed concern that Mr Blough's situation was different from that of Mr. Batchelor, as Mr. Blough is also a member of the Township Board, which will make the final decision on the request to add the new Special Use. He also noted that Mr. Blough has recused himself in the past from matters concerning his family members.

Mr. Blough, wishing to avoid any appearance of a conflict of interest, and given the questions raised by Mr. Edwards, then chose to recuse himself under Section 6.1 of the Open Meetings Act.

He then moved to public seating and did not participate further in the requested Special Use matter.

Mr. Simmonds renewed his request to go into Closed Session to review the attorney opinion letter. Mr. Batchelor seconded the motion. A roll call vote was taken.

Mr. Batchelor – aye

Mr. Simmonds – aye

Mr. Clements – nay

Mr. Edwards – nay

The motion to enter into Closed Session failed.

Mr. Clements indicated that he understood that there might be a Public Hearing on the request for the new Special Use at the April 10, 2017 meeting of the Planning Commission, and that he would prefer to go into closed session to discuss the details of the attorney opinion letter after he had heard any further input from the Applicant or others at the Public Hearing.

After input from Mr. Clements and attorney Mark Nettleton, Mr. Simmonds asked a representative of Impact Church if they would like to continue their Special Use request with a public hearing in April, or if they wished to withdraw their request. It was confirmed that Applicant could provide further legal input at the public hearing. At that point Applicant elected to pursue the Public Hearing.

Mr. Simmonds moved to set a public hearing on the request of Impact Church to allow churches as a Special Use in the Commercial Zone for April 10, 2017. Motion seconded by Mr. Batchelor. All in favor and the public hearing will be scheduled for April 10, 2017.

### **Blough Property Proposed Use Discussion**

Carlton Blough did not participate in this discussion, remaining in the public seating area.

Gary Blough presented to the Planning Commission. He wishes to use land at the corner of Alden Nash Avenue and Cascade Road to display, by appointment, storage barns offered by Michigan Dutch Barns, with actual sales to occur elsewhere. At least six display units would be on the property, but no maximum number of display units has been determined. There would be no salesman on site.

Several concerns were expressed by members of the Planning Commission. There is another building on the property, of unclear status, and the displayed barns might constitute accessory buildings, which will be subject to setback requirements (not in front of the Principal Use building) on the two sides facing the roads. There may be a generic Special Use which might allow display of these units if in the Ag-1 Zoning District; this parcel currently appears to be zoned as a Light Industrial Zoning district. Being a corner lot, there may be clear vision requirements. There are also signage requirements. Mr. Blough was advised that getting

approval for the proposed display would be a lot of work, and that he should research the issues raised before deciding to proceed.

Carlton Blough then rejoined the other members of the Planning Commission.

### **2017 Work Plan**

Mr. Simmonds indicated that the Township Board liked the Work Plan put together by the Planning Commission.

Mr. Edwards suggested some additional matters which might be addressed, such as standards for commercial driveways and home driveways, including slope, curvature and cleared width. It was agreed to add commercial and home driveways to the 2017 Work Plan.

### **New MIXED USE ZONING District**

Mr. Toland advised that the document submitted to the Planning Commission was an early rough draft, and that consideration of the proposed new district would be added to the agenda when a more formal version was available.

### **Potential Various Zoning Amendments**

Mr. Toland would like to restructure the current Zoning Ordinance to make it more accessible to members of the public. This would include alphabetizing lists and moving some language to more appropriate sections of the Ordinance. He would like to follow up on a Master Plan statement to rename the Rural Agriculture zone to Rural Residential, without changing the content of that section of the Ordinance. He pointed out that referring to other sections by number rather than name causes confusion when changes require a section to be renumbered.

### **COMMISSIONER COMMENTS:**

Mr. Blough noted the fire department open house planned for Thursday, March 30<sup>th</sup> at 7:00 pm at the City Hall in Lowell.

Mr. Clements asked about the regulatory ordinance provisions in Lowell Township, and whether they should be assembled into digital format for publication on the Township web site, as is currently done with the Zoning Ordinance.

Mr. Simmonds indicated that there will not be a Workshop Meeting on March 27th.

### **ADJOURNMENT:**

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

Submitted \_\_\_\_\_ Secretary



Timothy Clements  
Approved \_\_\_\_\_