

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
PUBLIC HEARINGS AND REGULAR MEETING
April 10, 2017**

PRESENT: Blough, Batchelor, Simmonds, Clements, Edwards
TOWNSHIP PLANNER: Bob Toland
CITIZENS IN ATTENDANCE: 100+

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 Public Hearing and Regular Meeting of March 13, 2017 were presented for approval. Mr. Edwards moved to approve the Minutes as presented. Seconded by Mr. Batchelor. All in favor and the Minutes of March 13, 2017 are approved.

CHANGES OR ADDITIONS TO THE AGENDA:

The annual review for the Special Use Permit for Heidi's Farm Market & Corn Maze is moved to the May 8, 2017 Regular Meeting. With that change, Mr. Simmonds moved to approve the Agenda as amended. Motion seconded by Mr. Clements. 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 7:04 pm. No one spoke. Public comment was closed at 7:04 pm.

PUBLIC HEARINGS

ZONING AMENDMENT – Commercial Zoning Districts

The first Public Hearing, on whether churches should be allowed as a Special Use in the Commercial Zone, opened at 7:05 pm. Mr. Simmonds explained the hearing process to those present. Mr. Clements read the Notice of Hearing into the record.

Mr. Blough recused himself from participation in this matter.

Ryan Kreske presented on behalf of Impact Church. The current church needs a larger facility, which they would like to build on property in the Commercial Zone. They feel that, due to the planned size of the facility, it is more appropriate to the Commercial Zone than to a residential zone as currently allowed.

Aaron Stanski, the construction representative from Reis Point, assisted in locating a place to offer services as a church. He feels that building the church in this location would revitalize the area.

Raymond Skipper, attorney for Impact Church, discussed the need to treat churches in the same way as comparable uses, so as not to put special burdens on a church.

Bob Toland, Township Planner for Lowell Township, advised that under Federal law, churches need to be treated the same as other gathering facilities in the Commercial Zone. He also noted that it might be acceptable to limit churches to just residential zones, as the Zoning Ordinance does currently.

There being no comments or questions from members of the Planning Commission, the Hearing was opened to Public Comment at 7:15 pm.

Marcus Burton – he represents the Board of Impact Church. He spoke of the value to Lowell of the church, listing the services provided to people in Lowell. They feel that these exceed the tax value of the property to Lowell.

Ryan Kreske – he also noted the beneficial impact of the church, and read letters of support for the church from Greg Pratt, superintendent of Lowell Public Schools, and Nathan Templeton on behalf of the Walgreens Pharmacy.

Travis Harrington – he moved to Lowell to be closer to Impact Church, and he fully supports allowing churches in the Commercial Zone.

Dawn Broene – she is Director of ~~Impact Church~~ Flat River Outreach Ministries. She feels allowing churches will bring more people to Lowell. It will make the biking area near their intended location well-balanced. She supports allowing churches in the Commercial Zone.

Ken Berg – he owns the MacDonalds in Lowell but now lives in Ada. He supports the location, feels it would be safer. He noted financial benefits to Lowell, the growth of the area, and that having Impact Church down the road from his business will encourage him with his plans to upgrade his facility.

Greg Canfield – he feels Impact Church could be a catalyst for other growth in the area, and said that the group contributes to the community.

Ken Einfeld – he is a builder and land developer of residential and commercial property. He feels retail development on M21 (through the ~~Business~~ Commercial Zone) is not good, and that there is land available. He cited a Wall Street Journal article from April 4, 2017 about the rebalancing of on-line vs. brick&mortar retailing. Amazon is dominating this change. He feels Impact Church does a lot for the community. He also noted that the Noon family deserved a chance to sell their property (Secretary's Note: Noon property is located in the Commercial Zone).

Philip Roth – passed.

Aaron Stanski – agrees with all that was presented by others.

Linda Vantil – former member of Impact Church. Described the personal impact the church has had on her family life. She said the church gives back significantly to the community, and also supports her new church.

Dave Beach – passed.

Randy Schipper – asked that the proposed change to the zoning law move forward with all appropriate speed.

Rose Schussler Guevara – provides housing and support for people not able to live alone. She receives assistance from Impact Church, as they offer services she cannot offer.

Ronda Benedict – thinks that church could do a lot of good, but is concerned about putting it in the Commercial Zone. Noted upcoming ballot to increase financial support to Township, and that farmland does not produce as much tax money these days.

Sam Tawney – he is with Ada Bible, a regional rather than local ~~group~~ church. He likes what Impact Church does for local people. He supports changing the Ordinance.

Pam Ries – she comes to Lowell from Grand Rapids and spends money locally when here to attend the church.

Brian Worsley – he is a member of Impact Church. He has received support for his sports programs from them.

Ryan Kreske made final comments for Impact Church, briefly reading scripture and asking those present to stand and raise their hands to show support for the proposed zoning change (Secretary's Note: most of the room stood).

There being no further questions or comments, the public input portion of the hearing was closed at 7:57 pm.

Mr. Batchelor stated that the Planning Commission would make a decision this evening. Mr. Edwards asked for clarification on the process of rendering a decision on this matter before proceeding to the next Public Hearing.

There being no further questions or comments from members of the Planning Commission, the public hearing was closed at 7:59 pm, and the Regular Meeting was resumed.

Mr. Simmonds moved to meet in a closed session pursuant to Section 8(h) of the Open Meetings Act to consider material which is exempt from disclosure under Section 13(1)(g) of Michigan's Freedom of Information Act. The Township's special legal counsel, Mark E. Nettleton, is hereby appointed as Secretary for the purpose of taking minutes of the closed session in accordance with the Open Meetings Act. Motion seconded by Mr. Batchelor. A roll call vote on the Motion was taken. Mr. Edwards – yes. Mr. Clements – yes. Mr. Batchelor – yes. Mr. Simmonds – yes. Motion passes by more than a 2/3 vote of voting Planning Commission members. The Planning Commission moved to a nearby conference room for the closed session at 8:03 pm.

Members of the Planning Commission returned to the regular meeting room at 9:04 pm, and the Regular Meeting was resumed.

Planning Commission Discussion of Zoning Amendment in the Commercial Zoning District

Mr. Clements made the following statements and motion:

Mr. Chairman:

As part of the motion I am about to make, I would like to highlight the following points, on the record.

Lowell Township accepted an Application late last year from Impact Church, requesting that the Township amend its Zoning Ordinance to allow churches as a Special Use in its Commercial Zone. The requested change would apply across the entire Commercial Zoning district. We do not, and can not, base our recommendation on consideration of a single parcel of land, or on the wishes of a single Applicant.

Our review has been more difficult than usual, due to the existence of State and Federal law having a direct impact on our recommendation. This has required two legal opinions to clarify various aspects of the law, in addition to our usual review of the Township Master Plan and current Zoning Ordinance, and discussion of the impact of the proposed change on other legal land uses in the zone in question.

Mr. Chairman:

Based on a thorough review of Applicant's request, I move that the Lowell Charter Township Planning Commission recommend to the Township Board that no change be made to the current zoning in the Commercial Zone, for the following reasons: 1) Applicants have failed to demonstrate that the current zoning in Lowell Township imposes a substantial burden on religious assembly or practice. To the contrary, churches are currently allowed in four other zoning districts in the Township, those districts together comprising about half of all land in the Township. 2) Allowing churches in the Commercial Zone will have a substantial negative impact on future development of the Commercial Zone, as well as on existing businesses wishing to expand or relocate their businesses within the Commercial Zone. This is due to State law, which among other restrictions, prohibits businesses such as grocery or convenience stores,

pharmacies, restaurants or other commercial ventures wishing to sell or serve spirits, from being located within prescribed distances of a church. 3) Our only option is to recommend either acceptance or denial of the requested change to the entire Commercial Zone; we cannot make special accommodation for a particular Petitioner or for a particular parcel of land in the Commercial Zoning district.

Motion seconded by Mr. Edwards. A roll call vote on the Motion was taken. Mr. Edwards – yes. Mr. Clements – yes. Mr. Batchelor – no. Mr. Simmonds – no. With a tie vote, the Motion fails.

Mr. Batchelor moved to recommend to the Township Board that churches be allowed in the Commercial Zone as a Special Use. Motion seconded by Mr. Simmonds. A roll call vote on the Motion was taken. Mr. Edwards – no. Mr. Clements – no. Mr. Batchelor – yes. Mr. Simmonds – yes. With a tie vote, the Motion fails.

Mr. Simmonds advised that with no consensus on the Planning Commission, the request would pass to the Township Board with no recommendation.

ZONING AMENDMENT – Home Based Businesses

Mr. Blough rejoined other members of the Planning Commission, and the next Public Hearing was commenced at 9:15 pm. Mr. Simmonds explained the hearing process to those present. Mr. Clements read the Notice of Hearing into the record.

Bob Toland summarized the proposed changes to the Zoning Ordinance. He noted that Home Occupations were low-impact uses allowed in residential and agricultural zones. These would be limited to people working in their residence or in an accessory building, except no accessory building use would be allowed in the R-2, R-3 or MH Zoning districts. Home Based Businesses are also limited to those living in the residence, except non-resident employees are allowed pursuant to a table of property acreages, allowing up to a maximum of four non-resident employees on parcels of 12 acres or more.

Mr. Batchelor requested some clarification of the proposed Draft #5 for changes to Home Occupations and Home Based Businesses. Mr. Clements asked for clarification of some conditions on Home Occupations.

Mr. Simmonds noted that provision for a Home Based Business is new to the Ordinance, but that there are some home-based businesses with employees currently. The new language will provide a ‘safe harbor’ for those businesses which meet the requirements of the Ordinance.

There being no other questions or comments from members of the Planning Commission, the Hearing was opened to Public Comment at 9:25 pm.

Scott Rissi -asked if Township had a list of home based businesses, what they produced and how many employees they had. Mr. Simmonds indicated that there was only a list of the types of home based businesses known around the Township, and how many of each kind there were.

Mr. Rissi indicated he did not agree with the proposed Ordinance with respect to seasonal employees working off-site.

Philip Roth – passed.

Rose Schussler Guevara – indicated she has a home based business involving people living in her home, with visiting nurses and suppliers coming to the home. She asked how the Ordinance would apply to her situation. Her services do not seem to involve foster care. Mr. Simmonds indicated that her situation might be addressed in the conditions of a Special Use Permit. Mr. Batchelor noted that the proposed Ordinance was an effort to balance home based businesses with neighbor rights.

Karen Thompson – she has someone with a home based business next door to her. Asked how the number of employees would be enforced. It was suggested that the Enforcement Officer for the Township could count the number of employees arriving in the morning.

Bill Thompson – suggested that if Ms. Guevara was licensed, the people under her care would be considered residents. She indicated that she is not so licensed.

Steve Vanderway – asked how the Planning Commission had come up with the acreage table determining the number of allowed employees. He was advised that larger land parcels would allow employees to be further from neighboring homes.

There being no further questions or comments, the Public Input portion of the Public Hearing was closed at 9:44 pm. There being no further questions or comments from members of the Planning Commission, the Public Hearing ended at 9:44 pm. The Regular Meeting of the Planning Commission was continued at 9:45 pm.

Planning Commission Discussion of Zoning Amendment for Home Based Businesses

Mr. Edwards asked how and when the Ordinance, if adopted, would be enforced. Mr. Batchelor suggested running the draft Ordinance past Marc Larabel, the Township Enforcement Officer, for his input. The subject of acreage limits was discussed, in particular with respect to the number of cars dropped off for off-site work. Mr. Blough suggested starting with the Ordinance as currently proposed, and adjusting it as needed down the road.

Mr. Simmonds moved to table the proposed Draft #5 of the Home-Based Business and Home Occupation Amendments dated April 10, 2017 to the May 2017 Regular Meeting of the Planning Commission, to allow review of the proposed Ordinance by Marc Larabel. Motion seconded by Mr. Batchelor. All in favor and the matter is tabled.

OLD BUSINESS

Timpson Orchards, Inc Driveway

Mr. Timpson indicated that he is currently contracting for the work on the driveway where it will meet M-50 (Alden Nash). Signs directing traffic in and out of the sand mine are being prepared.

He noted that OSHA training is conducted each year covering safety issues, which will allow him to advise the drivers of the nature of the 2-way traffic on the driveway. The current house on the property used for the driveway is on 6.7 acres of land. The plan is to split the parcel to leave that house with the required 4 acres of land.

Mr. Batchelor asked about which hours for outbound or inbound use of the driveway were planned.

There being no further questions or comments, Mr. Simmonds moved that the Planning Commission approve the Special Land Use amendment for the new driveway connecting to the existing sand mine, with the following conditions:

1. To establish a separate 4-acre parcel for the single-family dwelling located on parcel number 41-20-14-100-043.
2. The 1.79 acres where the driveway is located is combined with parcel number 41-20-14-100-072 where the existing sand mining and controlled atmosphere storage Special Land Use permits.

Motion seconded by Mr. Batchelor. All in favor and the motion is approved.

Blough Property

Mr. Blough recused himself from participation in this matter.

The Planning Commission was advised that the Township Board was discussing allowing display of small barns on Cascade Road west of Alden Nash on a temporary trial basis under a Vendor's Permit. If continuation is then sought, re-zoning will be considered.

Remaining New Businesses

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

Mr. Batchelor moved to table the rest of the items on the Agenda until the May 2017 meeting. Motion seconded by Mr. Blough. All in favor and the remaining items will be taken up at the May 2017 meeting.

Commissioner Comments

Mr. Simmonds indicated that there would be no workshop meeting on April 24th.

Mr. Edwards stated that the Planning Commission may need legal assistance for further work on the Impact Church request, if any.

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 10:36 p.m.

Submitted _____ Secretary
Timothy Clements

Approved _____

Note: Deletions shown by strike-through, additions shown by underlining, to reflect changes required before approval of the Minutes by the Planning Commission.