

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
PUBLIC HEARINGS AND REGULAR MEETING
May 14, 2007**

PRESENT: Blough, Batchelor, Simmonds, Clements and Sanford

ABSENT: None

TOWNSHIP PLANNER: Tim Johnson

CITIZENS IN ATTENDANCE: 70

PUBLIC HEARINGS

The public hearings before of the Lowell Charter Township Planning Commission was commenced by Chairperson Simmonds at 7:02 p.m. Mr. Simmonds explained the procedures for public hearings to those present.

**PUBLIC HEARING FOR NEXTEL WEST CORPORATION OF INDIANAPOLIS FOR CO-
LOCATION OF ANTENNA ON EXISTING TOWER**

Mr. Brad Riggs presented for Nextel. He described the requested antenna as the fourth carrier on the tower located on Timpson Ave. between 40th Avenue and Cascade Road. He also provided a certificate of insurance dated May 9, 2007 in the amount of two million dollars for indemnity and liability coverage.

Tim Johnson reviewed his staff report of May 9, 2007, indicating that in addition to the insurance coverage which had been provided, a decision needed to be made by the Planning Commission as to any necessary landscaping by Applicant.

There being no questions or comments from the Planning Commission, the hearing was opened to public comment.

Allen Matthews had no comment.

Dick Huver asked about landscaping plans.

Craig Hoppen had no comment.

Renwick Brutus had no comment.

Aaron Decker had no comment.

Henry VanderZiel had no comment.

Mike Seilof had no comment.

There being no further questions or comments, the public hearing was closed.

**PUBLIC HEARING ON AMENDMENT TO SECTION 6.8 – CIVIL INFRACTION
PENALTIES**

Tim Johnson summarized the proposed ordinance change as set forth in his Memorandum of May 9, 2007.

Mr. Blough asked if the changes only applied to land, which Tim Johnson confirmed was true. He also asked about attorney fees and was told that this was new.

There being no other questions or comments from the Planning Commission, the hearing was opened to public comment.

Allen Matthews asked if there would be time to correct violations before penalties were applied. Tim Johnson indicated that there would be notifications and information provided to violators to correct a problem before fines were charged.

Dick Huver had no comment.

Craig Hoppen had no comment.

Renwick Brutus had no comment.

Aaron Decker had no comment.

Henry VanderZiel had no comment.

Mike Seilof expressed concern about the amount of flexibility in determining when a fine would be applied, feeling it might lead to unequal treatment.

There being no further questions or comments, the public hearing was closed.

The public hearings ended at 7:20 pm.

REGULAR MEETING

The regular meeting of the Lowell Charter Township Planning Commission was called to order by Chairperson Simmonds at 7:21 p.m.

APPROVAL OF MINUTES:

The Minutes of the Regular Meeting of April 9, 2007 were presented for approval. Mr. Blough corrected a name spelling in the Minutes. Mr. Batchelor moved to approve the Minutes as amended. Seconded by Mr. Blough All in favor and the Minutes as amended were approved.

APPROVAL OF AGENDA:

Mr. Simmonds moved that Item 9 on the Agenda, concerning setting a public hearing for Timpson Transport, be moved up between current Items 6 and 7, given the number of people attending the meeting who had an interest in that discussion. Motion seconded by Mr. Blough. All in favor and the Agenda as amended was approved.

DISCUSSION OF NEXTEL WEST CORPORATION OF INDIANAPOLIS SPECIAL LAND USE REQUEST:

Mr. Simmonds reviewed the materials previously presented and the proof of insurance received. Mr. Blough asked about the 12 foot by 20 foot equipment shed, and was advised it would be a dark brown aggregate and not generally visible as it would be behind existing equipment sheds.

Mr. Batchelor asked for a color map for review purposes which he received, and clarified that Kent County also has an antenna on the tower but does not own the tower.

Mr. Clements asked if a condition of the granting of the special land use could be the removal of equipment within 90 days of cessation of use, which was agreeable to the Applicant.

There being no further comments or questions, Mr. Batchelor moved that the Lowell Charter Township Planning Commission approve the Special Land Use request of Nextel for co-location of an antenna and an equipment shed at 4283 Timpson Avenue with the condition that should it become inactive, Nextel would have 90 days to remove the antenna and building. Motion seconded by Mr. Sanford. All in favor and the motion to grant the Special Use Permit was approved. A formal Final Decision and Rationale will be prepared and sent to Mr. Riggs at his Indiana address.

DISCUSSION OF SECTION 6.8 CIVIL INFRACTION PENALTIES:

Mr. Simmonds reviewed the amendments and the concern expressed in the public hearing about the Ordinance not being specific enough for fair application. Tim Johnson noted that a Court would set the level of the fine. Mr. Batchelor pointed out that violations would vary in severity and that a range was needed to cover this, it being impractical to specify every possible violation. He was satisfied with the language as drafted.

There being no further questions or comments by the Planning Commission, Mr. Simmonds moved that the Lowell Charter Township Planning Commission recommend to the Lowell Charter Township Board that they adopt the proposed amendments to Section 6.8 as presented at the May 14, 2007 Planning Commission meeting. Motion seconded by Mr. Batchelor. Four in favor, one opposed, the Motion to Recommend was approved.

CONSIDERATION OF SETTING PUBLIC HEARING FOR TIMPSON TRANSPORT:

James F Scales of Blakeslee, Fry and Scales PLC appeared on behalf of Timpson Transport. Mr. Scales explained that they were requesting a conditional rezoning for a motor freight warehouse, and presented photos of trucks used on the premises since the 1920s. A building erected in 1980 on the property has 24,000 square feet of refrigerated storage and 12,000 square feet for truck maintenance and offices. Although initially used for apples, the last season the Timpsons produced apples was 2000. Since then the use has evolved to trucking with cold storage and has branched out to non-agricultural hauling. The specific request is for 12.7 acres, which includes the building and parking for trucks, to be rezoned to L1 with a statement of conditions being attached to the request. The total property is 83 acres, and the rest would be kept undeveloped while the trucking operation was in use (but also including current mining operations on this undeveloped land). Truck parking would not be visible from the road, but more landscaping could be added. Issues raised by neighbors would be addressed. He concluded by indicating he had 91 letters of support for the Timpsons.

Mr. Brian Doyle of King Milling recounted his positive experiences with using Timpson Transport drivers and trucks and that replacing them and the storage facility with another company would be a hardship for him.

Kurt Parks, a neighbor, related how the Timpsons had helped him when he was building his home.

Mr. Simmonds reviewed possible hearing dates given the already busy schedule of the Planning Commission, including public hearings on the review of the Master Plan. Mr. Clements indicated that he would be unavailable on June 25. July 9th appeared to be the first date available. Mr. Batchelor moved that the public hearing on the request of Timpson Transport for a conditional rezoning be set for July 9, 2007 at 7:00 pm. Seconded by Mr. Blough. All in favor and the public hearing date and time was approved.

Mr. Simmonds called a recess for five minutes at 7:58 pm. The meeting resumed at 8:03 pm.

PUBLIC COMMENT FOR ITEMS NOT ON THE AGENDA:

Mr. Simmonds opened the Regular Meeting for public comments for items not on the Agenda at 8:03 pm. Two people spoke. Public comment was closed at 8:05 pm.

DISCUSSION OF ROANOKE RANCH SPECIAL USE PERMIT:

At the request of Mr. Blough, Mr. Aaron Decker on behalf of Roanoke Ranch reviewed the history of the request for special use permit. Mr. Simmonds indicated that since the September 25, 2006 hearing on this request, a pond had been excavated and an old house had been replaced with a new house. Mr. Simmonds also reviewed the report of May 10, 2007 by Tim Johnson of Main Street Planning concerning the application and open items in the Roanoke Ranch Day Camp request. Also discussed was the pond and DEQ approvals.

In connection with the comments contained in the May 10, 2007, report, the following was noted:

- 1a) Fire truck access had been approved
- 1b) Extra gravel had been added to the driveway where needed.
- 1c) Verbal approval had been received from the railroad company, but a letter was still needed.
- 1d) Mr. Harrington, owner of the easement to the property, was present, and indicated that access would be fine so long as he didn't have to make any changes to the drive.
- 1e) It was agreed that parking should be at least 100 feet from the Grand River.

It was learned that soil removed from the pond must be removed from the property in question, as this was a DEQ requirement. This soil must be gone by December 31, 2007.

Mr. Clements proposed that markers be placed to ensure parking was 100 feet or more from the Grand River. He also inquired into available pastureland for the horses on the premises, and was told there were about 77 acres of fenced pasture for the horses.

Chairperson Simmonds recognized Mike Seilof, who presented his comments in a three page document provided to all members of the Planning Commission. He also summarized some of his concerns about the granting of a Special Use Permit to Roanoke Ranch, including his opinion that the proposed

activity did not meet one of those allowed under the Ordinance, concern about prior use with children before the Special Use Permit is issued, location in a flood plain, including concerns about manure management, treatment of special events separately from daily operations, and concerns about other questions first asked at the public hearing.

Tim Johnson responded to the issues raised by noting Section 4.7 of the Ordinance, which allows authorization of unique uses, per his letter of June 12, 2006. He also indicated the standards for approval of a special use permit were spelled out in the Ordinance, that there was no record of prior use violations and Roanoke Ranch was acting to gain approval for the activities in question. He also noted that horses had been on the property for a long time and the continued presence of horses was grandfathered, while manure management compliance was the responsibility of the Department of Agriculture. He was unaware of any complaints about manure currently. Finally, Tim Johnson stated that the Planning Commission cannot react to the funding of a land use.

Mr. Decker indicated his desire to start day camp activities around June 18, 2007.

Mr. Batchelor noted that horses have been on the property and could be there without a special use permit, and indicated that it was the responsibility of the Applicant to comply with manure management requirements. He also asked that driveway and other items be addressed on the record, and that he felt a good site plan should be required, along with a letter from Mr. Harrington granting access. Tim Johnson confirmed that there was not a mining operation on the property, which would have required a special use permit.

It was decided by the members of the Planning Commission to proceed to a decision this evening on the Application, if possible.

After reviewing the various open items and additional concerns raised by the Planning Commission, Mr. Simmonds led the review of Section 4.7.1 of the Ordinance concerning the standards for granting of a special use permit. After review, it was determined that the standards had been met.

Mr. Sanford then moved that a Special Use Permit for a Day Camp known as Roanoke Ranch be granted, subject to the following conditions a) through m), as Applicant meets the requirements for a Special Use Permit as set forth in Section 4.7.1 of the Zoning Ordinance:

- a) no overnight camping
- b) limit hours of operation to 7am-9pm
- c) Install 3-rail wooden fence 48" tall around pond before operating the camp
- d) no excavation or hauling soil during camp operation when children present
- e) Porta-jons should be provided based upon a determination by the Township Building Officials
- f) any lights installed as part of the camp shall comply with the Township Lighting Ordinance
- g) vehicles shall not be parked closer than 100 feet from the Grand River (this shall be noted on Site Plan and signs installed)
- h) vegetation at the railroad crossing shall be cleared and kept clear to provide adequate sight distance for drivers and warning signs shall be posted on each side of the tracks

- i) Special use permit is only for activities stated in letter from Aaron Decker dated May 9, 2007 except fundraising events. These events shall require a separate permit in accordance with Section 4.2.9 of the Lowell Charter Township Zoning Ordinance or any subsequent Township ordinance which replaces this section
- j) Site Plan dated 7/7/06 needs to be updated and provided to Township with latest update date
- k) this Special Use Permit shall be reviewed annually in March
- l) Letter from railroad company allowing access for the camp vehicles must be provided and
- m) written permission from Mr. Charles Harrington permitting use of driveway easement for the day camp must be provided.

Motion seconded by Mr. Batchelor. All in favor and the motion to grant the Special Use Permit was approved. A formal Final Decision and Rationale will be prepared.. The next annual review of the Special Use Permit will be in March 2008.

ANNUAL REVIEW OF SPECIAL USE PERMIT FOR DENHOUTER SAND MINE:

Jennifer DenHouter presented. She indicated that more activity was planned for this year. She then presented photos showing that the fence surrounding the property was in good repair and the property was posted.

Mr. Simmonds moved to extend the DenHouter sand mining permit to April 2008. Seconded by Mr. Batchelor. All in favor and the permit was extended to April 2008.

ANNUAL REVIEW OF SPECIAL USE PERMIT FOR BLOUGH FARMS:

There was no new information presented by Blough Farms. Mr. Simmonds moved to table the annual review until the July 2007 Regular Meeting of the Planning Commission. Seconded by Mr. Sanford. All in favor and the annual review was tabled until the July 2007 Regular Meeting of the Planning Commission.

COMMISSIONER COMMENTS:

It was determined that there would not be a workshop meeting on May 28th due to the Memorial Day holiday.

Mr. Sanford noted that the combined sign committee with the City of Lowell had had two meetings, and that while there were no significant changes to the Ordinances planned, an effort would be made to coordinate the two Ordinances and possibly add some leeway on one or two items. He promised more information at a future date as work proceeded.

A final public comment was allowed by Chairperson Simmonds.

ADJOURNMENT:

Mr. Batchelor moved to adjourn. Seconded by Mr. Sanford. All in favor and the regular meeting of the Lowell Charter Township Planning Commission was adjourned at 9:37 p.m.

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Submitted _____ Secretary
Timothy Clements

Approved _____