

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION
PUBLIC HEARINGS AND REGULAR MEETING
May 8, 2006**

PRESENT: Batchelor, Den Houter, Clements, Sanford, Simmonds

ABSENT: None

PLANNER: Tim Johnson – MainStreet Planning

CITIZENS IN ATTENDANCE: 11

PUBLIC HEARING-LAVERNE SMITH REZONING

The public hearing to rezone 21.7 acres of property on Kissing Rock Road (41-20-17-100-032 and 41-20-18-200-017) from AG-2 to R-1 was called to order by Chairperson Simmonds at 7:03 p.m.

The Notice of Public Hearing was read by the Planning Commission Secretary.

LaVerne Smith presented to the Planning Commission, beginning by introducing two other involved landowners (Randy Smith and Rick Wilcox). A written history of the property dated May 8, 2006 and a map of the subject property and some adjoining lots was made part of the record, and was reviewed by Mr. Smith. The current division of the subject land, including the creation of the seven acre parcel owned by Randy Smith which lacks the necessary road frontage, arose out of multiple mortgages which were foreclosed. Mr. Wilcox owns land North of the subject property, which is currently zoned R-1, and wishes to divide the land and build on the back acreage. All three property owners would benefit from a road extending along the North side of the subject property, but Mr. Smith feels rezoning the subject 21.7 acres to R-1 is required to make the cost of the road acceptable, and to get enough lots to meet the five lot minimum required of the private road ordinance in the township.

On questioning by Mr. Batchelor, Mr. Smith indicated that, as shown on a larger version of his map of the subject property, the private road would extend along the North side of the property 1308 feet, ending in a cul de sac, along currently proposed lots F, G and H. Randy Smith would purchase Lot D to gain the necessary road frontage on this road. The road could not be extended further back due to a seventy foot drop down to the current Randy Smith property.

Tim Johnson summarized the rezoning process and how the Planning Commission would make a recommendation, but that the final decision would be made by the Township Board. The Master Plan was reviewed, and it was noted that the primary difference between property in the AG-2 and R-1 zones was lot size and road frontage requirements, rather than use. In conclusion, Mr. Johnson indicated that the private road request was not being addressed, as that would take more information than had been presented, and a public hearing.

At Mr. Den Houter's request, LaVerne Smith detailed the mortgage history and foreclosure activities which had led to the creation of the seven acre parcel without the necessary road frontage. It was reiterated that Randy Smith and LaVerne Smith were not related, and each had acquired his parcel through a separate sheriff's sale.

Mr. Clements asked about use of the proposed road by Mr. Wilcox, and was told that he would use it and contribute to it's cost, but also that the Wilcox property had not yet been divided into separate lots.

At this time Mr. Simmonds opened the public hearing for comments.

Mr. Randy Smith was in favor of the rezoning.

Dave Fehliq expressed concern about the precedent setting effect of the granting of the rezoning, particularly in relation to 65 acres of land East of the subject property.

Judy Vriesema questioned why rezoning was required if the road could be built under current zoning, and also expressed concern about the precedent rezoning would set. Mr. Batchelor commented that without rezoning, Mr. Smith could only create two parcel along the proposed private road under the private road ordinance.

Mike Seiloff had no comments.

Dave Hoogenboom questioned why the seven acre parcel had to be included in the rezoning. Tim Johnson commented that rezoning impacts on the road frontage requirement for the Randy Smith parcel. Mr. Hoogenboom expressed concern about the impact of rezoning this parcel on an easement he has across the seven acres, and it's use by a second lot owner if Randy Smith later split his property. Tim Johnson explained that two lots could only be formed if each had the required road frontage, which would require extending the currently proposed road. Mr. Hoogenboom concluded by expressing his preference for leaving the seven acre lot zoned as AG-2.

Paula Blumm had no comments.

Rick Wilcox indicated that LaVerne Smith had presented his arguments.

Bill Doane had no comments.

Mr. Batchelor asked if the owners of two lots adjoining the subject property and along Kissing Rock Road were present. LaVerne Smith indicated that they were not.

Bill Thompson asked if property taxes were currently owing on the subject property.

This concluded the public input.

The public hearing was closed at 7:42 p.m.

PUBLIC HEARING – OFF-STREET PARKING ORDINANCE

The public hearing on revision of the off-street parking ordinance was called to order by Chairperson Simmonds at 7:43 p.m.

The Notice of Public Hearing was read by the Planning Commission Secretary.

Tim Johnson presented an overview of the proposed off-street parking ordinance.

Mr. Simmonds outlined the work done to date on the proposed off-street parking ordinance.

Mr. Batchelor asked the status of the commercial truck parking section of the original ordinance. After discussion, the Planning Commission decided to keep the current truck parking provision, which may be addressed separately in the future.

There being no other comments from members of the Planning Commission, the hearing was opened to public comment at 7:51 p.m.

Bill Thompson asked if the proposed ordinance was limited to just commercial districts. Tim Johnson indicated that it applied to all zoning districts, but in the residential zones, the limit of two vehicles per house remained unchanged.

This concluded public input.

Public comment was closed at 7:53 p.m.

REGULAR MEETING

After a short recess, the regular meeting of the Lowell Charter Township Planning Commission was called to order by Chairman Simmonds at 7:57 p.m.

AGENDA:

Mr. Batchelor moved to approve the Agenda as presented. Seconded by Mr. Sanford. All in favor and the Agenda was approved.

APPROVAL OF MINUTES:

The Minutes of the Public Hearing and Regular Meeting of April 10, 2006 were presented for approval. Mr. Batchelor asked that the word 'arable' be replaced with 'tillable' on page 3. Mr. Batchelor moved that the minutes be approved as presented with the one change noted. Seconded by Mr. Den Houter. All in favor and the Minutes as amended were approved.

DISCUSSION OF SMITH REZONING:

Mr. Simmonds opened by advising members of the Planning Commission that the options were to recommend approval of the zoning request, recommend denial of the zoning request, or to table the matter for a future meeting. He observed that in the case of a complex issue like rezoning, it is common to table the matter for one month for consideration. Mr. Batchelor concurred, noting that there was not much opposition expressed to the rezoning.

Mr. Simmonds felt the road frontage challenge could be met without rezoning, given the three Wilcox parcels proposed on the North side of the proposed private road, with up to four more parcels on the south side of the proposed road. Mr. Batchelor concurred.

Mr. Clements noted that rezoning would set a precedent, which was a concern expressed by members of the public at the hearing.

Mr. Simmonds noted that rezoning was contrary to the Master Plan for this land.

Mr. Den Houter noted that the outcome of this decision would be around for a long time, and was worthy of thought for another month before deciding.

Mr. Sanford indicated that he didn't want to make a decision that evening, and that there had been other situations where five lots had supported the cost of building a private road.

There being no other comments from the Planning Commission, Mr. Den Houter moved that the rezoning request be tabled until the June 12, 2006 regular meeting of the Planning Commission. Mr. Sanford seconds. All in favor and the motion carried unanimously.

OFF-STREET PARKING ORDINANCE:

Mr. Simmonds noted that there had been no comments made at the public hearing, and that considerable work had gone into the draft ordinance. He felt that the draft ordinance should be recommended to the Township Board.

Mr. Batchelor moved to recommend to the Township Board that they accept the amendments to the Ordinance as set out in Draft #2 of the Off Street Parking Ordinance dated April 10, 2006. Motion seconded by Mr. Sanford. All in favor and the motion carried unanimously.

VZ HOLDINGS CONTINUATION:

Mr. Simmonds reminded the Planning Commission that this matter concerned 21 acres of land zoned AG-1, with at least two non-agricultural houses already on the quarter section, and more splits on nearby quarter sections. Applicants had requested approval of additional splits of the property to allow two more non-agricultural houses. Currently only two non-agricultural houses are permitted per quarter section. The Planning Commission was to either proceed to a decision on the request, or determine that a public hearing on the request should be held.

Mr. Simmonds asked the applicants if the land was currently tilled, and was told that it was not. Mr. Clements asked if the land was currently under farm lease for 2006, and was told that it was, as part of a larger land lease involving better land. If the splits were allowed, the owners would compensate the lessee for whatever had been put into the split land by them. Applicants felt the property could not be sold as farmland.

Mr. Den Houter noted that not all land is necessarily productive. More housing would create more possible problems with those still farming. Nothing adverse had been done by the township to change the status of this land. By remaining farmland rather than houses, other land might continue to be used agriculturally. This would also be consistent with preservation of farmland in the township. He felt there was a good case to be made to not allow any further houses on this property.

Mr. Batchelor noted that the last non-farm house permitted was on land absolutely not usable for agriculture. This land may have future value for farming, even if tenants cannot currently make a profit on it. He did not want to set a precedent of looking at finances when considering these requests.

Mr. Simmonds indicated that he would have a problem approving this request. He indicated that there had been other requests like this, and the Planning Commission might address this question more generally in two years when the Master Plan was again reviewed.

Mr. Batchelor agreed with Mr. Simmonds on this approach.

At this point tenant Lawrence Cabe presented a detailed yield map on the subject property and discussed the productivity issues with the land. He indicated that it costs \$300 per acre to plant.

Mr. Den Houter asked why the land was being planted if it lost money? Mr. Cabe indicated that they currently were breaking even on this property.

Mike Seiloff expressed his opinion that if the land was not profitable and the land would accept a septic system, additional lots should be allowed.

Mr. Simmonds then asked members of the Planning Commission where they wanted to go with this matter. If approval was possible, would a public hearing be held first?

Mr. Batchelor questioned the value of a public hearing in aiding in the final decision.

Tim Johnson indicated that the Planning Commission had standards for making a decision on this issue, and referenced his staff report of April 5, 2006 setting out conditions to be considered.

Mr. Batchelor asked if 'non-farmable' meant the property wouldn't grow anything. Tim Johnson defined it as 'poorly suited' to growing. The same request could be made for land across the road from the subject property.

Mr. Clements suggested the question be addressed township wide, before the review of the Master Plan. Mr. Simmonds agreed the matter could be addressed whenever the Planning Commission had time in it's schedule. He then addressed the applicants, and asked if they would like have the Planning Commission make it's decision.

After some consideration, the applicants chose to withdraw their request for now.

In conclusion, there was some general discussion with the applicants regarding housing density in agricultural areas and its impact on farming activities.

JOINT SIGN ORDINANCE:

Clark Jahnke of the City of Lowell Planning Commission addressed the Lowell Township Planning Commission concerning Lowell's inquiry into the possibility of developing a joint sign ordinance with the city. He expressed a willingness to do so, and to appoint two planning commission members from the City of Lowell to work with Mr. Batchelor and Mr. Sanford of the Lowell Township Planning Commission. Tim Johnson is to prepare a draft joint ordinance based on the two existing ordinances to serve as a starting point for the joint committee. This is to be viewed as a first step towards a corridor plan for development along M-21.

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Bill Thompson advised the Planning Commission that the Zoning Board of Appeal had materials presented during a strip mall sign issue which summarized sign ordinances from several nearby governmental entities, which might be of use to members of the committee.

PUBLIC COMMENT:

Public comment began at 9:07 p.m. Three members of the public spoke. Public comment ended at 9:22 p.m.

COMMISSIONER COMMENTS:

It was determined to hold a Workshop Meeting on May 22nd to address commercial vehicle parking.

ADJOURNMENT:

Mr. Batchelor moved to adjourn. Seconded by Sanford. All in favor and the regular meeting of the Lowell Charter Township Planning Commission was adjourned at 9:23 p.m.

Submitted _____ Secretary
Timothy Clements

Approved _____