

**LOWELL CHARTER TOWNSHIP PLANNING COMMISSION  
PUBLIC HEARING AND SPECIAL MEETING  
APRIL 26, 2004**

**PRESENT:** Batchelor, Blough, Cornish, Sanford, Simmonds

**ABSENT:** None

**CITIZENS:** Eleven

**PUBLIC HEARING**

The public hearing to consider the request by Timpson Orchards, 3175 Segwun Ave., Lowell for a Special Use Permit to allow the mining of sand at that location was called to order by Chairman Cornish at 7:00 p.m. The Notice of the Public Hearing was read by the Planning Commission Secretary.

John J. Timpson presented information related to the planned mining activities. There is a sand hill to the west and another to the north of their warehouse. They would like to extract sand from these two hills and lower the slope on each one. This would be the extent of their planned sand extraction. Mr. Timpson estimated that the total area to be mined would be approximately 2 acres overall.

They would extract from the west hill first. They would continue extraction from the current point to another 40-50 feet to the west. They would then create a berm and screening on this hill. They would then extract from the north hill until it was lowered. Then it would be sloped and bermed.

Mr. Timpson advised that a portion of fencing on the west hill had been installed. He was obtaining more fences and will also have "No Trespassing" signs installed on the fence.

Ingress/egress to the mining site was discussed. There are two existing driveways from Segwun to the sand hills. It appears that trucks will generally use the most westerly driveway. There was discussion related to having signs placed by the road, which would advise of truck traffic. Mr. Timpson will pursue that with the County.

Mr. Timpson advised that as extraction was completed, they would berm the area and plant pines as a screen on the berms. He advised that they have already installed erosion control on the new berm, which abuts Segwun.

There was discussion related to dust control. Mr. Timpson advised that they have already had the site chlorided once this year and plan to have it done more during the summer. He advised that a chloride treatment last approximately three weeks, depending upon conditions.

There was discussion related to the requirement for a surety bond to cover the operation. Mr. Timpson advised that they planned to deposit \$3,000 with the Township to cover this guarantee. This concluded Mr. Timpson's presentation for the Special Use Permit.

The Planning Commission discussed various aspects of this request for a Special Use Permit for sand mining.

One item was how long this mining operation would continue. Mr. Timpson advised that he did not have a definite time period as the sand is extracted on a demand basis. He advised that the mining would cease once the two sand hills had been reduced in size so that they could be sloped.

The Planning Commission emphasized the need for fencing and appropriate signs for the site while the mining was underway.

There was discussion related to the increased truck traffic on Segwun and measures that might make it safer for the ingress/egress to the site by trucks.

The public hearing was then opened for public input and questions. This included the following.

R. Barnes – Segwun

- No comment

G. Antcliff – Segwun

- How long will the Special Use Permit last?

\*The Special Use Permit will be for one year. At that time, it will be reviewed and could be renewed if necessary.

- What about dust control, although it has not been a problem in the past?

\*The Planning Commission will require dust control measures as part of the Special Use Permit requirements.

J. Ennis – Emery

- No comment

R. Huver – Timpson

- He is glad to see the use of the natural resources in our community.

C. Ennis – Emery

- No comment

The public hearing for the Timpson Orchards request for a Special Use Permit was closed at 7:30 p.m.

### **SPECIAL MEETING**

The Lowell Charter Township Planning Commission Special Meeting was called to order by Chairman Cornish at 7:31 p.m.

**APPROVAL OF PRIOR MINUTES:**

The minutes of the April 12, 2004 regular meeting were considered. Batchelor moved to approve. Seconded by Blough. All in favor and the minutes were approved as presented.

**TIMPSON ORCHARDS – SAND MINING SPECIAL USE PERMIT:**

The Planning Commission discussed the request for a Special Use Permit to allow sand mining at this site. They reviewed some of the items of concern related to fencing/signs, dust control, length of operation and traffic.

Simmonds moved that the Lowell Charter Township Planning Commission grant a Special Use Permit to Timpson Orchards for mining of sand at 3175 Segwun, Lowell, with the following conditions:

1. All fencing and “No Trespassing” signs be installed.
2. A \$3000 check to be deposited with Lowell Township in lieu of a Surety Bond.
3. A written dust control plan be provided to the Township which shows chlorification once per month.
4. This Special Use Permit will be reviewed in April 2005.

Seconded by Batchelor. All in favor and the motion carried. A Special Use Permit with conditions will be issued.

**HESCHE GRAVEL PIT – TIMPSON:**

This is an 80 acre parcel containing a gravel pit, which is owned by Kent County. The County had a Special Use Permit for mining gravel at this location. The Special Use Permit expired 12/31/2002. The permit must be renewed. The Planning Commission will pursue this.

**INDUSTRIAL PLANNED UNIT DEVELOPMENT ORDINANCE – REVISION:**

Tim Johnson (Main Street Planning) and James Brown (Mika, Meyers, Beckett, Jones) were present to discuss revisions to the Industrial PUD Ordinance (3.8). The Planning Commission reviewed Draft #1, dated April 26, 2004 in conjunction with the planner and attorney. Some items from this review included the following:

- Remove Commercial Uses allowed in the Industrial zone
  - Remove Section 3.8.4.A.(a) through (c) and Section 3.8.4.B.(a) through (d).
- Remove certain requirements for entry/exit drives
  - Remove 3.8.6.E.(a) through (c).

- Remove certain requirements related to street requirements and containment structures.
- Will require public hearings for all site plan reviews in an Industrial PUD development (3.8.7.D.).

Mr. Johnson and Mr. Brown will make appropriate changes to the revisions to the ordinance and present those to the Planning Commission for another review before moving to the Public Hearing.

### **ADULT ENTERTAINMENT ORDINANCE:**

The Planning Commission agreed to revise the hours of operation (Section 7) to be from 7:00 a.m. to 2:30 a.m.

The Planning Commission reviewed material related to the adverse secondary effect of adult entertainment businesses upon other areas within the community. A recap of this information is as follows.

### **INTRODUCTION**

Lowell Charter Township recognizes the potential adverse secondary effects of adult entertainment businesses upon other areas within the community.

To protect the health, safety, and welfare of the citizens, as well as to protect the citizens from increased crime and to preserve the property values and character of surrounding neighborhoods, Lowell Charter Township will adopt an Adult Entertainment Business ordinance.

As justification for this effort, the Township is aware of numerous and varied studies, reports and research efforts that point to the adverse secondary effects of Adult Entertainment Businesses. Some of these include the following.

### **STUDIES**

#### *Garden Grove, CA – 1991*

Adult entertainment businesses have a “real impact” on everyday life through harmful secondary effects.

#### *Seattle, WA – 1989*

Protests to adult entertainment businesses cited decreased property values, increased insurance rates, fear of crime and overall neighborhood deterioration.

*Oklahoma City, OK – 1986*

This study supported results from other national studies and surveys. Sexually oriented businesses have a negative effect on property values, particularly residential properties.

*Indianapolis, IN – 1984*

The best professional judgement available indicates overwhelmingly that adult entertainment businesses-even a relatively passive use such as adult bookstores-have a serious negative effect on their immediate environs.

*Minneapolis, MN – 1980*

This study concludes that concentrations of sexually oriented businesses have significant relationships to higher crime and lower property values.

*Amarillo, TX – 1977*

Concentrations of adult entertainment businesses have a detrimental effect on residential and commercial activities caused by:

- 1) Noise, lighting, and traffic at late hours;
- 2) Increased opportunity for street crimes;
- 3) The tendency of citizens to avoid such business areas.

**CONCLUSION**

Based upon the above and other proofs of adverse secondary effects of adult entertainment businesses upon the community, Lowell Charter Township will adopt an Adult Entertainment Business Ordinance.

**BLOUGH HARDSHIP REQUEST:**

C. Blough advised that he has been made aware of a potential hardship request.

Apparently a 60-year-old widow with no income has cancer and would like to live in a mobile home on her daughter's property. This property is located in a rural area (AG-1) and the mobile home would be placed in the back yard and hidden from view from the road. The mobile home would be removed once the need for the temporary housing has passed.

The Planning Commission will review this matter and determine if there is anything that they can do to help this situation.

**OTHER:**

The Planning Commission received input from Attorney Brown related to the need to have the Township named as an additional insured on the Certificate of Liability

Insurance for the two recent sand mining operations. (Van Stee and Timpson). It is the opinion of Attorney Brown that the Township does not need to be named as an additional insured on the liability insurance policies for these types of endeavors. The township follows proper procedures/processes, has its own liability coverage and enjoys a measure of governmental immunity.

The Planning Commission discussed other mining operations within the Township. Many of these may not have a special use permit. It may be necessary for these operations to get or renew special use permits. The Planning Commission Chairman and possibly the Enforcement Officer may pursue this matter.

**CONCLUSION:**

Sanford moved to adjourn. Seconded by Blough. All in favor and the Special Meeting of the Lowell Charter Township Planning Commission was adjourned at 9:50 p.m.

Submitted by D. Simmonds – Secretary