

**Highland Township Planning Commission
Record of the 1397th Meeting
May 4, 2023**

Roll Call:

Grant Charlick, Acting Chairman
Kevin Curtis
Chris Heyn
Beth Lewis
Roscoe Smith
Scott Temple
Russ Tierney
Guy York
Mike O'Leary absent

Doug Lewan, Carlisle-Wortman Associates
Kariline P. Littlebear-Zoning Administrator

Visitors: 16

Acting Chairman Grant Charlick called the meeting to order at 7:30 p.m.

Agenda Item #1: Call to the Public: Opportunity for anyone to bring forward issues of interest or concern for Planning Commission consideration. Each participant limited to 3 minutes.

Mr. Adrian Gaviglio, 5400 Buckhorn Lake Rd, president of the Knobby Hill Association, presented the concerns of the association regarding their current zoning of ARR which is a 5-acre minimum lot size district. He explained that when the neighborhood was first constructed the previous zoning district was a 10-acre minimum. He is asking, on behalf of the association, that the Planning Commission re-create a zoning district with a 10-acre minimum so that the association can petition to be rezoned to that larger acre district.

Public Hearing:

Agenda Item #2:

Parcel #	11-34-176-007
Zoning:	C-1 Local Commercial
Address:	Vacant S. Milford Rd
File#:	RZ23-01 Public Hearing
Request:	Rezoning to C-3, Low Impact Commercial with Offer of Conditions
Applicant:	Andrew West, Vandrey Properties LLC
Owner:	Vandrey Properties, LLC

Mr. Roscoe Smith introduced the request for rezoning of parcel 11-34-176-007 from the existing C-1, Local Commercial Zoning District to C-3, Low Impact Commercial Zoning District with an offer of conditions to limit the use for inventory storage of boats for an

adjacent boat dealership. The lot will not be used for repair of vehicles. The lot will be stripped of topsoil, graded as required to provide proper drainage, and topped with asphalt millings. Existing sidewalks will be maintained and no new driveways to Milford are proposed. Power for lighting for cameras and lighting would be fed from the adjacent property at 2675 S. Milford. No permanent structures are proposed at this time. If a structure is needed in the future, the appropriate planning approval process will apply. Zoning could revert to C-1 Zoning should the use as an inventory lot be discontinued.

Mr. York asked for clarification of how the inventory lot qualifies as “overflow” since there are 94 proposed spaces, which is significantly greater than the spaces provided at the dealership at 2675 S. Milford Road. Mr. Charlick explained that the inventory lot could not be the principal “dealership” but was permissible only due to proximity of the established boat dealer.

Mr. Charlick wondered if there would be specific landscaping requirements for this zoning. Mr. Lewan reminded the Planning Commission that this is a rezoning only, and that design details would be established during site plan review.

Mr. Charlick opened the public hearing at 7:35 p.m.

Rick Thompson, 198 Reid Road explained his concerns. Chelsey Park condominiums share a boundary between this parcel and their common open space. He spoke about how his residential neighborhood has been impacted by commercial activity, including deteriorating conditions at the adjacent dental office, the light and noise from Rock Bottom landscaping. Mr. Thompson felt that more and more industrial uses are being crammed into his area of the Township.

Mr. Charlick noted that the parcel is already zoned C-1, and that the proposed inventory lot would not be inconsistent with uses already permissible on the site. He explained that the Planning Commission must allow a reasonable use of the property and could not require that the parcel remain vacant.

William Robinson, 121 Reid Road has lived in the neighborhood for over 20 years. He felt that increasing the commercial footprint in the area is unfair to the residents. He also believed there is insufficient police patrol, and that there is too much vacant commercial. He explained that he has conflict with the Road Commission for Oakland County over refusal to mow the berm which he believes is unsafe due to traffic speeds and volumes. He argued that the increasing commercial activity has devalued his property.

Mr. Charlick closed the public hearing at 7:40 p.m.

Mr. Lewan explained some of the uses that are permitted in the existing C-1, Local Commercial Zoning District. He noted that the applicant’s request is for a specific use that results in less intensive activity than other permissible uses.

Mr. Smith commented that sometimes the Planning Commission has to deal with “what is” rather than what they would like to see in a perfect world. He noted that the property due south of this parcel was at one time an automotive dealership, and that the Planning Commission cannot reverse the use back to residential zoning. Allowing the less intensive use would forego uses with more potential to create nuisances to the neighbors, such as a fast-food restaurant.

Mr. Smith made a motion to recommend the rezoning of parcel # 11-34-176-007 to C-3, Low Impact Commercial for establishment of an inventory lot for the adjacent boat dealership with an Offer of Conditions as have been read into the record. Mr. Tierney supported the motion. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Work Session:

Agenda Item #3: Parcel # 11-22-401-011
Zoning: ARR, Agricultural and Rural Residential
Address: 400 Beach Farm Circle
File#: PLU23-0007
Request: Temporary Land Use Permit
Applicant: Community Sharing
Owner: Highland Township

Mr. Dave Bell, President of Community Sharing was present to represent the applicant. He noted that the temporary land use permit would be for a two-day “garage sale” event, scheduled to coordinate with the library’s schedule so that most activity would occur when the library was not open, and their parking lot would be available for patrons of the sale.

Mr. Temple explained that he serves as treasurer of the Homeowners Association of the adjacent Highland Valley subdivision. He noted that there had been concerns about events at this location when it was first proposed. He acknowledged that there have been no complaints or concerns over the food pantry since it opened.

Mr. Temple made a motion to approve a temporary land use permit for Community Sharing’s Annual Tent Sale. Mr. Curtis supported the motion. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Agenda Item #4: Parcel # 11-22-326-001 and 11-22-176-019
Zoning: IM, Industrial and Manufacturing
Address: 784 N Milford Rd
File#: SPR 23-02
Request: Site Plan Review
Applicant: Justin Van Gordon
Owner: JCC Tipsico, LLC

Mr. Smith introduced the site plan for two parcels at 784 N. Milford. The site plan is for a new pole barn that will straddle the property line between the two parcels. He noted that the parcels have been established as industrial use since the 1990's and that a previous site plan was proposed and approved for a similar project, although never constructed.

He noted that the proposed improvements would have little impact on grading and drainage, but that the site circulation should be considered, especially marginal access and drive reconfiguration on the south end of the property.

Mr. Justin Van Gordon, applicant, was present to answer questions about the project.

Mr. York noted that the proposed relocated garage is not consistent with the required setback. Ms. Littlebear explained that the applicant understands the required setback and will seek a variance if the proper setback cannot be achieved.

Mr. Charlick asked about the property to the north, which is owned by Highland Treatment.

Mr. Van Gordon explained that he would be willing to move the garage so it would line up with the north side of the office/house, about 13 feet from the line. He was very concerned about reducing the number of driveways.

Mr. Van Gordon discussed the proposed fence. While he hasn't decided on the exact type of fence, he would like to use something sturdier and more obscuring than the existing fencing.

There are reports from the Township Engineer and Fire Marshal in the file. Neither object to the plan as presented.

Mr. York asked if the parcels must be joined, and whether this should be required as part of the motion for approval. Ms. Littlebear explained that the building permits would not be issued if the parcels were not combined. Mr. Smith also noted that the motion should include the engineer's requirement that the site plan be represented for review and approval if new pavement is proposed.

Mr. Charlick made a motion to approve a site plan for 784 N. Milford Road, parcels 11-22-326-001 and 11-22-176-019, with the condition that the garage is located no closer to the north property line than the house (13 feet) and with the understanding that the site plan be represented for further review and approval if new pavement is proposed. Mrs. Lewis supported the motion. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Agenda Item #5: Master Plan Update and discussion of planned Public Input Session

Doug Lewan, Planning Consultant, presented the master plan update and reviewed the plans for the public input session scheduled for May 18, 2023.

Agenda Item #6: Discussion regarding Short-Term Rental regulations

Mr. Lewan offered a presentation on the issue of Short-Term Rentals to educate the Planning Commission on their options on if and how to regulate the use. Currently, based on the definition of a family, short term rentals are not permitted in any residential zone in Highland Township.

Mr. Tierney believes that any regulation that relies on the local government inserting itself into residents' private lives is unreasonable. If the Township can manage a use without new regulations, it should do so.

Ms. Littlebear explained the current regulatory framework in Highland Township. Essentially, short-term rentals would be allowed only in the C-2, General Commercial Zoning District. She also noted that there were letters in the file from residents concerned about the prospect of allowing short-term rentals in their neighborhoods.

Mr. Charlick asked whether there have been enforcement actions against individuals. Ms. Littlebear explained that there have been complaints from neighbors that have led to enforcement actions. Mr. Charlick thought that a permit for short-term rentals might be appropriate so that the Township had better leverage to correct nuisance behaviors. He thought pursuing noise complaints where there was a different tenant every week would be difficult and that tying compliance to renewal of a permit might lead to better accountability.

Mr. Heyn explained that he has property that is adjacent to the State of Michigan's short-term rental cabin on Pettibone Lake. The State rents that cabin out on a daily basis. The property owners in the area are interested in doing the same. The state renters have not caused undue problems on the lake.

Mr. York disagreed in that he believed when one purchases a home on the lake or a golf course, there is an expectation that there will not be a parade of unknown neighbors partying next door. But he appreciated that there may be parts of the community where this lifestyle is more well accepted. Mr. Tierney also raised the point that Homeowner's Associations may be better suited to policing policies about what happens in their own neighborhoods.

Mr. Smith noted that while he appreciates the argument about property rights and the ability to create income from renting one's property, he is concerned about the rights of the neighbors as well. Living in a 50-foot-wide lot, the impacts could be more inescapable than for someone on acreage. It only takes a few such rentals in near proximity to transform a single-family zone to a feeling of a commercial corridor. Mr. Lewan acknowledged that there are corporations whose business model is to purchase properties specifically to maintain them as short-term rentals.

Ms. Littlebear noted that there are ways to narrowly define what conditions would make for an acceptable short-term rental property. Perhaps restrictions in the residential zones could limit these rentals to properties fronting paved public roads, or to a specific lot size. Perhaps

there are fewer restrictions in a commercial zone. The trick will be balancing the interest of the landlords and the neighbors.

Mr. Curtis thought perhaps there is merit for each association to decide whether to petition the Township for permission for short-term rental. Mr. Charlick noted that most properties in the Township are not within association controlled subdivisions.

Mr. Heyn asked for some perspective as to how many complaints the Township has received. Six or eight complaints out of 20,000 residents may not demonstrate a true problem. Ms. Littlebear said the issue is that not every aggrieved citizen reaches out to the Sheriff or Township for support. When you know a neighbor who is creating a noisy environment on the weekend, you might be able to reach out and resolve it person to person. But when it's a different person every weekend, there is less opportunity to resolve the issue without intervention.

Ms. Lewis asked for an explanation of how this issue of short-term rental intersects with home occupation regulations. Ms. Littlebear explained that this would work on an owner occupied home true "bed and breakfast". Home Occupation is meant for a long-term stable business at the home of the proprietor. Our ordinances strictly regulate how many customers can be present on the site at one time and requires the business to be clearly accessory to the residential use. It would not address a business model developed around short-term rental properties.

Mr. Temple recalled that the Bed and Breakfast at the Red Poppy drew in one of the most contentious neighborhood conflicts over very similar issues as have been discussed this evening. He thought a "do nothing" approach while continuing to address nuisance complaints as they arose might be the best fit in Highland Township.

Mr. Tierney was not clear how a regulatory framework would allow the use in one neighborhood over another. Ms. Littlebear said it would be handled in a similar way to a zoning map.

Mr. Charlick asked for an explanation of how enforcement is currently pursued. Ms. Littlebear explained that enforcement begins with a complaint, that leads to a letter asking for compliance and can escalate to tickets and court appearances. Mr. Charlick asked whether our ordinances as they stand are enforceable. Ms. Littlebear explained that no case has escalated to court yet. Mr. Charlick asked if all enforcement leads from complaints. Ms. Littlebear explained that if she comes across other listed properties when researching a complaint, she will follow up. Mr. Charlick suggested that it might be wise to continue to follow up on specific complaints, but let the courts determine if our ordinance is defensible.

Mr. Tierney suggested perhaps another approach is to just allow short-term rentals with no regulations and see what comes up. Mr. Charlick thought that approach was incorrect, since we might inadvertently invite investors to rush in and create new rentals, and then have a lot of "non-conforming" uses established when we determine that some rules are necessary.

Mr. Heyn asked how to move forward. Ms. Littlebear explained that the only way to support a legitimate short-term rental program is to draft regulations and present them to the Board for adoption.

Mr. York suggested a permitting program should be considered. Perhaps an owner-occupied home with specific calendar restrictions and other conditions could be the best avenue for Highland Township and would preclude corporations creating pockets of full time short time rentals.

Mr. Tierney suggested that the approach which would be the least restrictive would be preferable.

The commissioners discussed whether or not it was advisable to proceed when there was no clear consensus about the framework.

Mr. Charlick made a motion to direct the planning consultant and staff to create draft ordinance language to permit short-term rentals in certain circumstances to be presented to the Planning Commission at a later date to further the discussion. Mr. Heyn supported the motion. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – no; Mr. Smith - no. The motion was approved with six yes votes and two no votes.

Agenda Item #7: Text Amendment: Temporary Land Uses, Accessory Structures, Home Occupations

Mr. Temple thought that this agenda item required significant discussion and thought it would be appropriate to table for a future date. Mr. York suggested that the discussion on temporary land use should proceed, since there were residents in the audience who were following that issue specifically.

Mr. Temple made a motion to table the text amendment discussion to the first Planning Commission meeting in June 2023. Mr. Charlick supported the motion. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – abstain; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with seven yes votes, one abstention.

Agenda Item #8: Call to the Public. Opportunity for anyone to bring forward issues of interest or concern for Planning Commission consideration. Each participant is limited to 3 minutes.

Mr. David Katarzynski, 2765 Rowe Road, spoke to the issue of short-term rentals. He does not live in an association-controlled property. He and his neighbors learned recently that a home nearby was purchased by an absentee landlord and rents the home by the week. There have been many issues with noise and trespass, and the neighbors find there is no effective way to address it, since the tenant changes weekly. The only recourse is to call the Sheriff.

Ms. Littlebear confirmed that an enforcement action has been initiated regarding this specific property.

Mr. Tim Faull, 3300 North Duck Lake Road, explained that he had bought his Duck Lake Road property with the intent to rent it as an AirBnB. He believes the ordinance would allow AirBnB as an owner-occupied property. He was concerned about the discussion of where AirBnB is appropriate, such as the Lakes and Villages District. He thinks the stigma that all such properties become party places is unfair. He allows the use of the property for families to stay when they are visiting the area. He explained that as an owner he is constantly involved in his property, maintains it, and is in touch with the neighbors. He believes there are avenues to make this work. He feels he has been given the run around and does not agree that the ordinances as written prohibit such use. He thinks this could be a simple ordinance, and that nuisance complaints should be dealt with on a case-by-case basis.

Ms. Wendy Hiebert, 893 N. Hickory Ridge Road, expressed concern that the ordinance language on temporary land use has already been drafted and asked if that element could be dealt with this evening. Mr. Charlick noted that they had tabled the discussion, but that it would be taken up early in June. The text ordinance regarding temporary land use will be presented separately from the rest of the text ordinances at the next meeting so its approval could be expedited.

Agenda Item #9: Election of Officers and Committee Assignments

Mr. Tierney nominated Grant Charlick as Chair. Mr. Heyn supported the nomination. Mr. Charlick supported the nomination. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Mr. Tierney nominated Chris Heyn as Vice-Chair. Mr. Charlick supported the nomination. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Mr. Charlick nominated Roscoe Smith as Secretary. Mr. Tierney supported the nomination. Mr. Charlick supported the nomination. Roll Call Vote: Mr. Curtis – yes; Mr. Charlick – yes; Mr. Heyn – yes; Mr. York – yes; Mrs. Lewis – yes; Mr. Tierney – yes; Mr. Temple – yes; Mr. Smith - yes. The motion was approved with eight yes votes.

Residential Committee: Beth Lewis, Kevin Curtis, Scott Temple

Commercial Committee: Roscoe Smith, Guy York, Mike O’Leary

Agenda Item #10: Committee Updates

- Zoning Board of Appeals:
- Township Board:
- Highland Downtown Development Authority:

- Planning Director's Update

Committee updates were discussed.

Agenda Item #11: Minutes: March 16, 2023

Mr. York moved to approve the minutes of March 16, 2023, as corrected. Mrs. Lewis supported the motion. The motion was approved by a unanimous voice vote.

Adjournment:

At 10:15pm, Mrs. Lewis made a motion to adjourn the meeting. Mr. Temple supported the motion. The motion was approved by a unanimous voice vote.

Respectfully submitted,

A. Roscoe Smith, Secretary
ARS/kpl/ejc