

**Laketon Township Planning Commission  
Public Hearing Minutes of December 8, 2010**

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**CALL TO ORDER:** Chairperson John McDonnell called the meeting to order at approximately 6:15 PM, immediately after the close of the regular monthly meeting.

**MEMBERS PRESENT:** Tom Kane, Bob Schalow, John McDonnell, Cindy Ackerman, Mary Marcil and Eric Anderson

**MEMBERS ABSENT:** Lynn Stel

**ALSO PRESENT:** Planning Consultant Brenda Moore; Building Official Rod Siegel, Zoning Administrator Dick Grenell, Twp Attorney David Bossenbroek, Twp Supervisor Kim Arter, Recording Secretary Veronica West, Applicant Darrell Hinken, Realtor Chip Hurley and approximately a dozen interested members of the public

**PROPOSED ZONING ORDINANCE AMENDMENTS:**

**Item#1 – Wind Energy Conversion Systems (WECS):**

Planning Consultant Brenda Moore gave a brief overview of the process and developing this ordinance language. She also briefly summarized that there would be regulations for 3 separate categories: roof mounted systems, towers/WECS under 70 feet in height and for those towers/WECS over 70 feet in height.

Township Attorney David Bossenbroek expounded and explained that incorporating this language amends 3 separate sections of the ordinance; the definitions section by adding a definition for WECS, Section 3 by adding 3.30 to allow and regulate roof mounted and towers under 70 feet as permitted uses in all zoning districts and by changing Section 17.05 EE to permit and regulate large towers over 70 feet as a special land use, which requires a public hearing and site plan review.

Chairperson John McDonnell opened the meeting for the purpose of hearing public comment on this topic. There was no public comment.

Bob Schalow moved to recommend adoption of these proposed amendments to the zoning ordinance regarding Wind Energy Conversion Systems (WECS) as presented. Cindy Ackerman supported the motion. The motion carried by voice vote.

**Item# 2 – Medical Marihuana**

Chairperson John McDonnell noted this proposed ordinance is to include language to define and regulate medical marihuana dispensaries.

Township Attorney David Bossenbroek commented that a medical marihuana is a very complicated issue that many communities are dealing with and he is recommending this language to define a dispensary and to outlaw commercial medical marihuana dispensaries in all zoning districts in Laketon Township. He also added the Township Board will also need to address the issue with a general police powers ordinance regarding use of and distribution of medical marihuana by caregivers.

Chairperson John McDonnell opened the meeting for the purpose of hearing public comment on this topic. There was no public comment.

Cindy Ackerman move to recommend adoption of these proposed amendments to the zoning ordinance regarding medical marihuana as presented. Mary Marcil supported the motion. The motion carried by voice vote.

**PROPOSED SPECIAL LAND USE:**

**Item#3 – H & H Landscaping at 925 Witham Rd**

Chairperson John McDonnell asked if there had been any communications received from the public regarding this proposed/requested special land use. It was noted that there were two phone calls received from Mr. Harry Knudsen and Mrs. Renee Webster (both of whom own property within 300 feet of the 925 Witham Rd) expressing no objection to the requested use as a landscaping business.

Mr. Chip Hurley, the real estate broker involved with this property, distributed a site plan to all present that had been modified based on the comments received from the planning commission at the regular meeting that took place on November 16, 2010. He gave a synopsis of the proposed use as a landscaping and snow plowing business and of the site plan explaining the site has been separated into 3 separate areas and how and what will be stored in each area. He explained the proposed containment of the different products that will be utilized by the business. Mr. Hurley added that he and the applicant, Mr. Hinken, have consulted with Fles & Vandenbrink (an engineering firm) with regards to this site, the wetlands on this piece of property and the proposed use as a landscaping and snowplowing business. Mr. Hurley

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stated Fles & Vandenbrink's opinion is that the proposed use, including the materials that will be stored on-site ie: bark, mulch, topsoil and salt, will not have an impact the wetlands. In addition, Mr. Hurley informed the public present that the local building and electrical inspectors have been through the building as has the local fire inspector to address any potential code issues. Building Official Rod Siegel commented that there were only minor issues, such as improper door swings and exit signage which are easily corrected. He also added that there is quite a lot of unnecessary wiring which Mr. Hinken has agreed to have removed.

Mr. Darrell Hinken, of H & H Lawn Service, stated he started his business over 8 years ago with a mini-van and a lawn mower. Today he has grown to 23 employees, trucks, front end loaders, kabotas, plows, salt spreaders etc. He stated his business is not a large retail operation, but he would like to have the ability to sell some landscaping materials to the local neighborhood. He commented on the materials he keeps on hand for use at his customers locations, such as natural hardwood bark, mulch, small amounts of topsoil and some landscaping stone & gravel, as well as salt for use in the winter in conjunction with snow removal at his customers locations.

There was extensive discussion over the salt regarding how much is stored on site at any given time and how it is stored and handled. According to Mr. Hinken is approx. 25 to 50 tons normally but if a large winter storm is predicted he may get as much as 75 tons at one time. John McDonnell noted that the amounts of salt Mr. Hinken is describing is only about ¼ of the capacity of the storage bin (covered area with concrete block walls and concrete bottom) proposed for the salt. Mr. Joe Mark, an independent environmental consultant commented he has been in this line of work for 20 years and added when he saw Mr. Hinken's current facility he was impressed with it and stated it was "head & shoulders" above others in the landscaping/snowplowing industry. Mr. Mark added that the proposed storage containers with concrete floors and curbing meet or exceed the state regulations for salt storage and the concrete floor qualifies as an "impervious surface". Mr. Hinken also noted the bins/storage areas have enough concrete in front of the actual bin for the trucks to drive right into them, thus removing the possibility of spillage of materials onto the bare ground. It will all be contained on the concrete surface and if spillage does occur during loading/unloading, it can be pushed back into the covered area of the bin. Mr. Hinken responded to questions relating to tarping of the salt and loading of salt, stating the salt pile is tarped as much as possible when not loading or unloading salt and that his salt trucks are typically loaded the night before then when his employees come in at 5:30 am, they are ready to go with no loading noise in the early hours of the morning. Mr. Hinken was also asked about his current facilities and who makes sure the state and local regulations are followed. He noted that at his current facility, he has experienced several visits from the DEQ (now known as the MDNRE) and the Department of Agriculture. He also added he meets the requirements of the City of Norton Shores where his current facility is located. Mary Marcil noted that there is really no way to know how often the MDNRE or Department of Agriculture will be able to visit this facility, especially considering the budget woes of the State of Michigan at this time. Mary Marcil also noted that this building is much larger than Mr. Hinken's current location. Mr. Hinken commented that this building has about 10,000 square feet, 1,000 square feet of which is office space whereas his current location is about 8,100 square feet and only half of that is shop/garage space.

Planning Consultant Brenda Moore explained what a special land use is and how once one is granted, it runs with the land, meaning that any approvals for a special land use last forever and can be taken over by new owners in the future. The only way they change or "go away" is if an owner submitted a request to have the special land use amended or dissolved and it is approved by the Township. She added that it is the job of the Planning Commission's job to decide if this special land use being requested is an appropriate use of the land and can place conditions upon the approval and a written document is signed by both the applicant and the Township for the protection of both parties and historical records.

Chairperson John McDonnell opened the floor for comments from the public.

Mr. Thomas Lindback of 902 Witham commented he knows Mr. Hinken and is a customer of H & H as well. He stated Mr. Hinken's company is not a "fly by night", but a reputable business which he supports moving in to the community. He also added that he feels it is a positive sign that Mr. Hinken is looking to actually purchase the property and not lease or rent it.

Gloria Pierce of 968 Witham had questions on several issues she is concerned about such as noise, constant truck traffic from the site, the aesthetics of looking out her window at the site and seeing trucks and heavy equipment, salt storage and mining of black dirt as has been done in the past in the area.

Bill Pierce of 968 Witham had several issues he is concerned with as well, such as the storage bins and if they are covered or uncovered, yard waste/grass clippings and if they would begin to smell before being removed and also the weight capacities of the vehicles coming and going and if they would damage the road.

James Goudzwaard of 915 Dykstra Rd stated his only concern is the creek that runs between his property and this property. He commented that brush, junk and garbage have been dumped in the creek over the years. He added has cleaned it out many times and he wants to know that nothing else will be dumped in the creek.

Kim Arter of 170 S. Bear Lake Rd noted she is concerned about noise and potential complaints from area neighbors and having to enforce the noise ordinance Laketon Township has. She also added she has some concern over the possibility of the yard waste/grass clippings generating a lot of odor before being removed from the site.

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There were no further comments from the public. Mary Marcil moved to close the public portion of the meeting. Cindy Ackerman supported the motion. Motion carried by voice vote and the public portion of the meeting closed at approximately 7:50 pm.

In response to the public comments, Chairperson John McDonnell allowed comments and answers from the applicant as well as the Township Planning Consultant Brenda Moore and Township Attorney David Bossenbroek. Brenda Moore noted the ordinance relating to noise does not have a decibel level but does prohibit noise that becomes a nuisance. Mr. Bossenbroek added that if vehicles are legally licensed and have legal exhaust systems he can't imagine there being any noise issues. Mr. Hinken noted in answer to several questions, his current facility is next to condos and apartments and there have been no noise issues, the gravel, topsoil and hardwood bark bins will not be covered, but the dyed mulch and salt bins will be covered, there will be no mining of topsoil or black dirt on site as he purchases all his materials for outside sources and he will not be dumping anything into the creek as all his grass clippings/yard waste materials are hauled away to a third party for disposal. Mr. Hinken also added that as far as visual impact, trucks and trailers will be parked on the existing asphalt and kobotas and mowers are stored indoors and his large front end loaders are kept at his larger customers' locations most of the time.

Cindy Ackerman asked Mr. Goudzwaard to expand more on his historical knowledge of the creek and the water on this property. Mr. Goudzwaard provided information on the site from 50 years ago, most notably that that land was flooded at one time and celery could no longer be farmed there, then the creek was re-routed and the flooding issue was solved.

Tom Kane commented on concerns that the MDNRE or Dept. of Agriculture would not visit the property on a regular basis and made some suggestions for re-arranging the site to keep the potentially toxic dyed mulch and salt as far away from the creek as possible.

Cindy Ackerman expressed her disappointment in not having a wetland delineation to show the wetland boundaries in relation to the materials storage areas and existing building. This topic was discussed at length. Mr. Hurley noted that a wetlands delineation is very expensive and he has an environmental consultant's opinion stating there would be no impact on the wetlands. Brenda Moore commented the Conservation District does wetland delineations for a very reasonable price.

John McDonnell observed it seems everyone would be more comfortable with larger setbacks from the creek and wetland areas. Mr. Hinken interjected that the bark is going to be stored on cement and surrounded by a bunker so that nothing will enter the creek.

David Bossenbroek noted that it is the function of the Planning Commission to determine if the requested special land use is an appropriate use of the land and cautioned them to refrain from instructing the business owner how to operate his business.

Eric Anderson commented that the layout is fine, but he would suggest to keep only inert materials such as gravel and topsoil in the bins nearest the creek and to store the salt/dyed mulch and yard waste/grass clippings in the bins at the immediate rear of the building for more separation from the creek. He added that other suggestions to move some of the storage areas while feasible would then be visible to the area neighbors and the street – being behind the building is a more visually discreet location.

Bob Schalow and Mary Marcil agreed that a 25 foot setback for the rocks/gravel & topsoil would be adequate along with the salt/dyed mulch and yard waste/grass clippings in bins immediately behind the building. Cindy Ackerman agreed as well.

Mary Marcil also suggested but refrained from requiring, landscaping improvements at the front of the property between the building and the road.

Lengthy discussion took place while ironing out the list of conditions, which are attached.

Bob Schalow moved to approve the special land use request for H & H Landscaping and Snow Plowing, provided the list of conditions are met.

Eric Anderson supported the motion.

A roll call vote was taken:

Eric Anderson – Yes  
Cindy Ackerman – Yes  
Mary Marcil – Yes  
Bob Schalow – Yes  
Tom Kane – Yes  
John McDonnell Yes

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There were no votes in opposition to the motion. The motion carried.

Brenda Moore reminded the applicant he must submit a finalized site plan, showing compliance with all of the conditions imposed by the planning commission as well as sign the Special Land Use Permit document that outlines all conditions to be followed. The Township will sign the Special Land Use Permit as well.

Township Supervisor Kim Arter had an announcement – a reminder of the December 17<sup>th</sup>, 2010 Retirement Open House for retiring Zoning Administrator Dick Grenell. The open house is from 2 to 4 pm at Laketon Township Hall. There was a nice round of applause and sincere appreciation for Mr. Grenell and his 31 years of service to Laketon Township.

Mary Marcil moved to adjourn the meeting. Cindy Ackerman supported the motion. The motion carried and the meeting adjourned at 9:07 pm.

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List of Conditions for H & H Landscaping's Special Land Use Request at 925 Witham

1. Material storage areas, including salt, dyed mulch & yard waste must be stored directly behind the rear of the building; rocks, gravel/stone and hardwood bark must be stored at least 25' from edge of the creek.
2. Reflect on the site plan the:
  - a. Provide a written description on wetland locations from environmental consultant (must be a registered wetland delineator)
  - b. More detail on the extent of outdoor displays/sales areas on the plan, not in separate text.
  - c. Dumpster location on cement (if one is going to be used)
  - d. limit outdoor equipment storage to paved areas
  - e. a note indicating that existing vegetation on the northerly, westerly and southerly property lines will be preserved to screen the business from residential uses.
3. Provide a minimum of a 25-foot buffer from the delineated wetland area and keep all business activities upland from this line using a barrier (e.g., cement bunkers or fencing)
4. All outdoor storage of materials, including wood chips, yard waste, sand, gravel, etc. shall be contained within concrete bunkers on concrete pads, with the exception of area 1 which will only be used for storage of untreated, natural hardwood bark which shall have a cement barrier on the northern and western sides. Area 3 shall have curbing on the cement pad for salt containment.
5. Salt storage shall be limited to area 3 as designated on the site plan, shall be covered by a roof and shall follow all appropriate state guidelines.
6. Bulk storage of fuel is prohibited.
7. Outdoor storage of vehicles and other motorized equipment is limited to paved areas reflected on the site plan, non-motorized equipment shall be stored in the rear of the property.
8. Fertilizer storage shall be contained within the building.
9. The volume of wood chips that may be stored on site at any one time shall be limited to area 1 as designated on the site plan.
10. The volume of yard waste (leaves, grass, etc) that may be stored on site at any one time shall be contained within the designated 32 x 25 foot area.
11. Verify that floor drains discharge into public sewer.
12. All oils and any other polluting fluids/materials shall be stored and handled according to appropriate state regulations.
13. Replace existing site lighting with cut-off fixtures (e.g., wall packs).
14. Only a monument or wall sign is permitted on site.
15. Mulch may not be processed or dyed on the premises.
16. Tires shall not be stored outdoors.
17. The special land use approval is contingent upon the purchase of the property being purchased by applicant Darrell Hinken or his designated entity.
18. The applicant and township shall sign a written special land use permit document to these conditions.