

**Charter Township of Ironwood
Planning Commission
Special Meeting/Public Hearing Minutes
July 8, 2021**

Call to Order: 6:00 p.m. The meeting was called to order with the Pledge of Allegiance

Roll Call: Joe Kafczynski, Joe Rohde, Jason Hofstede, Gabe Justinak, George Kivi, Bob Lynn, Sandy Lahtinen

Absent: none


Also Present: Brenda Aili Angus, Susan Clausen, Ray Novascone, Ginger Kivisto, Yvonne Valle Novascone, Matt Clausen, Brette Imwalle

Public Comment: none

Additions and/or Approval of Agenda: Motion by Lynn, seconded by Kafczynski, to approve the agenda as presented. All in favor, motion carried.

PURPOSE OF PUBLIC HEARING:

Consider:

 <p>N10892 Lake Road Ironwood, MI 49938</p>	<p style="text-align:center">CHARTER TOWNSHIP OF IRONWOOD PLANNING COMMISSION</p>
932-5800	LeRoy Johnson-Zoning Administrator

**NOTICE FOR PROPERTY ZONING CHANGE REQUEST BY JAKE'S EXCAVATING AND
LANDSCAPING, LLC OF N10633 LAKE ROAD, IRONWOOD, MICHIGAN, 49938**

**THE CHANGE OF ZONING IS FOR TWO PARCELS. PARCEL #1. 03-01-532-200, WHICH ABUTS
LAKE ROAD AND PARCEL # 2. 03-01-532-300, WHICH ABUTS PARCEL #1.**

**THESE PARCELS ARE PRESENTLY ZONED R-1 AND THE PROPERTY OWNER WISHES TO REZONE
THEM TO C-COMMERCIAL FOR THE PURPOSE OF DEVELOPING A COMMERCIAL PARKING LOT
IN PARCEL #03-01-532-300. PARCEL #03-01-532-200 WILL BE USED FOR THE ROAD LEADING
TO THE ABUTTING PARCEL. (See attached maps, information)**

The Public Hearing will be held at a special meeting of the Planning Commission on July 8, 2021 at 6:00 Pm in the Charter Township of Ironwood Board Room, N10892 Lake Road Ironwood, MI. 49938. Decision to be made after the public hearing.

Written comments may be sent to Mary Segalin, Clerk, N10892 Lake Road, Ironwood, MI. 49938 prior to the meeting.

This notice is posted in compliance with Public Act 267 of 1976, as amended, the Open Meetings Act, MCL 41.72A, and the Americans with Disabilities Act. The Charter Township of Ironwood will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audiotapes of printed materials being considered at the meeting to individuals with disabilities at the meeting upon three (3) business day notice to the Charter Township Clerk. Please write or call the following: Mary Segalin, Clerk, N10892 Lake Road Ironwood, MI, 49938 (906)932-5800.

The Charter Township of Ironwood is Equal Opportunity Provider and Employer. To file a complaint of discrimination write to USDA, Director, and Office of Civil Rights 1400 Independence Avenue, SW, Washington D.C. 20250-9410 or call 800-795-3272 (voice) or 202-720-6382 (TDD)

Public Hearing:

Open Public Hearing: 6:03

A motion to open the public hearing made by Rhode, supported by Kivi, to enter into the Public Hearing. Roll Call Vote: All in favor, motion carried.

Correspondence from Zoning Administrator: (see attached), I gave you a finding of fact, before you, to help you in deciding this issue. Also I sent you a packet of information. (see attached) Review of Finding of Facts, Site Plan Review, Letter to Jake's Excavating and Landscaping, LLC from Johnson, Article XII, Off Street Parking, Letter to Jake's on requirements to proceed with roadbuilding, four (4) Google Earth maps of proposed site, letter from Jake's Excavating on Request for Zoning change, (copy of survey and check to Charter Township), Special Meeting and Public Hearing public notice to property owners within 300 feet of the two (2) parcels, Article IX, amendment procedure, Master Plan, Objective 6.5,6.6,6.7, Commercial District Purpose, Residential Transition Purpose, Evaluating Rezonings, and MI State University Policy Brief, Removing Spot Zoning from the fabric of Zoning Practice. Package sent to township board. (See Finds of Fact Required attached documents, A-E read by LeRoy Johnson as presented.)

Correspondence from Residents: (Written Material to be read by secretary): no written material from residents

Public Comments (as called upon from Public Comment sign-in list):

Matt Clausen — Hi everybody, My name is Matt Clausen, I live on,(current address) , which is the property that is South of the one that we're talking about now. I know that there have been a few different versions of how my wife and I feel about this so I'd like to take this opportunity to put the record straight as far as how we came to understand this and as how we have arrived to where we are right now. We knew that the property was for sale, we knew that it was sold, we didn't know who bought it until probably December or when Jake's was putting the culvert in and at that point we kinda figured that they must have that. And we fast forwarded to March when they started logging and doing all that other stuff and at that point, I'm like ok, they must have other property besides this one because it obviously extended all the way back to where the five (5) acres would end. I went down state for a little bit, my wife was here when they were logging and I come to find out the logging company that Jake's uses, not Jake's, but is familiar with Jakes, whatever, and they took some trees that were according to where the surveyor of Bessemer was, were on our side, and some of the equipment that they had, was on our property. This is all minor details now at this point, but my wife's telling me this over the phone, and I'm in Lansing, so then I'm like OK, I don't know what's going on because at this point the culvert knowing that they had dug past the line, they dug the culvert up and then when they had the surveyor in the surveyor had markings that showed that they had dug up on our side of the property, on the culvert side of the road. At this point we hadn't had any conversations with anybody from Jake's, no one had came over and said here's what we're doing or anything like that. So when I came back , I don't know my wife, I don't know if she was here or not, if shewas in Green Bay or what, but that was my first time going over to Jake's to actually talk to them. Say, what's going on, out of curiosity can you give me a background of what's going on. And he told me the plan was, to you know, to have a road and to go back there and to level everything and to park vehicles back there. Ok, and this is like hey I think it's great that you're coming. We've been at this location before, Jake's bought that when it was still Green Thumb, at no point have we ever made any kind of fuss about trucks or anything the whole time we've been there and I told Jake that you obviously have added a fleet of vehicles, so that means your business is doing great, I'm pro capitalism, I'm Go America, I just don't want the value of my property to go down, so I'm concerned about all the vehicles and things that were parked at the bottom of the hill at that time and he said, no, we're going to move all that stuff off, just waiting for it to get kinda less money, so we can go in and take all that equipment off and everything so we had a good conversation about it, and he assured me that he would take care of all this other kinda stuff, so I said Alright, and fast forward to a little bit of more time and I started hearing well, no, my wife had made contact while I was gone the first time and expressed some concerns and stuff like that. He had come by another time, and that's when I went out, this is the conversation I had with Jake, I told Jake that I'm pro with everything you do, if I really wanted that land I should have bought it. But you own it, and I'm one of those people that I don't want someone telling me what to do on my land so I really don't want to put myself in a position on what to do on yours. I just don't want to lose value on my home. We have to find a way that we can work together and be good neighbors. So fast forward now we're getting into Mid June, which is the second time that I went to Jake, he was across by his shop, and had a discussion, Here's what I want to tell you Jake, I have everything that I told you the first time, that I'm very pro your business, I want you to be able to be successful and do what you want to do, however, this is something that's going to be that I'm

going to have to live with next to me for however long you're going to be here and own this property so what I'd like from you is:

For my wife and I to be ok with this and for us to go before the board and to say that we're fine with it and we're going to sign off and whatever we need to do but there's a few things that we'd like for you to be able to meet us with. And so I talked with him and I said that one thing that we'd want to make sure that the landscaping is taken care of on our side of the property on where you had dug that up. We want that straightened out. He said no problem. I said another thing we'd like to do, because we want to make sure that we don't get as much dust as we do, as they do on their side, is there any way you can, I had said pave first and he said that's impossible because of whatever, and I said what about gravel, can you at least gravel this bottom part so it's not kicking up dust on all of the homes here. He said, Yeah, that wouldn't be an issue. The other thing I said was what about putting up a privacy fence, replacing the fence we currently have, adjacent to our property, can you replace that, and he said "yeah", that's fine, and then the only other thing that I said was because I bought this Jake, I paid attention, I've got photos and videos where there's clearly a laid flag on a tree and then there's a giant hole on my side, so I'm not going to sit here and make a big deal of it, but I'd like you to plant the two trees that you took out of there. And by the size of the ditch, the hole that was there, they were pretty good size trees. So can you just plant two there trees, that's all I'm asking for. So, at the end of that conversation, Jake and I shook hands and as long as you're willing to do that Jake and as long as your willing to just communicate with me, that's all I'm asking for. And I had said, I don't care what you do on this property but it does affect me and knowing that you're telling me that the dump trucks and logging trucks aren't going up there, that it's going to be your commercial vehicles that you're going to store on the off season, so it's not going to be traffic that goes back and forth all the time, I said yeah, I'm ok with that. I said if it's going to be something that's going to be going on all the time then we'd have to have another conversation about like hours and I would be fine with doing that, but I don't want to do that, and he said, Nope, everything once were done, all that stuff just gets stored there, off season, once we get busy we pull it all out, however, weeks or whatever it takes, and then we're done. So I said, this is what I'm understanding so I reiterated this whole conversation that you're willing to do this for me in exchange that you're telling me what's going to actually be up there, that you're not going to run electricity, you're not going to pave that, these are the things that he's telling me, so if you're willing to work with us on that then we're willing to say ok, that's fine and that we'll go before the board and say we're good with it. So, that in the end is the essence, is everything we've talked about, that we were concerned about, and if Jake were here I'm sure Jake would say that this is exactly the conversation we had. So as long as Jake's good with that, as long as Jake lets us know, because I told him, we don't know what we don't know, I shouldn't have to come to you and say, Hey, what are you doing over here. It would be kind of nice to say, hey, here's what I'm thinking, I know we dug up some of your yard so were going to fix that would have come a long way to ease a lot of the frustration that she had, which that I absorbed ,because an unhappy wife, so I drink a lot of whisky, so, that's basically the jest of that, so I wanted to present the facts as they were. I know there were some people that had some different ideas of what we actually felt about that so I wanted to be sure that everybody understood that, but I wanted to go on the record as far as the conversation that Jake and I had

on the things that Jake said he was going to make sure he took care of for us, so, is there anything else. He's going to grant us access up the road because it sits parallel to ours, if I have to drive up there with a truck to get a load of wood, he said fine. So, other than that we're good. Thank you.

Ray Novascone – I'm Ray Novascone, Jake's Dad, Jake's out of town today so I'm going to be here for the company, I'm vice president of the company. What Matt was saying is very much true, everything we promised him we will do. The road will be graveled, he will get his fence, his trees, everything that you want, which was agreed between you and Jake, but I know the whole story so that will be taken care of. So as soon as we get some gravel in there, we're going to put some pit run in there and then we're planning on graveling up the road. Yes, it will just be for storing equipment in the winter months, we have so much heavy equipment that it won't be for trucks, trucks will stay by the shop, because they have to be plugged in in the winter months, we have no reason to bring them up there. We'll truck gravel and sand up there, and if we have some problems with dust, we have a big water truck, we can water, do whatever you need, pretty much well do. We're here to get along with you (Matt, I appreciate that) just like whatever you and Jake talked about, he's made me aware of. He's made me aware of all this, so yeah, it'll be taken care of. (Matt, ok). Yup, very good. Does anyone else have any more questions for us, Jake's Excavating.

Kivi– In one of our previous discussions it had come up that Jake's across the road, was supposed to put up some noise abatement fencing, on both sides of the property, if I understood, what you said correctly, I don't think that happened,

Justinak -can I answer that, it became a berm with some trees, the neighbor to the North did not want it that way.

Kivi -If indeed we were going to do a fence, were there specifications as to what that fence should be? To become functional in it's purpose, that purpose, that function, could apply to the fence that they were discussing.

Johnson – Well, this is part one, or phase one of the requirements I had sent to Jake's Excavating, just to get the property rezoned, the second one is then to supply the board with an extensive site plan of what their activities and what they're going to do. That would include fencing, graveling of the road, fencing of the site of the commercial parking lot, and all those would be in that site plan, and signed off by them, and that's what they're going to do. And it sounds like they've made some of the agreements already with the neighbors in regard to graveling it. But they still have to come before you if you approve it and the township board approves it, then they go to site plan.

Kivi – yes, just looking forward to homeowners, future property owners, and both commercial and residential are going to have to live with what happens. And I'd like to, if he goes forward, hopefully it'll be effective and something that people will consider effective.

Johnson – One of the property owners stated that he wanted fencing, and that's what my intentions are to look at it and to have fencing along the road where the R1 residences are, for their protection.

Kafczynski – But don't you think this should all be in writing?

Johnson – It will be in writing for us

Kivi -and enforceable to some extent. I don't doubt the intent of what equipment is going to go up there and what different seasons of the year. I do worry two years down the road that four o'clock in the morning there's heavy equipment which was not the original plan, maybe your plan changes, maybe Jake no longer owns the property but the township still has the commercial zoning in effect and it can be used for other uses. So, that concerns me.

Johnson – I gave you copies of commercial uses and we do understand that they can make those changes.

Hofstede – Yeah, once it would be changed to commercial any of the permitted uses could happen.

Kivi – Yeah, and that may be acceptable today, but it might not be acceptable to other property owners in the future. And other commercial owners may potentially use it in these other methods, and that might make it less acceptable to property owners.

Johnson – are you done. Ray – if they don't have any questions for me. Johnson – I gave you additional information to go over with. The first one is the map showing where that property is, and I have sited in yellow the number of properties that are considered commercial, industrial, commercial, so that all along Lake Road, there are those activities going on at this time. So that this is not spot zoning, it is following what is already there, and in my findings I sort of stated that, that its not something unusual, already occurring and has occurred on Lake Road for many, many years. So, and what they're doing is acceptable to me. They are now following what is required of them, and I gave them letters as to what is required, step one of that. Second one, map two, shows the property, it's not to scale, but its fairly close ,shows how it's going to go out and anything I circled is how close residential properties are to, one the road going in, and two, to the actual parking lot. There's not much out there, there's hundreds and hundreds of feet for the residential districts. In my conversations with the townships supervisor, he feels that there's not going to be any, no effect on property values. If you have any other questions for me, I'd be glad to answer them.

Hofstede – So when they get the order of operations here, first they get this letter, did he give us anything else with this letter? Like site plan or anything.

Johnson – nope, that's the second step, fee is included and his petition to rezone R1 parcels.

Hofstede – Ok

Novascone – I believe you've got everything you've asked for so far, correct?

Johnson – yes

Lahtinen – may I ask you a question LeRoy, In response to George's question about how the property may change in the future, new ownership, whatever else may happen, can we limit it to just this particular one? I know there's all kinds of Commercial but if we make a, it's all or nothing, we can't just make a.....

Johnson – No, it's all commercial, there's already been changes. Where Jake is right now, so it changes.

Kivi – and the township found that's acceptable, I know it came up in an earlier discussion.

Johnson – It seemed like it dragged out for awhile. The end result was compromised. They had to move and I believe at that time the township found it acceptable. This right now is a much better place for them. It's out of sight, out of mind and they can move all their stuff up there.

Kivi – I agree, but it does say something towards intent?

Johnson – well, back then I couldn't find any paperwork so we're establishing the proper procedure. Then you have paperword on what they want to do, and they have an understanding.

Lahtinen – so again, if in the future, new people move into the neighborhood, Jake sells the property, and the new commercial owner decides that he wants to run trucks all hours of the day and night and he's not going to do things about dust, noise, or whatever else, what guarantee do the people in the neighborhood have that, right now it's great....I think it's wonderful the way they did it.....

Johnson – you want to put conditions of operation

Lahtinen – well, they've already been in agreement, I'm talking about future use.

Johnson – well if you put conditions or hours of operation with the property.

Kivi – I agree, it's pretty difficult to do then.

Novascone – If there's a new person you'd have to deal with them. I don't foresee selling the property. We're looking for a long range commitment. That's basically what we're doing. Rather than have all that equipment parked out on Lake Road, I mean, in the winter months, in the summer months our equipment is gone, from Mid-April, til Mid-November, December the

stuff comes back, we work on it in the shop, we take a piece or two at a time, we go through all of our equipment regularly in the winter months. Basically what it'll be sitting up on the hill, we'll start it, bring it down, do our maintenance on it, bring it back, it's getting where we don't have enough room in our yard. Trucks will stay down on the bottom like I specified before. There's no reason for us to bring them up on the top of the hill.

Hofstede – I think we're all aware of Jake's plan, what we're talking about is if the property is sold in the future. Any permitted use in the commercial district could happen then.

Clausen – And that might be but Jake's could sell across the street in the future. I understand what I'm acquiescing for, and what that could potentially mean in the future, but at the same time it's not my property. As the one that owns the property next door, that future affects me more than it affects you.

Hofstede – Also, since I've been on this board we've never done spot zoning, so this would be a first. Understood, but we have to think about the future. But it also affects the whole township because then this is a precedent for zoning. But all along here if someone wants to rezone they would have to be taken just as seriously as this.

Johnson – Yes, of course, because of what's been done in the past. I don't believe it's a precedent because of the other rezonings that have been done all along there. This is not a unique situation, this has been going on for years and years and years. We had industrial, we had everything else

Hofstede – We have not done any spot zoning. How is it not, we're changing zoning, no?

Johnson – Right, this won't be spot zoning. The others have done the same thing. The map I've showed you has commercial/industrial.

Hofstede – Not in fifteen years. I've been on this board for that long and there's been no change in any zoning on this board.

Kafczynski – who gave them permission then?

Johnson – if you go back to the fifties and sixties there was no zoning. As far back as I can go is 77. That's when actual zoning appeared.

Kivi – In the last 15 years it had to come before this body.

Johnson – yes, I haven't done any. And what I've seen and what the properties are presently zoned, those are the ones that I put on the list. They're here. TR1 says you can have commercial. And the TR1 only provides certain things. It doesn't allow for commercial parking but the definition see commercial, that's where I'm coming from, you'd have to go to that to legally allow that to take place.

Hofstede – What other commercial or industrial lots are along Lake Road.

Johnson – Wingers, Industrial.

Hofstede – Commercial, the concrete plant. That was before zoning.

Johnson - before zoning, the only time it comes into play if there not there for two years. Then it's non conforming and reverts back to original zoning. There's no history of any of that. I have a difficult time looking back to see what has reverted back.

Justinak – In your words, what's the difference between Commercial and Industrial. And Ironwood Township got Industrial?

Johnson – Probably around the highway. There's two definitions. There's industrial district, and a commercial district.

Hofstede – No industrial, zoning never changed. There's commercial in the township but not industrial. Any other discussion.

Lahtinen – just to be sure, you couldn't as a condition put in that what they've agreed upon runs with the land if the land changes ownership.

Johnson – no, as long as it's commercial, if it's a special use then it has to come before the planning commission.

Hofstede – if there's no other discussion can we get a motion to close the public hearing.

Close Public Hearing: 6:33 p.m. Motion by Kafczynski, seconded by Rohde, to close the public hearing and reconvene the Special meeting. Roll call vote, all in favor. Motion carried.

Consider Application for Special Use Permit (s) for:

A motion by Rhode, supported by Justinak, to approve the Notice of Property Zoning Change Request by Jake's Excavating and Landscaping, LLC of N10633 Lake Road, Ironwood, MI 49938. The change of zoning is for two parcels. Parcel 3 1. 03-01-532-200, which abuts Lake Road and Parcel #2, 03-01-532-300, which abuts Parcel #1.

THESE PARCELS ARE PRESENTLY ZONED R-1 AND THE PROPERTY OWNER WISHES TO REZONE THEM TO C-COMMERCIAL FOR THE PURPOSE OF DEVELOPING A COMMERCIAL PARKING LOT IN PARCEL #03-01-532-300. PARCEL #03-01-532-200 WILL BE USED FOR THE ROAD LEADING TO THE ABUTTING PARCEL. Roll call vote, all in favor. Motion carried.

Public Comment: Brett Imwalle commented, I just wanted to point out that you were right to question the zoning. Anything that's not current with the land use map of the township is spot zoning. So unless the future land use map says differently and so it does set future precedence. Novascone – wanted to thank the board and Matt and his wife for the approval.

Adjournment/Schedule Next Meeting: A motion made by Kafczynski, supported By Rohde, to adjourn the Special Meeting/Public Hearing at 6:42 p.m. A motion by Rohde, supported by Kivi, to schedule the next meeting for August 19th, 2021. All in favor, motion carried.