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**Community Development Director**  
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**Planner**  
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## MEMORANDUM

**TO:** Planning Commission  
**FROM:** Alexander J. Bahorski, Planner  
**SUBJECT:** Sidewalk Deferment – Mid-Michigan Ponds, Parcel #050-003-200-090-00  
**DATE:** January 3, 2021

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### **SUGGESTED ACTION:**

**The Planning Commission approve a deferment for a shared use pathway installation for property located at parcel #050-003-200-090-00, on the east side of S. US 27, south of Round Lake Road, north of Howe Road, in the northwestern ¼ of Section 3 of DeWitt Charter Township as no sidewalk or shared use pathway is present on the same side of the street within 300 feet.**

### **Reason for Proposed Deferment:**

The applicant is requesting a deferment for the construction of a shared use pathway along the frontage of South Old U.S. 27 as required in Section 7.8.G. The applicant has indicated that while he has no objections to a public pathway, constructing one at this time would not be of benefit because currently there are no other pathways or sidewalks within 300 feet of the property.

### **Analysis:**

The adopted Non-Motorized Transportation Plan calls for a shared use pathway along Old U.S. 27 at this location. The closest sidewalks to this site would be at the intersection of Webb Road and Old US 27, which is a rather significant distance (> 1 mile). It is unlikely that a shared use pathway will be developed in this area in the short term and would likely be initiated as part of a larger project.

Given the existing conditions in the area, staff is of the opinion that a deferment is a reasonable request as the request will not impair the public health, safety, or general welfare of the inhabitants

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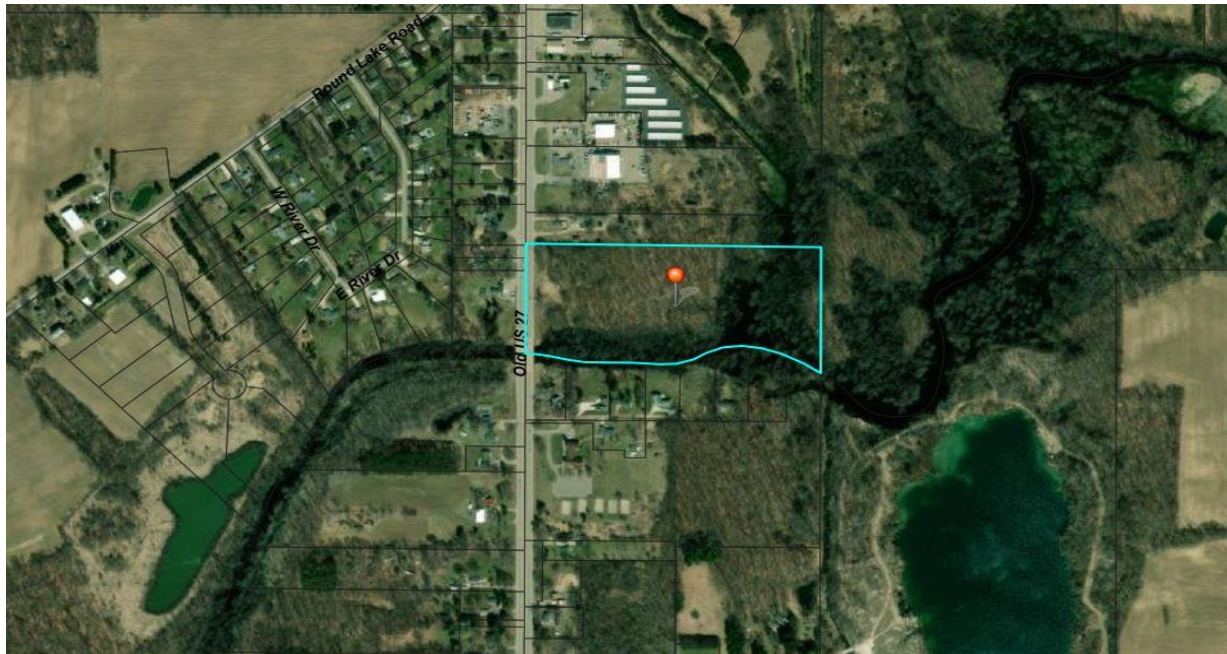
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of the Township. Per Section 7.8.G.2, the Planning Commission may, upon application from a nonresidential property owner, grant a deferment from the requirements of Section 5.3.C to defer construction of a sidewalk or shared use pathway for a period of time as the Planning Commission shall determine, but not to exceed three years, if no sidewalk or shared use pathway is present on the same side of the street within 300 feet, or if an adjacent property within 300 feet has been granted a deferment prior to the subject property. Provided, that as a condition of such deferment, a restrictive covenant affirming that the sidewalk or shared use pathway will meet the construction requirement as to said property within the period specified by the Planning Commission shall be recorded with the county register of deeds, which shall run with the land and be binding upon the applicant and the applicant's successors in interest in said property. Lots abutting a crosswalk or signalized intersection shall not be eligible for a deferment.

*The site meets all standards outlined for a deferment above.*

### **Site Location**



Attachments:

Section 7.8.G Variances, Deferments and Exemptions  
Request for Deferment Letter

F. Construction or repair by the township. If any owner shall fail or neglect to construct or repair any sidewalk or shared use pathway adjacent to their lot or parcel of land within such time as herein required, or as may be required by resolution of the Township Board, the Township Board may cause the same to be done, and the cost of said construction or repair may be paid out of the contingent fund of the township or financial guarantee posted for that purpose, and the Township Board may pursue the means necessary to recover the cost of said construction or repair from the owner as applicable.

G. Variances and deferments and exemptions.

1. Variances. The Township Board may, upon recommendation of the Planning Commission, grant a variance from the requirements of [Section 5.3.E](#) for the construction standards of a sidewalk or shared use pathway including but not limited to surface material, width or slopes. The Township Board shall only grant a variance if the proposed variance will not impair the public health, safety or general welfare of the inhabitants of the township. The Township Board shall not grant a variance unless it finds that a strict application of the construction standards would result in practical difficulties due to an undue hardship upon the owners of such lots or parcels. Practical difficulties may include, but shall not be limited to, severe variations in topography, unsuitable soils or difficulty in providing safe separate between pedestrian and vehicular traffic due to site location, layout or existing building arrangements.

2. Deferments. The Planning Commission may, upon application from a non-residential property owner, grant a deferment from the requirements of [Section 5.3.C](#) to defer construction of a sidewalk or shared use pathway for a period of time as the Planning Commission shall determine, but not to exceed three years, if no sidewalk or shared use pathway is present on the same side of the street within 300 feet, or if an adjacent property within 300 feet has been granted a deferment prior to the subject property. Provided, that as a condition of such deferment, a restrictive covenant affirming that the sidewalk or shared use pathway will meet the construction requirement as to said property within the period specified

by the Planning Commission shall be recorded with the county register of deeds, which shall run with the land and be binding upon the applicant and the applicant's successors in interest in said property. Lots abutting a crosswalk or signalized intersection shall not be eligible for a deferment.

i. Renewal of Deferment. A property owner may request a renewal of the deferment for a period not to exceed three years, provided that the requirements and conditions listed in [Section 7.8.G.2](#) are satisfied. The process for granting a renewal shall be subject to approval by the Community Development Department.

ii. Revocation of Deferment. Deferments under this section may be revoked at any time by the Planning Commission if the requirements and conditions listed in [Section 7.8.G.2](#) are no longer met. The Planning Commission shall notify the property owner of the intent to revoke the deferment thirty days prior to the meeting date.

Appeal from this [Section 7.8.G.2](#) shall be to the Township Board.

3. Exemptions. The Township Board may, upon recommendation of the Planning Commission, grant an exemption from the requirements of [Section 5.3.C](#) for the construction requirement of a sidewalk or shared use pathway. The Township Board shall only grant an exemption if the proposed exemption will not impair the public health, safety or general welfare of the inhabitants of the township. The Township Board shall not grant an exemption unless it finds that one of the following standards are met:

i. That a strict application of such requirements would result in practical difficulties due to an undue hardship upon the owners of such lots or parcels. Practical difficulties may include, but shall not be limited to, severe variations in topography, unsuitable soils or difficulty in providing safe separation between pedestrian and vehicular traffic due to site location, layout or existing building arrangements.



- If, as a result of the practical difficulties the cost of installing the sidewalk is in excess of ten percent of the overall project cost, the Township Board may grant the exemption. However, the Township Board may determine that the proposed sidewalk or pathway is a significant connection and deny the exemption.
- ii. The property in question is not identified in the Non-Motorized Transportation Plan or Comprehensive Development Plan as a future sidewalk or shared use pathway. However, in the event of unanticipated development that may have a significant impact on non-motorized transportation, sidewalks or shared use pathways may be required even though they may not be identified in the Non-Motorized Transportation Plan.
4. Process. A variance, deferment, or exemption request shall be filed by the property owner or their designated agent. An application for a variance, deferment or exemption shall be submitted to the Township's Community Development Department in writing and shall set forth the basis, rationale or reasons the applicant feels the request qualifies for the variance, deferment or exemption. The application shall be submitted, in writing, at least two weeks in advance of a regular meeting of the Township Planning Commission and shall be accompanied by the appropriate fee as shall be established from time to time by resolution of the Township Board.
  5. Reports. The Community Development Department shall have the responsibility of preparing a written report which shall be submitted to the Township Planning Commission or the Township Board as applicable prior to the meeting at which the application will be considered.

## 7.9 ZONING BOARD OF APPEALS

- A. Establishment. There is hereby established a zoning board of appeals (hereafter board of appeals). The board of appeals shall perform its duties and exercise its powers as provided by Public Act No. 110 of 2006, article VI (MCL 125.3601 et seq.).
- B. Membership, terms of office.
  1. The board of appeals shall consist of seven members.
    - a. The first member of such board of appeals shall be a member of the township planning commission and appointed by the township board for said member's term of office;
    - b. The second member shall be a member of the township board, appointed by the township board for said member's term of office; the member from the township board or any elected township official shall not be the chairperson of the board of appeals; an employee or contractor of the township board may not serve as a member of the board of appeals;
    - c. The five remaining members shall be as set forth in section 601(5) of Public Act No. 110 of 2006 (MCL 125.3601 (5)).
  2. The township board may appoint not more than two alternate members who are electors of the township for the same term as regular members of the board of appeals. An alternate member may be called as specified to serve as a member of the zoning board of appeals in the absence of a regular member, if the regular member will be unable to attend one or more meetings. An alternate member may also be called to serve as a member for the purpose of reaching a decision on a case in which the member has abstained for reasons of conflict of interest. The alternate member appointed shall serve in the case until a final decision is made. The alternate member shall have the same voting rights as a regular member of the board of appeals.
- C. Rules of appeals procedure. The board of appeals will adopt its own rules of procedure as may be necessary to conduct its meetings and carry out its function. The board of appeals shall choose its chairman, a vice-chairman, and a secretary.

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Standards

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Procedures

**7**  
Admin and  
Enforcement





## Mid-Michigan Ponds

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Brett Wittenberg  
Community Development Director  
Dewitt Charter Township  
Planning Department  
1401 W. Herbison Rd  
Dewitt, MI 48820

Re: Mid-Michigan Ponds LLC  
South Old US 27  
New Build

Mr. Wittenberg,

Mid-Michigan Ponds LLC is hereby requesting a deferment of the ordinance to construct a pedestrian pathway along our west property line on South Old US 27 in conjunction with our proposed new building. The nearest public walk is approximately 1 mile south at Webb Rd. We feel that the construction of a public pathway across out property, which would not connect to an existing pathway in the foreseeable future, would not be in the benefit of the Township at this time. When the Township has plans to construct public pathway to/across out property, we will have no objection to the pathway construction.

Thank your consideration of this matter.

  
Michael Harris

Owner  
Mid-Michigan Ponds LLC