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Vice-Chair
Stephen Gobbo
Secretary
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Brian Ross, Trustee
Kimberly Smelker
Bruce Keilen
Jason Flower
Theresa Shively
Tim Fair



Community Development Director
Richard M. Trent
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**PLANNING COMMISSION MINUTES
MONDAY, MAY 4, 2009
7:00 p.m.**

The Regularly Scheduled meeting of the DeWitt Charter Township Planning Commission was called to order at 7:00 p.m. by Chairperson Zimmerman.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Dailey.

MEMBERS PRESENT: Marsha Zimmerman, Dale Dailey, Terri Shively, Kim Smelker, Steve Gobbo, Bruce Keilen, Jason Flower, Tim Fair and Trustee Ross.

MEMBERS ABSENT: None.

STAFF PRESENT: Jim Foulds, Township Planner and Linda Parkinson, Recording Secretary.

APPROVAL OF AGENDA: **Keilen moved to approve the Agenda as printed. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Gobbo moved to approve the minutes of the April 6, 2009 Regular Meeting as presented. Supported. MOTION CARRIED.**

INTRODUCTION: Chairperson Zimmerman welcomed Commissioner Tim Fair as the newly appointed Planning Commission member. He will be filling the vacancy for previous Commissioner Mike Nolen.

CORRESPONDENCE: Township Planner Jim Foulds noted that the Commissioners received in their packet a copy of the DeWitt Charter Township 2008-2013 Strategic Plan. Staff recommends the Commissioners review the document and prepare any questions or comments to be discussed at the next meeting to be held on June 1, 2009. Commissioners were encouraged to save their copy of the document and bring it to the next meeting.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

I. Request for Special Use Permit 09-990002 from E.T. MacKenzie Company (Major Amendment to SUP 07-990005), for property located at 14788 Boichot Road, Lansing, MI 48906, on the north side of Stoll Road, east of US-127BR, west of Boichot Road, in the SW ¼ of Section 22 of DeWitt Charter Township, to allow the applicant to eliminate the 50 foot setback along the north property line so the existing excavation and lake can be connected to the applicant's excavation project and related lake located on property to the north.

Township Planner Foulds briefly reviewed staff's memorandum dated April 23, 2009 noting that a joint Public Hearing was held on May 4, 2009 for Request for Special Use Permits 09-990002 and 09-990003 from E.T. MacKenzie Company. Both requests are Major Amendments to existing Special Use Permits 07-990005 and 07-990007 respectively. The applicant is requesting to eliminate the existing fifty (50) ft. setback for the northern boundary of the Stoll Road site and eliminate a portion of the existing fifty (50) ft. setback on the southern boundary of the Clark Road site. Approval of the requests would allow the applicant to expand and connect the two (2) existing extraction operations occurring on both sites. Both sites are zoned A (Agricultural) and designated for SF-M (Medium Density Single Family Residential) on the Future Land Use Map.

Foulds advised that questions were raised at the Public Hearing regarding maintenance of the surface water level. The applicant has followed up with some elevation research. The Clinton County Drain Commissioner has expressed that an outlet may be necessary at some point. However, at this time all surface water will drain into the site's water body.

With respect to the Clark Road site, staff is recommending as a condition of approval that the applicant increase the amount of the existing financial guarantee due to the proposed amount of increased excavation area. No increase will be required for the Stoll Road site because the total site area was subject to a financial guarantee under the existing Special Use Permit (07-990005).

Shively stated it was brought up at the Public Hearing that several residents in the area have been adversely affected by the noise generated from the excavation process. She suggested the proposed Special Use Permits prohibit Saturday hours of operation in order to provide some relief for area residents. She questioned what the applicant has in mind for a completion date.

Foulds explained that both sites have existing Special Use Permits that allow Saturday hours of operation. However, the Planning Commission can consider an amendment.

Chairperson Zimmerman invited the applicant to the podium to answer any questions the Commissioners may have.

Ron Clark representing E.T. MacKenzie Company, 4248 W. Saginaw Highway, Grand Ledge, MI 48837, stated that both sites are currently operating on Saturdays, as needed. This is allowed under the existing Special Use Permits. Although they do not work every Saturday, the flexibility is necessary to accommodate the need for materials during the construction season. Restricting current hours of operation would cause great hardship to the applicant.

Brief discussion followed regarding local projects that the current excavation operations on Clark Road and Stoll Road service, the fact that the subject sites do not operate on Sundays, the renewal process of the existing Special Use Permits and the fact that the Clark Road site was inactive for several years prior to the applicant purchasing the property.

Clark indicated that the original Special Use Permit for the Stoll Road site was issued in 2007, renewable for five (5) years. Even with the approval of the major amendment, it is expected to reach completion by the end of 2012. When E.T. MacKenzie was issued a Special Use Permit for the Clark Road site in 2007, it was

anticipated to take approximately nine (9) years for completion. If the major amendment is approved for this site it is anticipated to take an additional one (1) year period.

Shively noted at the Public Hearing there was discussion related to mitigating the beeping noises the equipment makes when backing up.

Clark stated he checked further and found that all of the applicant's dedicated mining operation equipment has a "growler" alarm system that works at a much lower decibel reading than that of the standard back up beeping equipment. However, most of the applicant's trucks that travel on the road are equipped with the standard alarm system that beeps.

Brief discussion followed regarding the process for annual inspections of the excavation sites and how complaints are followed up on.

Chairperson Zimmerman noted a fair number of residents present in the audience and invited public comments.

Ken Pung, 14780 Boichot Road, Lansing, MI 48906, stated the mining activity behind his property has been in existence since approximately 1996. He expressed concern with noise and dust related to the mining operation and the lengthy amount of time that it has caused disturbance to the surrounding residents. He is opposed to both of the proposed major amendment requests and would like to see the mining on both sites come to an end, even if it means continuing to allow Saturday hours of operation.

Matt Szydowski, 14784 Boichot Road, Lansing, MI 48906, stated he has lived at his current residence for approximately six (6) years and hopes to remain there for many more. He is tired of all the noise and dust related to the Stoll Road mining operation and would like to see it brought to completion.

Smelker questioned if the two (2) sites are joined together, would the Stoll Road operation be allowed to continue to operate until the Clark Road site reaches its expiration date?

Foulds stated the request for major amendments to SUP's 09-990005 and 09-990007 is to allow the physical connection of the two (2) extraction operations. The expiration dates of these permits are still in effect based on the individual Special Use Permits granted for each site.

Clark concurred with Foulds that the permits are separate and have separate expiration dates.

Gobbo questioned what amount of additional operation time would be involved if the two (2) subject sites were approved to connect.

Clark stated approval to connect the two (2) mining operations would extend operation of the Stoll Road site for approximately one half (½) a construction season and would extend operation of the Clark Road site for approximately one whole construction season beyond the anticipated completion date.

Flower moved that the Planning Commission recommend the Board of Trustees to approve request for Special Use Permit 09-990002 (Major Amendment to Special Use Permit 07-990005) for the Stoll Road property to allow the expansion of excavation of soil and minerals pursuant to Section 7.13.7 of the DeWitt Charter Township Zoning Ordinance. Approval is recommended on the following basis:

- 1. That the proposed expansion of excavation of soil and minerals will be operated in accordance with the requirements of Section 7.13.7 of the Zoning Ordinance.**
- 2. That the proposed expansion of excavation of soil and minerals will continue to meet the requirements of existing Special Use Permit 07-990005 for the property.**

3. That the Basis for Determination for Special Use Permits listed in Section 7.4.3 of the Zoning Ordinance have been met.
4. That the applicant meets the permit requirements of the Michigan Department of Environmental Quality for the expansion of the water surface.
5. That the applicant meet the Clinton County Drain Commissioner's requirements for soil erosion and sedimentation control as well as any water level control devices for the expanded water body.
6. That the haul route for the expansion of excavation for the soil and minerals will be through the Clark Road site (Special Use Permit 07-990007) and subject to the requirements of that permit.

Supported.

Commissioner Daily reminded the Commission that action was taken at the May 4, 2009 Planning Commission meeting to allow him to abstain from discussion and voting on Special Use Permit 09-990002 and Special Use Permit 09-990003.

ROLL CALL vote on motion:

AYES: 7 NAYS: 1 (Shively) ABSTENTION: 1 (Dailey)

MOTION CARRIED.

- II. Request for Special Use Permit 09-990003 from E.T. MacKenzie Company (Major Amendment to SUP 07-990007),** for property located at 1300 E. Clark Road, Lansing, MI 48906 and 14700 Boichot Road, Lansing, MI 48906, west of Boichot Road, east of S. US-127BR, south of Clark Road, north of Stoll Road, in the west ½ of Section 22 of DeWitt Charter Township, to allow the applicant to eliminate the 50 foot setback along a portion of the south property line so the existing excavation and lake can be connected to the applicant's excavation project and related lake located on the property to the south.

Foulds briefly reviewed staff's memorandum dated April 23, 2009 noting that conditions for Special Use Permit 09-990003 are the same as Special Use Permit 09-990002, with the exception of the applicant being required to provide an expanded financial guarantee to assure that the Clark Road site will be restored in accordance with approved plans for the site.

Discussion and comments regarding this request were made under Unfinished Business Item I.

Keilen moved that the Planning Commission recommend the Board of Trustees to approve request for Special Use Permit 09-990003 (Major Amendment to Special Use Permit 07-990007) for the Clark Road property to allow the expansion of excavation of soil and minerals pursuant to Section 7.13.7 of the DeWitt Charter Township Zoning Ordinance. Approval is recommended on the following basis:

1. That the proposed expansion of excavation of soil and minerals will be operated in accordance with the requirements of Section 7.13.7 of the Zoning Ordinance.
2. That the proposed expansion of excavation of soil and minerals will continue to meet the requirements of existing Special Use Permit 07-990007 for the property.
3. That the Basis for Determination for Special Use Permits listed in Section 7.4.3 of the Zoning Ordinance have been met.

4. **That the applicant meets the permit requirements of the Michigan Department of Environmental Quality for the expansion of the water surface.**
5. **That the applicant meet the Clinton County Drain Commissioner's requirements for soil erosion and sedimentation control as well as any water level control devices for the expanded water body.**
6. **That the applicant provide the required expanded financial guarantee to assure that the site will be restored in accordance with approved plans for the site.**

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 1 (Shively) ABSTENTION: 1 (Dailey)

MOTION CARRIED.

III. PUBLIC HEARING - Request for Special Use Permit 09-990004 from Schafer's 27 LLC for property located at 16164 N. US-27, Lansing, MI 48906, Lots #44, #46 and #47 of Valley Farms, No. 1 Subdivision, north of Wieland Road and south of Hannah Street, in the northeast ¼ of Section 33 of DeWitt Charter Township.

- A. **Open Public Hearing. Keilen moved to open the Public Hearing at 7:45 p.m. Supported. MOTION CARRIED.**
- B. **Administrative Comments/Applicant Comments/Public Comments.**

Foulds briefly reviewed staff's memorandum dated April 21, 2009 advising that the subject property located at 16164 US-27 was formerly the site of Panorama Video and Chip's Sports Bar. The property is zoned BC (Business, Community). The applicant intends to occupy the front portion of the existing vacant building for office use, storage of supplies and materials and retail services related to the proposed lawn and garden supply center. This use is allowed by right in the BC (Business, Community) zoning district. In addition, the applicant intends to utilize the northern portion of the site for outdoor storage bins to house retail and wholesale landscape and garden materials. This use is allowed by Special Use Permit in the BC (Business, Community) zoning district.

The surrounding zoning consists of BC (Business, Commercial) to the north, south and east and R5 (Residential Single and Two Family) to the west. The surrounding Future Land Use designations consist of CC (Community Oriented Commercial) to the north, south, east and west. Surrounding land uses consist of single family residential to the west, residential/commercial to the south and commercial to the north and east.

The applicant proposes that the lawn and garden supply center will be an interim use until such time that the economy improves and the property can be redeveloped for a more permanent commercial use. The subject site is within the boundaries of the South Central Area Plan adopted for the purpose of revitalization of the general area located south of Stoll Road, north of Sheridan Road, east of Turner Road and west of Wood Road.

Hearing no Commissioner questions, Chairperson Zimmerman invited the applicant to speak.

Roger Dean, representing the applicant, 6025 Aurelius Road, Lansing, MI 48911, stated he was present for questions.

Gobbo questioned if any of the materials stored outside could potentially leach into the drainage system or onto surrounding properties.

Dean stated “no”.

Fair questioned the number of storage bins proposed and if delivery trucks would be present on the site.

Dean advised there would be forty-three (43) storage bins and delivery trucks would be used.

Shively questioned if the applicant intends to provide landscaping.

Dean referred to the landscaping plan submitted on April 3, 2009 explaining that the entire frontage of the existing building, as well as the northeast corner of the site, would be landscaped to provide a more aesthetically pleasing character.

Foulds noted the site currently has two (2) commercial driveways to US-127BR, and one (1) commercial driveway to Wieland Road. The Wieland Road driveway will remain. The southern most driveway on US-127BR will be closed. The remaining northern most driveway on US-127BR will remain opened. In addition, the existing non-conforming sign structure will remain. The applicant intends to replace the sign face with the name of the new business. There will be no exterior lighting other than security lighting on the building. Lastly, the existing building is non-conforming due to the fact that the west side of the structure is located on the property line.

Brief discussion followed regarding the fact that the applicant will not be storing any materials outside that could be harmful to the environment. Also, that the proposed use is interim until such time as the economy turns around and a more permanent use can be decided.

Daily asked the applicant to clarify if there would be dust and/or noise from the delivery trucks.

Dean stated he did not feel dust would be an issue and that the loaders do make some noise.

Chairman Zimmerman invited public comment.

Jeffrey Jones, 2352 W. Clark Road, Lansing, MI 48906, stated he owns property north of the site located at 16090 S. US-127BR. He expressed concern with utility vehicles being parked on the proposed site. He is hopeful that this new business will enhance the area and make it a desirable place for other businesses to locate.

Foulds advised that he has had conversations with the applicant. It was conveyed to him that the equipment on the site will be removed.

With respect to the storage of environmental contaminants on the site, Foulds suggested perhaps the Commission entertain adding a condition of approval that would address concerns related to bulk fertilizer etc. This would circumvent any problems in the future if the property should change ownership.

C. Close Public Hearing. **Hearing no further comments or questions, Keilen moved to close the Public Hearing at 8:00 p.m. Supported. MOTION CARRIED.**

D. Discussion and possible action by Planning Commission.

Gobbo moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 09-990004 from Schafer's 27 LLC to allow the applicant to conduct an open air business for landscape and garden products on the property located at 16164 S. US-127BR. Approval is recommended on the following basis:

- 1. The standards of the Basis for Determination for Special Use Permits listed in Section 7.4.3 of the Zoning Ordinance have been met.**
- 2. Upon compliance with the conditions of the Special Use Permit, the plans will comply with the site plan review standards listed in the Zoning Ordinance to include the requirement for a sign permit under Chapter XI of the Zoning Ordinance.**
- 3. That the requirements of all reviewing public agencies have been complied with prior to the issuance of final occupancy permits for the property.**
- 4. That the landscape plan, as proposed by the applicant, be implemented and maintained to improve the visual appearance of this redeveloping business corridor.**
- 5. That the applicant implement the best management practices for storage and transportation of materials to protect the surrounding environment.**

Supported.

ROLL CALL vote on motion:

AYES: 9 NAYS: 0

MOTION CARRIED.

NEW BUSINESS:

- I. Request for PA116 Status – Farmland and Open Space Preservation Program from Robert E. Bower for property located at 15413 Turner Road, Lansing, MI 48906, south of Stoll Road, north of State Road, in the northwest ¼ of Section 28 of DeWitt Charter Township.**

Flower moved that the Planning Commission receive request for PA116 status – Farmland and Open Space Preservation Program from Robert E. Bower and set for a Public Hearing to be held on Monday, June 1, 2009. Supported. MOTION CARRIED.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

- I. Trustee:**

Trustee Ross gave a report on business conducted and action taken at the regularly scheduled meetings of the Board of Trustees held on April 13, 2009 and April 27, 2009.

- II. Zoning Board of Appeals:**

Gobbo advised that there was no Zoning Board of Appeals meeting held in the month of April due to no applications being filed.

- III. Committees: None.**

- IV. Staff:**

Township Planner Jim Foulds referred to the wind energy informational packet distributed to Commissioners. He advised that staff has been conducting research and seeking legal counsel from the Township Attorney in preparation of drafting a wind energy regulation ordinance. Staff requests direction on whether to draft an ordinance for review or whether the Planning Commission should first sponsor a community workshop for public input.

Brief discussion followed regarding size, location, price and cost effectiveness of wind energy products and how the Township should proceed with establishing regulations.

The consensus of the Commission is to direct staff to notify Township residents via the newsletter of the pending process to draft an ordinance regulating wind energy structures and to hold a forum for public input on the topic.

DISCUSSION: None.

ADJOURNMENT: **Fair moved to adjourn the meeting at 8:45 p.m. Suported. MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Dale Dailey, Secretary