

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MI
PLANNING COMMISSION MINUTES
MONDAY, NOVEMBER 6, 2006**

The regularly scheduled meeting of the DeWitt Charter Township Planning Commission was called to order at 7:00 p.m. by Vice Chairman White.

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

ROLL CALL by Secretary Smelker.

MEMBERS PRESENT: Greg White, Kim Smelker, Bruce Keilen, Jason Flower, Mike Nolen, Terri Shively and Trustee Seeger.

MEMBERS ABSENT: Steve Gobbo.

APPROVAL OF AGENDA: **Flower moved to approve the Agenda as presented. Supported. MOTION CARRIED.**

APPROVAL OF MINUTES: **Keilen moved to approve the minutes of the September 5, 2006 Regular Meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: Planning Director Jeff Gray advised that the following correspondences have been received regarding Request for Special Use Permit 06-990003 and will be discussed further under Item I. of Unfinished Business:

1. Correspondence from KEBS, Inc. dated November 3, 2006 regarding logs for the wells in the vicinity of the proposed mining site.
2. Correspondence from KEBS, Inc. dated November 6, 2006 regarding soil borings conducted on the proposed site.
3. Correspondence from Robert and Laura Harris received November 6, 2006 expressing their concerns regarding request for Special Use Permit 06-990003.

PUBLIC COMMENTS: Daniel Ondrias, 2960 E. Howe Road, DeWitt, MI, began expressing concerns related to request for Special Use Permit 06-990003. Vice Chairman White pointed out that Mr. Ondrias would be given the opportunity to speak during the Public Comment section under Item I. of Unfinished Business.

UNFINISHED BUSINESS:

I. PUBLIC HEARING – Request for Special Use Permit 06-990003 from D.L. Kesler, to be allowed to extract soil and minerals on an approximately 191.14 acre site, with approximately 150 acres subject to the actual mining activity, located at 2285, 2273 and 2707 E. Howe Road, east of US-127, west of Krepps Road, south of the Looking Glass River, in Section 2 of DeWitt Charter Township.

A. Open Public Hearing. **Vice Chairman White declared the Public Hearing opened at 7:04 p.m.**

B. Administrative Comments/Applicant Comments/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated November 3, 2006 pointing out the location of the site and advising that there are three parcels involved in the 191.14 acre site. All three properties are located in the A (Agricultural) zoning district. The proposed extraction of sand and gravel from the site is allowed by Special Use Permit in the Agricultural zoning district, with the recommendation for approval by the Planning Commission and approval by the Board of Trustees. The Future Land Use designation for the site is AP (Agricultural Preservation).

Gray went on to state that the surrounding land uses consist of Agricultural and Undeveloped to the north and Residential and Undeveloped to the east, south, and west. The surrounding zoning consists of A (Agricultural).

The site features consist of residential and crop farming activities. The Looking Glass River runs adjacent to the northern property line of the two agricultural parcels, and includes floodplain areas and mature trees. A home exists on the third parcel to the east and is not included in the site area.

Gray further advised that the applicant intends to fence the perimeter of the site. Approximately 170 acres will be within the fenced area. Access to the fenced area will be controlled by electronic remote. It is expected that at some point during the operation water will be encountered, resulting in a lake with possible residential lots and a new road. It is important to note that approval of the residential portion will be subject to separate review. The area subject to excavation totals 150 acres, excavating approximately 6 to 8 acres each year. There will be trucks, loaders, sorting and processing equipment on site.

Gray pointed out the location of the existing Wolverine pipeline on the site. The applicant intends to relocate this pipeline.

Gray explained that the excavation of soil and minerals is a fairly unique use in that it cannot be permitted in a variety of locations. Rather, it must be permitted where soil and minerals are present for excavation. The Township is able to place reasonable conditions on the use to assure that the impacts associated with a mining operation are minimized to the greatest extent possible.

Gray advised Section 7.13.7(2) of the Zoning Ordinance calls out the required and discretionary standards that must be met by the proposed excavation operation. Minimum standards consist of meeting setbacks, fencing, sign, and grading requirements, as well as site improvements and restoration of the property.

With respect to discretionary standards, Gray stated the following: the applicant is in the process of developing revised plans that definitively show the proposed locations of berms on the property; the requested hours of operation are from 7:00 a.m. to 5:00 p.m. Monday through Saturday, except on Township recognized holidays, similar to other mining operations in the Township. Sorting equipment hours are the same, for up to a maximum of 120 working days per calendar year; the proposed haul route is Howe Road west to Wood Road, then north to Round Lake Road and east to US-127; the applicant is required to post a surety with the Clinton County Road Commission to guarantee maintenance of the haul route; the applicant is in the process of revising their plans to show phasing to minimize the financial guarantee amount for restoration of the site (\$6,750.00 per acre); the applicant proposes that dust control will be accomplished by water applications and proper maintenance of noise suppression devices will be used; lastly, the Special Use Permit is recommended to be issued for a period of one year, renewable for additional years subject to staff inspection and Board of Trustees approval.

With respect to public facilities and services, Gray stated the following: no response has been received from the Clinton County Road Commission regarding this request; the Clinton County Drain Commissioner's Office indicates that the Office does not foresee any major issues. However, a Soil Erosion and Sedimentation Permit will be required; the Township has not received requested comments from Wolverine Pipeline as to the implication of the proposed mining operation and intended pipeline relocation; a condition of approval includes that the applicant provide approvals from the Michigan Department of Environmental Quality (MDEQ) prior to commencing with excavation on the property for dewatering of the site and creation of an inland lake, as well as providing confirmation of the floodplain elevation; lastly, no additional concerns have been expressed by the remaining reviewing agencies.

In closing, Gray advised that the following items still need to be provided: a revised plan to address project phasing and site screening; soil borings, reviews from the Wolverine Pipeline Company and the Road Commission; and a certificate of the floodplain elevation. Therefore, staff recommends action on request for Special Use Permit 06-990003 from D.L. Kesler be postponed until the December 4, 2006 regular meeting.

Brief discussion followed regarding the specifics of the proposed well protection agreement.

Nolen questioned who has jurisdiction over the proposed haul route and maintenance of the roads.

Gray advised that the guarantee amount for road maintenance is under the jurisdiction of the Clinton County Road Commission. The Township regulates the haul route location.

Brief discussion followed regarding the fact that this proposed mining operation will be the third within DeWitt Charter Township.

Nolen questioned if the Township has discretionary power to limit the number of mining operations within the Township.

Gray advised that in previous discussions with the Township Attorney he advised that the Township does not have the discretion to limit the number of mining operations within the Township.

Nolen directed staff to contact the Township Attorney for additional direction on this issue.

Hearing no further questions, Vice Chairman White invited the applicant to speak.

Daryl Kesler, 12671 Center Road, Bath, MI 48808, applicant, stated the only information he would like to advise is that he has spoken with the Clinton County Road Commission prior to purchasing the site to assure they did not have a problem with the proposed haul route. In addition, he has spoken with Wolverine Pipeline regarding the relocation of the existing pipeline on the site. They indicated to him relocation would not be a problem. The only issues to resolve are incurred costs and obtaining easements. Lastly, Phase I of the project has been called out on revised plans. He would be glad to review this information for the Commission. However, if the Commission is inclined to postpone action, perhaps they should move on to the Public Comment portion of the meeting.

Vice Chairman White advised Mr. Kesler to submit any revised plans or additional information to the Planning staff so that they may disseminate it to the Planning Commission.

Vice Chairman White invited public comments.

John Guthrie, 13200 Wood Road, Bath, MI 48808, questioned if Wood Road was part of the proposed haul route. He expressed concern with existing truck traffic on Wood Road traveling at excessive speeds. He does not feel there should be additional heavy trucks traveling on Wood Road.

Laura Harris, 2711 E. Howe Road, DeWitt, MI 48820, referred to the information she submitted to the Planning Department earlier today (see file). She expressed the following concerns: relocation of the existing Wolverine Pipeline causing water contamination; haul route traffic on Howe Road; and the fact that fencing and berming has not been properly addressed at this time.

Robert Harris, 2711 E. Howe Road, DeWitt, MI 48820, stated that the well protection agreement provided in the Planning Commission packets addresses only water quantity and depth of wells, it does not speak to the issue of water quality.

Shirley Rusiecki, 12541 Wood Road, DeWitt, MI 48820, expressed concern with existing heavy truck traffic speeding down Wood Road. She stated that the Township has enough mining operations at this time and does not see the need for another. Lastly, she expressed concern with possible decreased value of her home with increased truck traffic on Wood Road.

Harold Taylor, 2109 E. Howe Road, DeWitt, MI 48820, stated he has lived on the corner of Howe Road and Wood Road for almost 30 years. Haul trucks have utilized Wood Road the whole time he has lived in the area. He does not feel a few more trucks will have an adverse impact on the area. Taylor noted that approval of this operation would be positive for the Township by increasing the tax base.

Robert Wells, 11121 Wood Road, DeWitt, MI 48820, expressed concern with preservation of the Looking Glass River. He further expressed concern with increased truck traffic on Wood Road with respect to noise and public safety.

Daniel Ondrias, 2960 E. Howe Road, DeWitt, MI 48820, spoke in opposition of granting Special Use Permit 06-990003 stating the following reasons: relocation of the Wolverine Pipeline causing contamination. He urged the Commission to contact the Michigan Department of Environmental Quality (MDEQ); he spoke with Wolverine Pipeline on October 17, 2006, at that time they were unaware of this request and was advised they could for see possible problems related to the proposed mining operation; E. Howe Road would not be a safe choice for a haul route as it is unpaved, narrow and undulating with a residential character; lastly, Ondrias expressed concern with drainage and flooding issues.

Russel Bauerle, 11665 Krepps Road, DeWitt, MI 48820, noted there is a great deal of agricultural drainage that originates from Sections 11 and 12 and flows toward the site. He would like answers as to how this drainage will be handled.

Mike Ridge, 11867 Wood Road, DeWitt, MI 48820, stated although he understands all of the concerns expressed during public comment, the materials exist on specific sites and are needed for the construction industry to operate.

There were no further public comments.

- C. Close Public Hearing. **Hearing no further public comments, Nolen moved to close the Public Hearing at 7:41 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Keilen moved that the DeWitt Charter Township Planning Commission postpone action on request for Special Use Permit 06-990003 from D.L. Kesler, until the December 4, 2006 regular meeting to allow the applicant time to

provide all plan revisions and additional information, and to obtain necessary agency comments. Supported.

Seeger stated that no County Drains exists in the area of the site. Therefore, the Drain Commissioner's Office has no jurisdiction.

Gray advised that MDEQ would oversee any issues regarding the Looking Glass River.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0 ABSENT: 1 (Gobbo)

MOTION CARRIED.

NEW BUSINESS:

- I. Request for Special Use Permit 06-990004 from Warden Development LLC, to be allowed to extract soil and minerals on an approximately 38.08 acre site located on the south side of Round Lake Road, southwest of the intersection of Round Lake Road and Krepps Road, in the northeast ¼ of Section 2 of DeWitt Charter Township.**

Keilen moved to receive and set for a Public Hearing Request for Special Use Permit 06-990004 from Warden Development LLC to be held on Monday, December 4, 2006. Supported. MOTION CARRIED.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

- I. Trustee:**

Trustee Seeger gave a brief report on business conducted and action taken at the October 9, 2006 and October 23, 2006 regularly scheduled Board of Trustees meetings.

- II. Zoning Board of Appeals:**

Vice Chairman White advised that there was no Zoning Board of Appeals meeting held during the month of October due to no applications being filed.

- III. Committees: None.**

- IV. Staff:**

Gray advised a meeting has been scheduled for Thursday, November 9, 2006 by the Clinton County Road Commission to include staff, infrastructure, Michigan Department of Transportation (MDOT), and Michigan Department of Economic Development Corporation (MEDC) to discuss grant and funding options available for roadway improvements associated with the Auto Owners Insurance Company

project.

Gray further advised the search to fill the vacancy on the Planning Commission is continuing.

Lastly, Gray stated the Board of Trustees is in the process of finding a permanent replacement for the Township Manager's position. He has advised the Board that he does not intend to apply for the position.

DISCUSSION: None.

ADJOURNMENT: **Seeger moved to adjourn the meeting at 7:53 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Kim Smelker, Secretary