

**DEWITT CHARTER TOWNSHIP  
1401 W. HERBISON ROAD, DeWITT, MI  
PLANNING COMMISSION MINUTES  
MONDAY, JULY 2, 2007**

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

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

ROLL CALL by Secretary Smelker.

MEMBERS PRESENT: Steve Gobbo, Bruce Keilen, Kim Smelker, Mike Nolen, Greg White, and Trustee Ross.

MEMBERS ABSENT: Terrie Shively.

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

APPROVAL OF MINUTES: **White moved to approve the minutes of the June 4, 2007 Regular Meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: The following correspondence was received and noted by the Planning Commission:

1. MTA Seminar Flyer

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

- I. **Request for Site Plan Review 07-150002 from Sheffer Court, LLC**, to allow the construction of a 30'x72' storage building previously destroyed by fire on property located at 3707 Sheffer Avenue, Lansing, south of the Capital City Airport West Service Drive, east of Airport Road and west of Capital City Boulevard, in the southwest ¼ of Section 31 of DeWitt Charter Township. **Action postponed at the June 4, 2007 meeting.**

Assistant Planner Harmony Gmazel briefly reviewed staff's memorandum dated July 2, 2007 noting that the Commission was provided a memo in this month's packet for a 2<sup>nd</sup> recommended postponement of this request. This recommendation was based on the lack of adequate septic facilities on the site. As of Monday, July 2, additional information has been provided to staff from the Mid-Michigan District Health Department (MMDHD) concerning the location of a septic field that is required to be installed at the site. In light of these changes, staff recommends approval of Site Plan Review 07-150002, subject to three conditions.

Hearing no Commissioner comments or questions, Chairman Gobbo invited the applicant to speak.

Mark Kerrins, owner, Sheffer Court, LLC, P.O. Box 14073, Lansing, MI 48906, noted the location of the site. He further advised that he has been very diligent over the past month in trying to meet all requirements of the Mid-Michigan District Health Department (MMDHD) and DeWitt Charter Township. On June 29<sup>th</sup> he was issued a permit for the sanitary sewer. He has worked with the MMDHD and determined an acceptable location of a septic field that is required to be installed on site. In closing, Kerrins commended staff and the MMDHD for their help in determining a feasible solution.

There were no public comments.

**Nolen moved that the Planning Commission approve action on Site Plan Review 07-150002 from Sheffer Court, LLC to allow for the construction of a 2,160 square foot warehouse structure at 3707 Sheffer Court in the southwest ¼ of Section 31, in accordance with the site plan dated April 17, 2007, subject to the following conditions:**

- 1. The site plan shall comply with the requirements of all other applicable reviewing agencies.**
- 2. That the applicant provide a revised site plan that depicts the location of the proposed septic field and all related onsite improvements.**
- 3. That the applicant provide a revised site plan to depict appropriate parking lot markings and lighting for the proposed warehouse.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 7      NAYS: 0      ABSENT: 1 (Shively)      VACANT: 1**

**MOTION CARRIED.**

**II. PUBLIC HEARING - Request for Special Use Permit 07-990004 from Tim Hortons (Sean Essinger), to be allowed to construct a 2,384 sq. ft. coffee/donut shop with a drive through window located on property at 12970 S. US-127BR, on the west side of US-127BR (formerly BR-27), north of Herbison Road, south of Webb Road, in the southeast ¼ of Section 9 of DeWitt Charter Township.**

**A. Open Public Hearing. Chairman Gobbo declared the Public Hearing opened at 7:12 p.m.**

**B. Administrative Comments/Applicant Comments/Public Comments.**

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated June 29, 2007 pointing out the location of the site. The site is zoned BC (Business, Community) and designated for CC (Community Oriented Commercial) on the Future Land Use Map. The surrounding zoning consists of BC to the north, east, and south, and BSC (Business, Shopping Center) to the west. The surrounding Future Land Use Designations consist of CC to the north, south, east, and west.

Gmazel went on to review the request for compliance with the requirements listed in Section 7.13.30 of the Zoning Ordinance advising the following: the proposed drive-through window will be well beyond the required 100 ft. separation to the nearest residential area; the primary egress point is part of the access management of US-127BR and in compliance with the 60 ft. separation requirement from Northway Drive; the proposed drive-through shows a total of seven stacking spaces at the required 10 ft. by 20 ft. dimension, consistent with Ordinance requirements; the plan shows the required bypass lane at 17 ft. along the east side of building, and at 15 ft. along the north side of the building, consistent with Ordinance requirements; lastly, the proposed Special Use Permit includes the condition that no audio transmission devices shall be clearly heard beyond the boundaries of the site.

Gmazel further reviewed the request for compliance with Section 7.1(B) of the Zoning Ordinance pertaining to Site Plan Review stating the following: the applicant is proposing to divide the entire 1.37 acre parcel into a 0.60 acre parcel for the Tim Hortons facility. Based on the 0.60 acreage, the site meets all area, width, building height, and setback requirements; the Ordinance requires 21 parking spaces. The site plan shows 15 on site and depicts shared parking spaces with Delta Medical Center. The applicant must provide a shared parking agreement to the Township prior to the issuance of a building permit; a revised site plan will be required that indicates 0.0 foot candle levels at the edge of US-127BR and the service drive; the site plan meets all landscaping requirements; a revised site plan that depicts the east/west sidewalk extending entirely to the curb of US-127BR is required; lastly, the construction schedule indicates commencement in August of 2007 with construction ending in November 2007, followed by the opening in November.

With respect to public services and facilities, Gmazel stated the following: Forty-two (42) notification letters were sent out; two responses were received, one in support of the Special Use Permit and the other asking for a revised landscaping plan; if work is proposed along Northway Drive, the Clinton County Road Commission (CCRC) must be contacted for a permit; if work is proposed along US-127BR, the Michigan Department of Transportation (MDOT) must be contacted for a permit; the Lansing Board of Water and Light indicates that adequate water and electric service is available at the site; the Southern Clinton County Utilities Authority (SCCMUA) will require data related to the average wastewater discharge on the site, and effluent testing records, as well as the installation of an oil/grease interceptor and sampling manhole be installed; the Clinton County Drain Commission (CCDC) mentions that detention and other storm water management measures must be reviewed by their office, as well as requiring the applicant to obtain a soil erosion and sedimentation permit; lastly, no additional concerns have been received from the remaining agencies regarding this Special Use Permit.

In closing, Gmazel noted that the request appears to comply with the standards set forth in Section 7.6(1) of the Zoning Ordinance, Basis for Determination for Special Use Permits (see pages 7 and 8 of staff's report dated June 29, 2007).

Ross noted that the construction schedule seems to be very aggressive.

Brief discussion followed regarding the fact that Delta Medical and Tim Hortons would both still meet their individual parking requirements at all times under the shared parking agreement.

Gobbo questioned if there would be any work done in the right-of-way for this project.

Gmazel advised that sidewalks would be placed in the right-of-way. In addition, grading would also take place. The applicant also intends to close off an existing driveway on Northway Drive. Gmazel noted that sidewalks and landscaping would be provided on the Delta Medical property as well.

Chairman Gobbo invited the applicant to speak.

Mark KellenBerger for Sean Essinger, Tim Hortons, 565 E. Grand River Avenue, Brighton, MI 48116, stated that he has reviewed staff's recommendations and conditions for approval with their engineers and has found no problems in meeting the requirements.

Nolen questioned if parts of the proposed building were prefabricated in order to have such an accelerated construction schedule. In addition, Nolen wondered if each Tim Hortons location was individually owned.

KellenBerger advised that the entire building will be built on site. The proposed construction schedule is fairly standard for the Tim Hortons organization. They definitely intend to be opened by November 2007, if not sooner. With respect to ownership, Tim Hortons owns all of the property and buildings. The franchisee owners run the day to day operations.

Hearing no further Commissioner question, Chairman Gobbo invited public comment.

There were no public comments.

- C. Close Public Hearing. **Flower moved to close the Public Hearing at 7:25 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

**Ross moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 07-990004 from Tim Hortons (Mark KellenBerger for Sean Essenger) based on the revised plans dated May 25, 2007. Approval is recommended on the following basis:**

1. **The proposed drive-through facility has been designed in accordance with the requirements of Section 7.13.30 of the Zoning Ordinance.**
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.**

3. **The standards of the Basis for Determination listed in Section 7.6(1) of the Zoning Ordinance have been met.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 7      NAYS: 0      ABSENT: 1 (Shively)      VACANT: 1**

**MOTION CARRIED.**

- III. **PUBLIC HEARING - Request for Special Use Permit 07-990005 from E.T. MacKenzie Company**, to be allowed to continue to extract soil and minerals from property located north of Stoll Road, east of US-127BR (formerly Business-27), on the west side of Boichot Road, in the southwest ¼ of Section 22 of DeWitt Charter Township.

- A. Open Public Hearing. **Chairman Gobbo declared the Public Hearing opened at 7:30 p.m.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated June 29, 2007 pointing out location of the site. The subject property consists of three parcels totaling 61 acres, with approximately 31 acres subject to the Special Use Permit and roughly 25 acres subject to mining activities.

Gray advised that this site was originally granted a Special Use Permit for excavation of materials back in September of 1997 (SUP 96-990011). This permit was renewed in July of 2002 and is set to expire in July of 2007. It is fairly standard for mining operations to have an expiration date in the event that site conditions change or any issues have come up the Township can address such matters at the time of renewal.

The entire site is zoned A (Agricultural). The surrounding zoning consists of A (Agricultural) to the north, A (Agricultural), R2 (Residential Single Family), and R4 (Residential Single and Two Family) to the east, A (Agricultural) and M-2 (Multiple Residential) to the south, and A (Agricultural) and BC (Business, Community) to the west.

The site is designated for SF-M (Medium Density Single-Family Residential) on the Future Lansing Use Map. The surrounding Future Land Use Designations consist of SF-M (Medium Density Single-Family Residential) to the north, south, and west, and SF-M (Medium Density Single-Family Residential) and MFR (Multiple Family Residential) to the south.

Gray went on to advise that since the last Special Use Permit was approved, the applicant has excavated to groundwater and has begun the creation of a lake. The dredging process will be followed by sorting and stockpiling of the material. The stockpiled material will then be removed from the site by truck as it is needed for construction projects. The applicant projects that it will take an additional 5 years to complete the proposed mining activities on the property.

Gray offered a brief history of applicant's excavation of the site advising that only a few complaints have been generated by the operation. The issues have been quickly remedied by the applicant.

With respect to the current operations of the site, Gray advised the following proposed changes: a significant change is the addition of more land to the Special Use Permit to accommodate the stockpiling of materials on site; the applicant will provide a financial guarantee to assure rehabilitation of the proposed totally disturbed area of 25.43 acres; the depth of the excavation is proposed to increase from 55 to 65 feet to 75 to 82 feet; the applicant is seeking to change the days that the site is permitted to operate to include Veterans Day, Martin Luther King Jr. Day and Good Friday; lastly, the applicant is requesting that seasonal direct access to US-127BR be approved as part of the permit to bypass obtaining a minor amendment each time they intend to use this route.

With respect to public services and facilities, Gray advised the following: the Clinton County Drain Commissioner (CCDC) notes that the applicant should be cautious about affecting drainage patterns as site contours are changed. He also notes that the applicant will continue to be required to maintain a Soil Erosion and Sedimentation Control Permit for the site; the Clinton County Road Commission (CCRC) holds an irrevocable letter of credit from the applicant for the maintenance of Stoll Road and indicates that a new haul route permit will be required; the Michigan Department of Environmental Quality has previously issued a permit authorizing the use of the dredge and has no comments regarding the proposed revisions to the permit; lastly, no additional concerns are noted by the remaining reviewing agencies.

Gray further reviewed the request for compliance with standards set forth in Section 7.6(1) of the Zoning Ordinance, Basis for Determination for Special Use Permits (see pages 8 and 9 of staff's report dated June 28, 2007).

Ross referred to correspondence dated June 28, 2007 from Stanley and Jean Bien in opposition to the applicant's request. He questioned if staff was aware of other dust complaints relative to this mining operation.

Gray advised the only other complaints that he is aware of involves mud and dust when trucks pull out onto Stoll Road. The applicant has always taken care of the issue as soon as the Township makes them aware of the problem. He does not recall any airborne dust complaints over the last eight years.

There was brief discussion regarding the alternate route directly onto US-127BR being the best route for trucks to take to mitigate mud and dust on Stoll Road.

Flower questioned if staff or E.T. MacKenzie have been in contact with Stanley or Jean Bien.

Gray advised that he attempted to contact the Mr. and Mrs. Bien by phone and was unsuccessful. The applicant was not aware of the issues stated in their correspondence until today.

Brief discussion followed regarding the fact that the proposed Special Use Permit will expire in the year 2012. However, Condition II E) of the Special Use Permit states that continued use of the MIC Limited property shall only be authorized if the applicant provides written approval from the property owner. In addition, the financial guarantee includes any disturbed area on the MIC property.

Gobbo questioned what the hours of operation would be should the Special Use Permit allow the applicant to work on Veterans Day, Martin Luther King Jr. Day and Good Friday.

Gray stated the hours would be the regular hours of 7:00 a.m. to 5:00 p.m., unless otherwise stated.

Nolen stated for the record that he is opposed to allowing the applicant to operate on Veterans Day, Martin Luther King Jr. Day and Good Friday. If the Commission is inclined to grant any of these days, he asked that they limit approval to operations on Good Friday in order to maintain the secular status of government agencies.

Hearing no further Commissioner questions or comments, Chairman Gobbo invited the applicant to speak.

Ron Clark, representing E.T. MacKenzie Company, 4248 W. Saginaw Highway, Grand Ledge, MI 48837, stated that the applicant has two leases with the MIC Group that are temporary in nature. The owners of the property prefer to have the flexibility of a year to year agreement due to the fact that the property is currently for sale. The seasonal access agreement onto US-127BR is similar. Because these agreements are temporary in nature it is necessary for E.T. MacKenzie to primarily rely on their Stoll Road access. Clark further advised that the haul route agreement with the Clinton County Road Commissioner is to cover the use of Stoll Road during the times that the weight limits are on.

Clark stated that the mud and dust concerns are ongoing operational issues for a mining operation. E.T. MacKenzie Company is very responsive to any complaints of this nature. With respect to the complaint letter written by Mr. and Mrs. Bien, Clark stated that E.T. MacKenzie had no knowledge of their issues until the Township received a letter dated June 28, 2007. He advised that the type of materials (heavy sand and gravel) being extracted from the Stoll Road site generates very little airborne dust. Clark noted that there has been continuous grading going on behind the homes on Craig Street related to the construction of a golf course, perhaps the dust is coming from that location. However, if it is determined to be from the E.T. MacKenzie site, they will address it immediately.

Keilen questioned if the direct route to US-127BR could be used on the three holidays requested for operation.

Clark indicated that only Martin Luther King Jr. Day is within the dates of the lease agreement for the alternate route. He stated the reason for requesting to operate on the above mentioned holidays is that they are typical work days in the excavation industry. Clark clarified that the three holidays are requested on an "as needed" basis.

Chairman Gobbo called for public comment.

There was no public comment.

- C. Close Public Hearing. **Flower moved to close the Public Hearing at 8:00 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Nolen restated that he would prefer the applicant not be allowed to operate on the three requested holidays. However, he would prefer that operations be permitted only on Good Friday.

**Flower moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 07-990005 from the E.T. MacKenzie Company based on the plans last revised on May 22, 2007 and amended to reflect that the applicant be permitted to operate on Martin Luther King Jr. Day and Veterans Day, in addition to Good Friday. Approval is recommended on the following basis:**

1. **The use has been designed and operated in accordance with the requirements of Section 7.13.7 of the Zoning Ordinance.**
2. **Upon compliance with the conditions listed in the Special Use Permit, the use is designed and operates so that it does not change the essential character of the area.**
3. **The conditions included in the permit assure that the use will not be hazardous to existing or future uses in the general vicinity.**
4. **The permit includes reasonable conditions to assure that the potential impacts of the use, including noise and traffic, are mitigated.**

**Supported.**

White stated he supports allowing the applicant to operate on the three holidays requested. He realizes that past precedent has been that the Township adheres to a strict compliance to not allow operations on Township recognized holidays. However, his support is based on the location of the site and the excellent track record of the applicant being a good neighbor.

**ROLL CALL vote on motion:**

**AYES: 6      NAYS: 1 (Nolen)      ABSENT: 1 (Shively)**

**VACANT: 1**

**MOTION CARRIED.**

- IV. **PUBLIC HEARING - Request for Special Use Permit 07-990006 from Auto Body Credit Union, to be allowed to construct a 4,100 sq. ft. lending institution with a drive through window, on an approximately 2.25 acre vacant parcel located on the west side of US-127BR (formerly US-27), south**

of Clark Road, north of Aaron Drive, in the northeast ¼ of Section 21 of DeWitt Charter Township.

- A. Open Public Hearing. **Chairman Gobbo declared the Public Hearing opened at 8:09 p.m.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated June 29, 2007 pointing out the location of the site. The applicant is requesting a Special Use Permit to allow the construction of a 4,100 sq. ft. lending institution with a drive through window, on an approximately 2.25 acre vacant parcel.

The site is zoned BC (Business, Community). The surrounding zoning consists of BC (Business, Community) to the north, east, south, and west. The site is designated for HC (Highway-Oriented Commercial) use on the Future Land Use Map. The surrounding Future Land Use designations consist of HC (Highway-Oriented Commercial) to the north, east, south, and west.

Drive-throughs are permitted in the BC (Business, Community) zoning district by Special Use Permit. Gmazel went on to review the request for compliance with Section 7.13.30 of the Zoning Ordinance pertaining to drive-through uses (see pages 3 and 4 of staff's report). She advised that the proposed site plan complies with the five conditions for drive-throughs.

With respect to Site Plan Review, Gmazel stated the following: the facility and drive-through lane complies with the lot area, width, and building height requirements listed in the Schedule of Regulations, Section 5.18 of the Zoning Ordinance; 21 parking spaces are required, and 22 spaces are depicted on the plan; the proposed parking lot lighting plans comply with Ordinance requirements; the applicant must provide a revised landscaping plan that depicts the required elements noted on page 5 of staff's report; the applicant must provide a sidewalk easement to the Township for the east/west sidewalk along Aaron Drive; the revised landscaping plan must depict a rounded encroachment that allows for increased green space on which to plant landscaping; any signage must meet requirements of Chapter XI of the Zoning Ordinance; lastly, the construction schedule indicates groundbreaking in September 2007 with an opening date of January 2008.

With respect to public services and facilities, Gmazel stated the following: if any improvements such as grading, curbing or sidewalks, occur in the public right-of-way, permits must be obtained from the Clinton County Road Commission and/or Michigan Department of Transportation; the Board of Water and Light and the Southern Clinton County Municipal Utilities Authority have both reviewed the plans and have no concerns; the applicant will be required to obtain a soil erosion and sedimentation permit from the Clinton County Drain Commissioner's Office; the applicant must contact the Michigan Department of Environmental Quality to determine if a permit review may be required if the existing storm drainage system discharges into a wetland and/or stream; lastly, no additional concerns have been received regarding this Special Use Permit at this time.

In closing, Gmazel noted that the request appears to comply with the standards set forth in Section 7.6(1) of the Zoning Ordinance, Basis for Determination for Special Use Permits

(see pages 7 and 8 of staff's report dated June 29, 2007). In closing, Gmazel noted that the request does comply with all of these standards.

Hearing no Commissioner questions or comments, Chairman Gobbo invited the applicant to speak.

Jeff Sherman, Mayotte Group Architects, 6005 W. St. Joseph, Suite 300, Lansing, MI 48917, representing the applicant, stated the applicant intends to locate a monument sign to the south of the site entrance, as well as a community sign on US-127BR at the southeast corner of the property.

Hearing no Commissioner questions or comments, Chairman Gobbo called for public comments.

- C. Close Public Hearing. **Hearing no public comment, Keilen moved to close the Public Hearing at 8:20 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

**White moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 07-990006 from Auto Body Credit Union based on the revised plans dated May 08, 2007. Approval is recommended on the following basis:**

- 1. The proposed drive-through facility has been designed in accordance with the requirements of Section 7.13.30 of the Zoning Ordinance.**
- 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.**
- 3. The standards of the Basis for Determination listed in Section 7.6(1) of the Zoning Ordinance have been met.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 6      NAYS: 0      ABSENT: 1 (Shively)      VACANT: 1**

**MOTION CARRIED.**

NEW BUSINESS:      None.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

- I. Trustee:      Trustee Ross gave a brief report on business conducted and action taken at the June 11, 2007 and June 25, 2007 regularly scheduled meetings of the DeWitt Charter Township Board of Trustees.

- II. Zoning Board of Appeals: Chairman Gobbo gave a brief report on business conducted and action taken at the June 20, 2007 regularly scheduled meeting of the Zoning Board of Appeals.
- III. Committees: None.
- IV. Staff: Gray advised that as of the date of this meeting the Planning Department has not received any new applications. The Commission Members will be notified if the August 6, 2007 regular meeting is canceled.

DISCUSSION:

ADJOURNMENT: **Flower moved to adjourn the meeting at 8:35 p.m. Supported. MOTION CARRIED.**

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Linda K. Parkinson, Recording Secretary

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Kim Smelker, Secretary