

Chair
Bruce Keilen
Vice-Chair
Steve Gobbo
Secretary
Adam Bertram
Commissioners
Steve Musselman, Trustee
Dale Dailey
Marsha Zimmerman
Tim Fair
Kim Smelker
Kristen Krol



1401 W. Herbison Road
DeWitt, Michigan 48820
Phone 517.669.6576
Fax 517.669.6496
www.dewitttownship.org

Township Planner
Jim N. Foulds

Planning Assistant
Tory Niewiadomski

Recording Secretary
Linda K. Parkinson

PLANNING COMMISSION MINUTES
MONDAY, MAY 6, 2013
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 Chairman Keilen.

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

ROLL CALL by Secretary Bertram.

MEMBERS PRESENT: Bruce Keilen, Steve Gobbo, Adam Bertram, Dale Dailey, Kristen Krol, Marsha Zimmerman, Tim Fair, Trustee Musselman.

MEMBERS ABSENT: None.

VACANCY: One (Smelker)

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

APPROVAL OF MINUTES: **Musselman moved to approve the minutes of the April 1, 2013 Regular Meeting as presented. Supported. MOTION CARRIED.**

CORRESPONDENCE:

1. Charter Township of Lansing – Master Plan Update – Received and noted by the Planning Commission.

2. Katrina Boulton and Sandra Walling - Bed and Breakfast/Special Events

Planning Assistant Tory Niewiadomski briefly reviewed his memorandum dated April 29, 2013 advising the subject property is zoned A (Agricultural). Although bed and breakfast uses are allowed within the A (Agricultural), special event venues are typically found in commercial zoning districts. Additionally, the size and location of the site presents potential conflicts with the neighborhood based on the scale of activities that would occur on the site due to the property being directly adjacent to 8-10 homes. Staff also has concerns regarding lack of infrastructure, the fact that the use is not compatible with the surrounding area, and the potential for noise, parking and increased traffic.

Musselman questioned if it would be possible to rezone the property.

Niewiadomski stated staff would be hesitant to recommend rezoning approval based on the location of the parcel. It could potentially be construed as “spot zoning”. Special Event uses would only be allowed in the BC (Business, Community) Zoning District which is not compatible with the surrounding area.

PUBLIC COMMENTS:

Ron Clark, representing E.T. MacKenzie, 4248 W. Saginaw Highway, Grand Ledge, MI 48837, stated he has read staff’s report regarding request for Special Use Permit 13-990002. He concurs with most of staff’s recommendations with exception to Saturday hours of operation. The current Special Use Permit allows Saturday hours of 7:00 a.m. to 3:00 p.m. Staff is recommending that Saturday hours be changed to 8:00 a.m. to 4:00 p.m. This change would inhibit the business operations significantly. It would mean that work crews out in the field would not get their materials until 9:00 a.m. or after on Saturdays. In closing, he asked the Planning Commission to consider his comments when making their recommendation to the Board of Trustees.

UNFINISHED BUSINESS:

- I. **Request for Special Use Permit, 13-990002 from E.T. MacKenzie to replace/renew Special Use Permit #07-990007 for removal of additional gravel material from the bottom of the existing lake and the expansion of the pit and lake to the southern property line as approved in Major Amendment #09-990003 on property located at 1300 E. Clark Road, Lansing, MI 48906, south of Clark Road, east of US 27, north of a 25 acres parcel located at 14788 Boichot Road (Stoll Road excavation site, parcel #050-022-300-085-50), in the west ½ of Section 22 of DeWitt Charter Township. Note: Action postponed at the April 1, 2013 meeting.**

Chairman Keilen invited staff’s comments.

Planning Assistant Tory Niewiadomski stated there were several comments and concerns expressed at the Public Hearing held on Monday, April 1, 2013. At that time, the Planning Commission decided to postpone a recommendation on the request to allow staff the time to reevaluate some of the questions raised. Staff has concluded the following on four key items brought up at the Public Hearing:

Duration:

Special Use Permits for soil and mineral extraction operations have been granted for periods of five years with an annual renewal process. If approved, this Special Use Permit would be granted for a period of 5 years until 2018 on the effective date of the executed Special Use Permit. The annual renewal process will require that the applicant provides their annual excavation totals. In addition, the Township will require the applicant to keep a log and provide an annual report of complaints and resolutions addressing the complaints as part of their annual renewal process.

Days and Hours of Operation:

That the applicant continues to operate from 7 am to 5 pm Monday through Friday. To address residents’ concerns for weekend activity, staff feels that changing the hours from (7 am to 3 pm) to (8 am to 4 pm) would provide some relief of potential noise concerns during the early hours on Saturday mornings. Staff also was directed to address the start time, which includes the starting of machinery and equipment to be warmed up within the guidelines of the hours of operation, meaning that equipment shall not be started or warmed up prior to 7 am Monday through Friday or prior to 8 am on Saturdays. In addition, there shall be no activities conducted on the site during holidays that are observed by the Township.

Contact Information:

The applicant shall provide property owners adjacent to the operation along with the Township, contact information to address concerns and/or complaints about the operation. The applicant will submit a log of complaints and resolutions to the Township during the annual renewal process. The applicant has submitted to the Planning Department a contact information list in the event an issue arises and property owners would like to contact the applicant. In addition, staff is suggesting that a letter be sent to all residents who were notified of this request providing them with a copy of the Special Use Permit, as well as the contact information.

Dust Control:

The applicant shall provide a dust control plan which is different from current practice and shall be reviewed and approved by Township Administration prior to the execution of the Special Use Permit. The Dust control plan shall include a detailed description of preventative measures that will be utilized during the operation as well as contact information to address neighborhood complaints about dust issues. Niewiadomski advised a dust control plan has been submitted by the applicant (see file).

Niewiadomski invited any questions or comments that the Planning Commission may have.

Commissioner Dailey stated a change in the Saturday hours of operation to 8:00 a.m. to 4:00 p.m. would be one way to address some of the concerns addressed at the Public Hearing. He advised that he lives next to an extraction operation and he understands the concerns that were raised at the April 1st meeting. He supports staff's recommended hours of operation and would add that the trucks should not be able to enter the site before the designated starting time as they are very noisy.

Fair stated he lives on Wood Road and experiences many large trucks traveling in front of his home so he also understands the noise issues raised at the April meeting. He would be in favor of keeping the Saturday hours of operation at 7:00 a.m. to 3:00 pm. It would seem better to have the trucks travelling on the roads earlier when the traffic is not so heavy. The existing Saturday hours have worked for many years and he does not feel it is necessary to change now.

Chairman Keilen questioned how early in the spring and how late in the fall does the excavation site operate.

Ron Clark, representing the applicant, E.T. MacKenzie Company, 4248 W. Saginaw Highway, Grand Ledge, MI 48837, advised construction season is generally March or April through November, depending on the weather. They do not anticipate operating frequently on Saturdays. However, it is important to have approval for Saturday hours of operation to allow time for meeting job deadlines when necessary.

Gobbo asked if Mr. Clark could respond to recent complaints made regarding activity on the site that were outside the approved hours of operation.

Clark noted there are three pole buildings on the property that have been there since at least the 1970's. These buildings are not part of the Special Use Permit operation. They are used to house materials and equipment. It is possible someone could have been on the site before or after the SUP approved hours to access these buildings and retrieve materials or equipment needed at another location.

Gobbo questioned if activity in the accessory buildings could be limited to the approved hours of operation.

Clark advised, due to the fact that the accessory structures are not part of the Special Use Permit area, he cannot respond to that question. He is not authorized to make that decision.

Dailey commented that the Planning Commission should be responsive to the surrounding property owners who have lived with this operation for much longer than anticipated. He further stated the dust control plan states preventative dust control would be provided when it is expected 24 loads or more would be leaving the site. This seems like a high number. Regardless of the number of trips expected, the applicant should do everything they can to control the dust. He stated that dust is definitely a problem related to mining operations and it doesn't necessarily have to be windy for the dust to leave the site.

Foulds indicated Item 5 of the dust control plan uses the word "preventative". The intent is to be proactive and address dust issues in a timely manner, regardless of the number of trucks leaving the site.

Gobbo noted that Item 4 of the dust control plan states the foreman on site should apply water in windy conditions or when the dust rises above "breast level". He would prefer breast level to be changed to approximately four (4) feet.

The Planning Commission recommends to the Board of Trustees to approve Special Use Permit 13-990002 from E.T. MacKenzie to be allowed to continue to operate an existing soil and mineral excavation operation at 1300 E. Clark Road previously approved as SUP 07-990007 as amended. Approval is recommended on the following basis:

- 1. That the applicant's proposal satisfies the ordinance requirements listed under Section 42-1143 (Lands with mineral deposits).**
- 2. That the applicant complies with the Clinton County Drain Commission requirements.**
- 3. That the applicant complies with the Clinton County Road Commission requirements.**
- 4. That the applicant operates under the conditions of any permits obtained through the Michigan Department of Environmental Quality (MDEQ) and that copies of all permits are provided to DeWitt Charter Township.**
- 5. That the applicant complies with the requirements of the Mid-Michigan District Health Department.**
- 6. That the applicant complies with any other Federal, State, County, or Township regulations.**
- 7. That the hours of operation be conducted between the hours of 7 am to 5 pm Monday through Friday and between the hours of 8 am to 4 pm on Saturdays. The applicant shall not operate during holidays that are observed by the Township.**
- 8. That the starting and warming up of equipment shall be conducted within the hours of operation that are agreed upon by the Planning Commission.**

9. **That the applicant shall provide contact information to the adjacent property owners and Township to address complaints. In addition, the applicant shall be required to keep a log of complaints and a resolution summary that shall be provided as a part of their application for Special Use Permit renewal on an annual basis.**

10. **That the applicant submits a Dust Control Plan that is reviewed and approved by the Township Planning Department prior to the execution of the Special Use Permit to include at a minimum the following:**
 1. **Pave the north 25 feet of the access drive to the property.**
 2. **Maintain existing rotomill driveway surface from the north face of north building to Clark Road entrance.**
 3. **Maintain remaining access/haul road from building area south to wash plant area in as much as possible low dust condition by the periodic use of brine material on the gravel road surface.**
 4. **Maintain on site a tanker truck during all hours of operation to water access/haul roads as needed. Pit foreman shall be responsible to monitor access/haul road conditions and apply water in windy conditions or when dust rises above approximately 4 ft. in height.**
 5. **Provide preventative dust control by applying water to access/haul roads prior to heavy trucking days when greater than 24 loads are anticipated leaving the site. However, number 4 above, shall be controlling.**

11. **This permit is valid for a period of five (5) years from the effective date of the executed Special Use Permit and shall include an annual renewal process in which the applicant shall keep a log of complaints and resolutions as part of the application materials along with annual excavation totals.**

Supported.

Dailey stated the dust control plan is a little more lenient than he would prefer. However, since the applicant is supplying a contact list in the event there is an issue, he is satisfied with the motion.

Musselman stated he feels the Saturday 8:00 am to 4:00 pm hours of operation are appropriate. He noted, if the applicant does not adhere to the conditions of the Special Use Permit the permit could be revoked or not renewed.

Bertram stated outlining a dust control plan and providing a contact list is a positive step to address issues raised at the Public Hearing. He does not think adjusting the Saturday hours of operation to 8:00 am to 4:00 pm would greatly impact the applicant since he stated they intend to operate very little on Saturdays.

Zimmerman concurred with Bertam's comments. She further stated it is not the job of the Planning Commission to control businesses and manage how they operate. However, there is a reason why the Planning Commission is in place and that is to strike a balance and listen to residents' concerns. She feels the recommendation accomplishes finding that balance. She concurred with Musselman's comment that the permit could be revoked should the applicant not adhere to permit conditions.

Fair stated he is in support of the motion, although he not feels 7:00 am to 3:00 pm Saturday hours of operation are not unreasonable.

Krol noted the Saturday hours have always been 7:00 am to 3:00 pm for years and feels they should remain the same. The applicant stated the Saturday hours are for overtime purposes which they are trying to avoid as they do not like to bid jobs with overtime included. They would only operate on Saturdays to meet a tight deadline. Mr. Clark makes a very good point that starting at 7:00 am makes is possible for the applicant to get materials to the work site by 8:00 when most contractors begin.

Chairman Keilen stated staff has been very responsive in addressing issues raised at the Public Hearing. He is supportive of the motion.

ROLL CALL vote on motion:

AYES: 8 ABSENT: 0 VACANCY: 1 (Smelker)

MOTION CARRIED.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

I. Trustee:

Trustee Musselman gave a brief report on business conducted and action taken at the Board of Trustees meetings held on April 8, 2013 and April 22, 2013.

II. Zoning Board of Appeals:

Commissioner Gobbo gave a brief report on business conducted and action taken at the April 17, 2013 Zoning Board of Appeals meeting.

III. Committees:

Planning Assistant Tory Niewiadomski gave a brief update on the progress of the Non-Motorized Plan Committee.

IV. Staff:

Planning Consultant Jim Foulds gave a brief report on upcoming Zoning Ordinance Amendments that will be considered by the Planning Commission in the next few months.

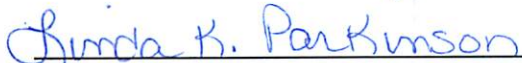
Several Planning Commission members mentioned they may not be present for the July 1st meeting due to the Fourth of July Holiday. It was suggested perhaps the Public Hearing for the upcoming Ordinance Amendments be held in August.

DISCUSSION:

Chairman Keilen noted the resignation letter of Commissioner Kim Smelker. He asked that Township staff draft a letter for Supervisor Galardi's signature thanking Kim for her many years of dedication and valuable service on the Planning Commission.

ADJOURNMENT:

Musselman moved to adjourn the meeting at 8:05 p.m. Supported. MOTION CARRIED.


Linda K. Parkinson, Recording Secretary


Adam Bertram, Secretary
