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Jim N. Foulds

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Linda K. Parkinson

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PLANNING COMMISSION MINUTES
MONDAY, MAY 7, 2012
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 Vice Chairman Gobbo.

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

MEMBERS ABSENT: Kim Smelker.

OTHERS PRESENT: Planning Staff Tory Niewiadomski and Recording Secretary Linda Parkinson.

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

APPROVAL OF MINUTES: **Musselman moved to approve the minutes of the April 2, 2012 Regular Meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: Charter Township of Meridian – Notice of Intent to Amend 2005 Master Plan was noted and received by the Planning Commission.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

- I. Rezoning Request 12-880001 from Michael McGraw**, for a vacant parcel located in the vicinity of Ridge Rock Subdivision, east of Airport Road, west of Schavey Road, south of Herbison Road, north of Clark Road, in the southwest ¼ of Section 18 of DeWitt Charter Township, to rezone approximately 22 acres from R3 (Residential Single Family) to R5 (Residential Single and Two Family). **Note: Action postponed at the March 5, 2012 meeting – There will be no discussion at the May 7, 2012 meeting.**

II. Request for Special Use Permit 12-990001 from Brian Seward (Brian's Automotive), for property located at 16987 Turner Road, Lansing, MI 48906, on the northeast corner of Turner Road and Sheridan Road, in the southwest ¼ of Section 33 of DeWitt Charter Township, to be allowed to operate a vehicle repair and maintenance business, buy and sell used vehicles and provide vehicle inspection and fleet maintenance for the Michigan Department of Transportation. Note: Public Hearing held on April 2, 2012. No action taken.

Staff member Tory Niewiadomski briefly reviewed staff's report dated May 2, 2012 pointing out the location of the site on the northeast corner of Turner Road and Sheridan Road. Niewiadomski noted the Public Hearing was held at the April 2, 2012 Planning Commission meeting. At that time, the Commission decided to take no action on the request to allow staff time to clarify hours of operation and a parking plan with the applicant.

Niewiadomski advised the applicant is requesting hours of operation to be 7:00 a.m. to 11:00 p.m. Monday through Friday and also 8:00 a.m. to 6:00 p.m. Saturday through Sunday. Staff is recommending the hours of 7:00 a.m. to 10:00 pm Monday through Friday and also 8:00 a.m. to 6:00 p.m. Saturday through Sunday, or whatever is deemed appropriate by the Planning Commission.

Niewiadomski noted on May 2, 2012 the Township Police Department did receive a noise complaint related to the applicant's business. A memorandum has been placed in the Special Use Permit file documenting the complaint.

Niewiadomski went on to review the revised site plan with respect to parking. He noted a total of eleven (11) parking spaces are required by Ordinance. The applicant is proposing eleven parking spaces on the site plan, revised on May 2, 2012.

Lastly, Niewiadomski advised that staff has contacted the Michigan Department of Environmental Quality (MDEQ) with respect to the underground storage tanks located on the site. MDEQ stated there is no specific timeline in place for the removal of the tanks. However, at some point in the future there will be a deadline date for the removal of the tanks.

Niewiadomski went on to review staff's power point presentation indicating the revised parking plan and surrounding land uses and zoning districts.

Fair questioned if there was any more specific timeline given by the MDEQ related to the removal of the underground tanks on the site.

Niewiadomski stated MDEQ did not feel the tanks would be contaminating the site. However, a timeline for removal will be determined at a later date.

Gobbo questioned if the proposed storage area on the site plan would be enclosed.

Niewiadomski advised the applicant would like to remove the overgrown vegetation in that area and construct the storage area. Staff recommends the storage area be enclosed.

Musselman questioned if the timeline for removal of the storage tanks was not met, would the Special Use Permit become invalid.

Niewiadomski stated the Planning Commission could add removal of the storage tanks to the Special Use Permit as a condition of approval.

Musselman stated, in the past, the Planning Commission has been provided a copy of the Special Use Permit which they are considering for recommendation to the Board.

Keilen advised staff's approach is somewhat different in that the property is legal non-conforming. He noted that some of the conditions would be phased in. Perhaps that explains the reason why a Special Use Permit document was not provided.

Brief discussion followed regarding the originally proposed hours of operation being 8:00 a.m. to 5:00 p.m. Monday through Friday. At the Public Hearing the applicant was made aware that changing the hours of operation would involve an amendment to the Special Use Permit. At that time the applicant decided to request extended hours. Staff is now recommending the hours of operation be 7:00 a.m. to 10:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday through Sunday.

Dailey expressed concern that the requested hours of operation have changed significantly from the original request. Especially since there has recently been a noise issue related to the subject property.

Kelien stated he would not be comfortable with the hours of operation going past 10:00 p.m.

Drew Seward, 240 E. Jackson Street, Lansing, MI 48906, representing the applicant, stated the reason for amending the hours of operation was because they did not realize changing the hours at a later date would require an amendment to the Special Use Permit. He has no problem with running a second shift from 6:00 p.m. until 10:00 p.m. rather than 5:00 p.m. until 11:00 p.m.

Fair stated he concurs with Commissioner Dailey about wanting to clear up the hours of operation for the proposed use. He asked if 7:00 a.m. to 10:00 p.m. would be agreeable to the applicant.

Seward stated he would prefer to open at 6:00 a.m. He stated the surrounding area is mostly commercial in nature and the neighbor to the east of the site has no problem with their operation.

Krol noted the auto repair business she uses is near the proposed site and they do not start at 6:00 a.m. She feels that would be much too early to start.

Seward stated if they opened at 6:00 a.m. there would most likely not be any noise coming from the site until 7:00 a.m.

Alan Taber, 16960 Turner Road, Lansing, MI 48912, stated he lives across the road from the subject site. He expressed concern with the applicant being allowed to operate until 10:00 p.m. He shared the following from a journal he has been keeping on the site:

Monday, April 23rd - Worked past 10:00 p.m., doors closed, noise not an issue.

Tuesday, April 24th - Worked past 9:45 p.m., doors closed, noise not an issue.

Saturday, April 28th - Worked past 9:30 p.m., could see alcohol being consumed, loud noise.

Wednesday, May 2nd - Worked all evening with doors wide open, air tools being used. At 10:00 p.m. Mr. Taber called the police because he could not even hear his television with his doors and windows closed.

Friday, May 3rd - 10:20 p.m. applicant still working, alcohol being consumed on premises. At 10:45 p.m. a group of 5 to 7 people were outside the building screaming and arguing. Mr. Taber indicated he would be calling the police and the crowd dispersed and lights were turned off.

Mr. Taber feels 8:00 p.m. would be a reasonable time for the business to close in the evenings. He thanked the Planning Commission for hearing his concerns.

Fair stated, although commercial uses exist in the area, so do residences. He feels 7:00 a.m. to 9:00 p.m. Monday through Friday and 8:00 a.m. to 6:00 p.m. Saturday through Sunday would be reasonable..

Krol stated she uses an automotive business in the vicinity of the site and is aware that his hours are not that late. It is a quiet neighborhood and she feels 6:00 am is too early to start and that 9:00 p.m. should be an ending time at the latest. Especially since there have already been issues with noise.

Bertram stated he struggles with the hours of operation going past 9:00 p.m. There are some residential homes in the area. Should they have small children, this could pose a problem with bedtime. He questioned what the process would be should the applicant want to expand their hours of operation at a later time.

Niewiadomski advised the applicant has the ability to request an amendment to their Special Use Permit should they wish to extend the hours of operation. The process would be similar to the application process they are currently going through.

Gobbo stated his initial thought was 7:00 a.m. to 8:00 p.m. as reasonable hours of operation. He could accept 9:00 p.m. However, with some of the other issues mentioned, such as noise at late hours, he would expect no later than 9:00 p.m. He has driven in the vicinity of the site and knows it is a fairly quiet neighborhood in the evenings.

Musselman stated decisions on this request should be somewhat tempered due to the fact that the site is currently legal non conforming. He feels allowing the business to remain opened until 10:00 p.m. seems a bit excessive and that 9:00 p.m. is more reasonable. He asked that the applicant attempt to curtail the noise coming from the site, especially noise not related to the business operations. He noted that the applicant always has the option to request an amendment to their Special Use Permit, should they wish to request an extension to their hour of operation.

Dailey stated he is not comfortable with the proposed hours of operation. Even though the residents to the east of the site have no problems with noise, the property could sell and the new owners would not be happy with a 10:00 p.m. closing time. He expressed concern that the hours of operation considered at the Public Hearing held in April were 8:00 a.m. to 5:00 p.m.

At this time he could not support the a later closing time without additional input from the community.

Zimmerman stated she was not present at the Public Hearing. Therefore, it is difficult for her to form an opinion on the hours of operation at this time.

Dailey concurred with Musselman regarding the fact that he would like to see a copy of the Special Use Permit document they are considering for recommendation to the Board of Trustees.

Fair noted the conditions are included in staff's report. He feels the only issue to consider at this point are the recommended hours of operation. Although he would prefer the hours of operation be 7:00 a.m. to 8:00 p.m., he would agree to 9:00 p.m.

Keilen suggested the Planning Commission consider an additional condition stipulating that the applicant notify the DeWitt Township Fire Department prior to the removal of the underground tanks on the site.

Gobbo requested Condition 7 listed in staff's report be amended to say "That the applicant complies with the DEQ requirements and approvals for the removal of the underground storage tanks".

Gobbo further requested Condition 6 of staff's report be worded to say "The hours of operation shall be between 7:00 a.m. to 9:00 p.m. Monday through Friday and shall be between 8:00 a.m. to 6:00 p.m. Saturday through Sunday". This would be subject to the actual hours of operation the Planning Commission decides on.

Krol stated she has an issue with the business operating on Sundays. That is generally the time for families to get together and maybe gather outdoors.

Bertram stated he would deem the Sunday hours of operation no different than a neighbor working on his personal equipment.

Brief discussion followed regarding whether the Planning Commission was ready to make a recommendation to the Board of Trustees, or postpone action on the request.

Further discussion followed regarding the fact that many changes have been mentioned during discussion. Perhaps the Planning Commission would feel more comfortable seeing the actual amended document.

Fair urged the applicant to be mindful of the fact that he has neighbors close to his property who would prefer the noise issues be addressed.

Gobbo requested Condition 3 of staff's report make reference to the section of the Zoning Ordinance that pertains to the clear vision area.

Gobbo further requested that Condition 5 of staff's report reference the section of the Zoning Ordinance relating to lighting requirements and signage requirements for the site.

Musselman moved to refer request for Special Use Permit 12-990001 from Brian's Automotive back to staff to allow the requested amended conditions to be incorporated into the Special Use Permit document and provide the document to the Planning Commission at their next meeting to be held on June 4, 2012. Supported.

ROLL CALL vote on motion:

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

MOTION CARRIED.

NEW BUSINESS:

- I. Site Plan Review 12-150002 from Cooper Body Shop**, for property located at 1221 W. State Road, Lansing, MI 48906, on the south side of State Road, east of Turner Road, west of US 27, in the northeast ¼ of Section 33 of DeWitt Charter Township, to be allowed to construct a 12' x 16' addition (bathroom) to an existing 50.2 x 100.2' building.

Niewiadomski briefly reviewed staff's report dated May 1, 2012 pointing out the location of the site. Last year the applicant received approval for a lot combination to add approximately .55 acres to the site from an adjacent parcel. This request involves the future removal of an existing building and construction of a new auto body repair facility in the same building footprint and the renovation of an existing structure for auto body repair, as well as the addition of a new restroom facility in the existing structure.

The site is zoned BC (Business, Community). The existing use operates under a previously approved Special Use Permit. The surrounding land uses consist of residential and commercial. The surrounding zoning consists of R5 (Residential Single and Two Family) to the north and east, and BC (Business, Community) to the south and west. Surrounding Future Land Use designations consist of CC (Community Oriented Commercial) and SFH (Single Family High Density).

Staff finds that the request meets all site plan review standards of the Zoning Ordinance. In addition, there were no outstanding issues raised by the reviewing agencies. Staff recommends approval of Site Plan Review 12-150002 from Cooper Body Shop, subject to the six (6) conditions stated in staff's report.

Dailey questioned if sidewalks would be required on State Road as part of this review.

Niewiadomski advised since the proposal is not expanding the building beyond 20%, no sidewalks will be required.

Musselman moved that the Planning Commission approve Site Plan Review 12-150002 from Cooper Body Shop to renovate and expand an existing structure and replace an existing structure located at 1221 West State Road, as described on the site plan dated March 15, 2012. Approval is subject to the following conditions:

- 1. The applicant obtain review and approval from the Mid Michigan District Health Department for the proposed private water well prior to the issuance of a building permit for the renovation.**
- 2. The applicant shall comply with the site lighting requirements of Section 10.1.10 6) of the Township Zoning Ordinance.**

3. **The applicant shall comply with the requirements of Chapter XI of the Zoning Ordinance prior to the issuance of sign permits for the project.**
4. **The sanitary sewer connections shall follow the appropriate Municipal Standards and Building Code requirements.**
5. **The applicant shall comply with the requirements of the Clinton County Drain Commissioner.**
6. **The applicant shall meet the requirements of the Township Fire Department prior to the replacement of the existing structure.**

Supported.

ROLL CALL on motion:

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

MOTION CARRIED.

- II. Special Use Permit 99-990003 from Rosewood L.L.C., 12 bed adult foster care facility located at 1070 Webb Road. Applicant is requesting the amount of \$3,750.00 being held in escrow by the Township for the construction of sidewalks related to the project be reimbursed in full.**

Keilen noted that the Planning Commission reviewed a sister project (SUP 11-990008 from Ralph Mason) related to this existing adult foster care facility. At that time the Board granted a waiver to the sidewalk requirement.

Since the approval of SUP 99-990003, the Township has been holding \$3,750.00 in escrow for the installation of sidewalks at 1070 Webb Road. The Board has determined that the escrow money should be returned to Mr. Mason since a waiver was granted for his request for the adjacent property.

Fair moved to approve the reimbursement of the escrow account for sidewalk construction being held for the project related to Special Use Permit 99-990003, located at 1070 W. Webb Road, in the amount of \$3,750.00 to Mr. Ralph Mason and to amend the Site Plan to reflect a sidewalk waiver has been granted. Therefore, sidewalks will not be required on the north side of Webb Road at this time. Supported.

ROLL CALL vote on motion:

AYES: 8 NAYS: 0 ABSENT: 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 April 9, 2012 and April 23, 2012 regularly scheduled meetings of the Board of Trustees.

II. Zoning Board of Appeals:

Gobbo reported 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: None.

DISCUSSION:

Brief discussion took place regarding a recent news article regarding a possible casino to be built at the northeast corner of Clark Road and S. US 27 (Clark Corners property).

ADJOURNMENT:

Fair moved to adjourn the meeting at 8:35 p.m. Supported. MOTION CARRIED.



Linda K. Parkinson, Recording Secretary



Kim Smelker, Secretary