

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MI
PLANNING COMMISSION MINUTES
MONDAY, DECEMBER 4, 2006**

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, Greg White, Bruce Keilen, Kim Smelker, Mike Nolen, Terri Shively and Trustee Seeger.

MEMBERS ABSENT: Jason Flower.

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

APPROVAL OF MINUTES: **Seeger moved to approve the minutes of the November 6, 2006 Regular Meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

- I. 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. **Note: Postponed at the November 6, 2006 Regular Meeting.**

Planning Director Jeff Gray advised that Request for Special Use Permit 06-990003 from D.L. Kesler was postponed at the November 6th meeting to allow the applicant time to provide all plan revisions, including a phasing plan, and required agency reviews from the Clinton County Road Commission and the Wolverine Pipeline Company. As of the date of this meeting, all information has been received.

Gray went on to review staff's memorandum dated December 1, 2006 pointing out the following plan revisions: the applicant now proposes phasing the excavation with the southeast portion of the site designated as the area that would be excavated during the first 5 years; a financial guarantee amount of \$6,750 per acre will be provided to assure rehabilitation of the site; the site plan will be required to be modified so that the excavation will not encroach into the 75-foot setback on the east side of the site; approval from the Drain Commissioner will be required for the final design and location of screening berms prior to excavation on the site; lastly, soil borings have been obtained and indicate that much

of the site consists of various sands.

With respect to agency comments, Gray advised the applicant will be required to comply with Road Commission requirements regarding a financial guarantee and haul route prior to commencing with excavation on the site. In addition, the driveway design and location will be subject to review. The applicant will be required to provide an easement for the relocation of the existing pipe line that runs diagonally through the site and pay all costs associated with the relocation. However, it should be noted that the 5-year mining area is outside of the area of the existing Wolverine pipe line.

Gray further advised that staff has obtained an opinion from the Township Attorney as to whether the Township may limit the number of mining operations in the community. In summary, it is the Township Attorney's opinion that the number of operations is not sufficient reason to deny a particular request. The Township is obligated by law to permit mining operations on sites where the material exists. However, reasonable conditions can be placed on the operations.

In closing, Gray stated, with the conditions listed in the proposed Special Use Permit, the proposed operation will comply with the requirements of Section 7.13.7 of the Zoning Ordinance for the excavation of soil and minerals. Gray further advised that the request also meets the standards listed in Section 7.6(1) of the Zoning Ordinance which provides a Basis for Determination for approval of Special Use Permits (See pages 3 and 4 of staff's memorandum).

Smelker questioned the proposed slopes on the plans submitted stating that they do not seem to meet the 3:1 requirement. She further asked how the residents living on the two eastern parcels of the site would access their homes.

Gray advised the applicant was present and could most likely provide an answer.

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

Daryl Kesler, 12671 Center Road, Bath, MI 48808, applicant, advised the residents living on the site will have a remote control to unlock the gates and access their homes.

There were no further questions or comments from Commissioners.

Chairman Gobbo invited any additional public comments from the public that were not expressed during the Public Hearing in November.

Laura Harris, 2711 E. Howe Road, DeWitt, MI 48820, spoke in opposition to approval of Special Use Permit 06-990003. She stated that the applicant should proceed through a variance process with the Township due to the fact that they are proposing a change of use on the site.

Gray advised that the proposed request for excavation is a use allowed by special use permit in the existing A (Agricultural) zoning district. The applicant is not being required to go through the Special Use Permit application process because of any claim of an existing mine

on the property. In addition, there is no definitive evidence of the previous operation that would exempt the current review. Lastly, Gray noted that the Board of Appeals could not review whether a use is allowed in a particular zoning district. The Township's Zoning Ordinance, as well as State law, will not allow Townships to consider "use variances".

There were no further comments or questions.

Keilen moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 06-990003 from D.L. Kesler based on the plans last revised on November 21, 2006. Approval is recommended on the following basis:

- 1. The use has been designed in accordance with the requirements of Section 7.13.7 of the Zoning Ordinance.**
- 2. The conditions included in the permit assure that the use will not be hazardous to existing or future uses in the vicinity.**
- 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 (Flower) VACANT: 1

MOTION CARRIED.

Chairman Gobbo stated he realizes that sometimes requests come before the Planning Commission that can be contentious. However, the Planning Commission must follow its statutory responsibilities.

Gray advised the public that the Board of Trustees will consider request for Special Use Permit 06-990003 at their meeting on the second Monday in January (January 8, 2007).

II. PUBLIC HEARING - 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.

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

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated December 1, 2006 pointing out the location of the site. The proposed excavation operation is allowed in the existing A (Agricultural) zoning district. The applicant was previously issued Special Use Permit 01-990004 for the excavation on this property on October

22, 2001. The permit was issued for a 5-year period and expired in October of 2006. The applicant is now applying for another Special Use Permit to allow time to complete the mining operation. The applicant has proposed that it will take approximately 2 years to complete excavation of the remaining 10.83 acres.

Gmazel advised the surrounding land use consists of Olive Township to the north, Agricultural/Single Family to the east, and Agricultural to the south and west. The surrounding zoning consists of Olive Township to the north and A (Agricultural) to the east, south, and west.

With respect to the current operation, Gmazel stated the excavation takes place on a parcel that totals 38.08 acres, with 24 acres subject to mining activities. As a condition of the current permit, the site has been subject to annual inspection to assure that operations are occurring in accordance with the approved plans. The site has consistently been found in compliance with requirements and no complaints have been received related to operation of the site.

The applicant has proposed only one change as compared to the previous Special Use Permit in that the current application offers a revised completion schedule of 2 years. Other site specific issues remain the same.

Staff is recommending a few changes to the new Special Use Permit. First, based on a recent estimate created by the Township Engineer, the Township is requiring a revised financial guarantee in the amount of \$6,750.00 per acre. Based on the 10.83 acres of site left to rehabilitate, the total amount of the revised financial guarantee will be \$73,102.50. Second, the applicant will be required to provide copies of any and all written authorizations and permits granted by the MDEQ, due to the expiration of the previously granted permit.

With respect to public services and facilities, Gmazel advised no concerns have been noted by the reviewing agencies. However, the Clinton County Road Commission will require a haul route agreement for maintenance of the roads involved. In addition, the Clinton County Drain Commissioner's Office will require a soil erosion and sedimentation permit be provided.

In closing, Gmazel stated she would entertain any questions the Commission may have.

Nolen noted that under the previous Special Use Permit, there were no complaints filed regarding the on site activity. In addition, annual inspections of the site have indicated that the site is in compliance with the conditions of the Permit.

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

Jeff Kyes, 3390 E. Howe Road, DeWitt, MI 48820, applicant, stated they had originally anticipated the completion date of the operation to be 7 to 9 years. Hopefully the operation will be completed by mid summer of 2007. He further

advised that he is not aware of the MDEQ permit expiration but would be glad to provide whatever staff feels is necessary.

There were no questions or comments from the Commission.

Chairman Gobbo invited public comments.

- C. Close Public Hearing. **Hearing no public comments, Seeger moved to close the Public Hearing at 7:40 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Seeger moved that the Planning Commission recommend that the Board of Trustees approve Special Use Permit 06-990004 from Warden Development, LLC based on the plans dated October 26, 2006. Approval is recommended with 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.

ROLL CALL vote on motion:

**AYES: 7 NAYS: 0 ABSENT: 1 Flower VACANCY: 1
MOTION CARRIED.**

NEW BUSINESS:

- I. **Request for Site Plan Review 06-150002 from David Boynton**, to be allowed to construct a 4,092 sq. ft. office/warehouse on a .34 acre vacant parcel located on the northwest corner of Northcrest and Brook Road, Lot #121 of Boichot Acres #3, in the northwest ¼ of Section 27 of DeWitt Charter Township.

Gmazel briefly reviewed staff's report dated December 1, 2006 pointing out the location of the site. The applicant is seeking approval to construct a 4,092 sq. ft. office/warehouse on a 0.34 acre vacant lot (Lot #121 of Boichot Acres #3).

The site is fairly flat and generally slopes toward the northeast. The future road right-of-way

for Brook Road runs along the eastern boundary of the site. The surrounding land use consists of Undeveloped to the north and west, Commercial to the south and Single Family Residential to the east. The surrounding zoning consists of BC (Business, Community) to the north, south and west, and R3 (Single Family Residential) to the east.

With respect to Site Plan Review, Gmazel advised that the proposed building and all site improvements would be constructed in one phase to begin as soon as possible. The proposed office and storage facility is allowed in the existing BC (Business, Community) zoning district.

The proposed building and site plan complies with lot area, lot width, building setback standards, and building height requirements as listed in the Schedule of Regulations, Section 5.18 of the Zoning Ordinance.

With respect to off-street parking, staff is recommending that a revised site plan be provided that indicates any changes to the square footages of each use in the building so that the revised parking space calculations can be correctly verified.

The proposed landscaping plan is lacking one ornamental and one conifer tree in the south buffer yard. Staff recommends that all changes to the proposed landscaping plan be made on a revised site plan before the issuance of a building permit.

Staff further recommends that the applicant provide a revised site plan that depicts the installation of the sidewalk along the future right-of-way of Brook Road before the issuance of a building permit.

With respect to public services and facilities, Gmazel stated the following: the applicant proposes that the site be served by a well water system; a storm drainage will be proposed to be installed along the north lot line of the property; a commercial driveway permit will be required for the driveway layout; the applicant will be required by the Fire Chief to install a "Knox Box" key box next to the main entrance of the building. Staff recommends site plan approval be granted with the condition that all requirements of all reviewing agencies be met prior to issuance of a building permit by the DeWitt Charter Township Building Department.

In closing, Gmazel stated that the proposed site plan is in compliance with site plan review standards set forth in the Zoning Ordinance, subject to the conditions mentioned in staff's report.

Brief discussion followed regarding clarification on sidewalk installation and the surrounding land uses.

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

David Boynton, 15122 Boichot Road, Lansing, MI 48906, applicant, stated he was present for questions.

There were no questions or comments.

White moved that the Planning Commission approve Site Plan Review 06-150002 from David Boynton of Boynton Fire Safety Services, LLC to construct one 4,092 square foot office/warehouse and, in accordance with the site plan dated November 6, 2006, subject to the following conditions:

- 1. The applicant shall comply with the requirements of all applicable reviewing agencies.**
- 2. The applicant must provide a revised site plan that depicts all required changes including parking calculations, landscaping and a finalized sidewalk plan, prior to the issuance of a building permit.**
- 3. The applicant shall provide written approval from the Clinton County Drain Commissioner's Office prior to issuance of a building permit.**
- 4. The applicant shall provide a copy of a commercial driveway permit from the Clinton County Road Commission prior to issuance of a building permit.**

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0 ABSENT: 1 (Flower) VACANCY: 1

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 November 13, 2006 and November 27, 2006 regularly scheduled Board of Trustees meetings.

II. Zoning Board of Appeals:

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

III. Committees: None.

IV. Staff:

Gray advised that there will most likely be no Planning Commission meeting held on January 3, 2007, due to lack of business.

DISCUSSION: None.

ADJOURNMENT: **White moved to adjourn the meeting at 8:02 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Kim Smelker, Secretary