

CHARTER TOWNSHIP OF FLUSHING
6524 N. SEYMOUR ROAD
FLUSHING, MICHIGAN 48433
810-659-0800 FAX: 810-659-4212
PLANNING COMMISSION MEETING
DATE: JANUARY 12, 2004 TIME: 7:00 P.M.
WEB ADDRESS <http://www.gfn.org/flushing/index.html>

MEMBERS OF PLANNING COMMISSION

Jerome Doyle, Chair	Richard Buell
Robert Gensheimer, Vice Chair	Brian Bunker
Eric Swanson, Secretary	David Gibbs
Ronald Flowers, Board of Trustee Representative	

Jerald W. Fitch, Building Inspector
Julia A. Morford, Recording Secretary

PRESENT: Doyle, Gensheimer, Buell, Bunker, Flowers, Swanson, Fitch and Morford

ABSENT: Gibbs

OTHERS PRESENT: Dave Rowe of Inland Seas Engineering, Joan Pajtas, Katherine Kiacz, Charles Bearer, Aaron Bowron, John Fick of Fick Excavating, Gregg Barrett, Brett Wehner, and Supervisor Andy Trogot

I. MEETING CALLED TO ORDER at 7:11 p.m. by Planning Commission Chair Jerry Doyle.

CHAIR JERRY DOYLE introduced new Planning Commission Members, Richard (Bud) Buell, who will be replacing Linda Minarik, and Aaron Bowron, who will be replacing Brian Bunker, who will be moving from the township in the near future.

II. ADOPTION OF AGENDA: FLOWERS MOVED, seconded by Bunker to approve the Agenda as presented. **MOTION CARRIED.**

III. APPROVAL OF MINUTES OF NOVEMBER 25, 2003: FLOWERS MOVED, seconded by Gensheimer to approve the minutes of November 25, 2003 with one correction. **MOTION CARRIED.**

APPROVAL OF MINUTES OF DECEMBER 8, 2003: SWANSON MOVED, seconded by Flowers to approve the minutes of December 8, 2003 with corrections. **MOTION CARRIED.**

V. UNFINISHED BUSINESS:

1. **Gregory Barrett and Brett Wehner – Renewal of a Special Use Permit for a Pond and Earth Removal at 8081 Duff Road and 8199 Duff Road, Flushing, Michigan, respectively**

GREGORY BARRETT (BARRETT) of 8081 Duff Road, Flushing, Michigan and **BRETT WEHNER (WEHNER)** of 8199 Duff Road, Flushing, Michigan were present to request a renewal of a Special Use Permit for a Pond and Earth Removal.

BARRETT stated the pond project had been started two (2) years ago and things had not worked out as planned. There had been two (2) contractors involved with the project; **JOHN FICK (FICK)** of Fick Excavating has been the contractor since the permit renewal of May 12, 2003. There have been problems as well as improvements to the project:

- Trucking problems
- Rain - water table has risen causing the pump to run 24/7
- Keeping the roads in order
- Latest permit operated under the required hours of 8:00 a.m. to 6:00 p.m
- Genesee County Road Commission had approved the drainage on Deland Road
- Project has taken longer than planned
- Problems with keeping the water pumped out of the pond
- **BARRETT/WEHNER** didn't need to be stuck with a cattail pond

BARRETT stated he, **WEHNER**, and **FICK** just needed more time; every effort has been made to get the pond project completed. The top four (4) feet of the clay has been removed; the sand is now ready to be removed to obtain the depth of the pond.

FOOTPRINT:

BARRETT stated that sixty (60%) percent of the pond had been completed in size; the pond depth is approximately six (6) feet which would be the stagnant water line. **BARRETT/WEHNER** would like to go down another eight (8) feet. Per the grade, the pond is down ten (10) feet and would bleed out at the six (6) foot level. The size of the footprint would be the same as the original size. The toughest part of the pond project has been cutting the footprint and removing the clay. Some berms have been started on the Southeast side of the proposed pond.

OTHER POSSIBLE USES:

BARRETT stated that **FICK** has accomplished more in six (6) months period of time than what the first two (2) contractors accomplished in two (2) years. There are possibilities as to other uses for the sand, one being the proposed Flushing Junior High School at Carpenter Road. The ground is froze now which would be the idea time to haul dirt. **FICK** stated the road limit requirements for trucking would shut down the hauling from March 1 until the end of April.

BUNKER wanted to know how much sand, on a daily basis, had been hauled out of the pond this past summer. **FICK** stated there had been between 3,000 to 3,500 yards taken out daily; the weather had a large impact on the hauling out.

ROAD MAINTENANCE:

BUNKER wanted to know what type of measures were being taken on Duff Road. **BARRETT** stated the road had been maintained for the local residents by placing good gravel on some of the bad spots, grading the road, and maintaining the road. **DOYLE** inquired from **FITCH** if the project had been maintained? **FITCH** stated he had received two (2) complaints from the neighbors; one (1) neighbor had a complaint concerning the truck noise on Deland Road.

FLOWERS stated the hauling and the heavy trucks were tearing up the asphalt and gravel roads. He (Flowers) felt the Planning Commission had been very fair to **BARRETT/WEHNER** with the pond situation. There were already three (3) strikes against them: 1) the pond had been started without first coming to the Planning Commission, 2) came to the Planning Commission after the project was started for a pond permit, and 3) now the pond project has become a mining operation. **FLOWERS** stated the neighbors had complained during the summer about the noise and trucks on the road.

BARRETT wanted to know if the situation would be better if the trucks went North on Deland Road. **FLOWERS** stated that either direction the trucks travel, garbage trucks, buses, and big hauling trucks have been destroying the roads which have been locally maintained. **BARRETT** inquired about making a road out to Coldwater Road, which would be a primary road and maintained by the Genesee County Road Commission (Road Commission). **BUNKER** wanted to know if **BARRETT/WEHNER** had access to Coldwater Road; a road would be constructed across the property owned by **ROBERT RANSOM (RANSOM)**.

NEW BEGINNING:

BARRETT stated he and **WEHNER** had been misled by the first contractor on the pond project. A fresh start had begun with **FICK**; progress has now been seen. **GENSHEIMER** wanted to know if the road was constructed out to Coldwater Road, how long would it take to complete the pond. **BARRETT** stated the hauling could go North on Stanley Road until the road restrictions were in affect, approximately March 1, 2004. During the road restrictions period of time, the road from the pond to Coldwater Road would be constructed and, after the road restrictions, approximately six (6) months to complete the pond.

FICK stated that all the materials/equipment needed for the pond are located on the North side of the pond and it would be a real problem to transfer all the materials/equipment to the South side to construct the lane to Coldwater Road and then return to the North side again for the hauling out process.

GENSHEIMER stated the Planning Commission had an obligation to the neighbors as well as to **BARRETT AND WEHNER**. **BARRETT** stated they are trying to be as productive as possible with the pond project. Now is the best time to haul since the roads would be frozen.

SWANSON read a section of the Approved Minutes of May 12, 2003 which stated:

“**JOHN FICK (FICK)** an excavator in the area, recently received a permit from Flint Township Planning Commission to develop in Flint Township,

and has agreed to take the entire fill they (Barrett and Wehner) need to remove in order to complete the pond.”

SWANSON wanted to know if the permit had been fulfilled. **FICK** stated the clay material was not marketable and there had been no place to take the clay.

BUNKER stated the Planning Commission had been told by **BARRETT/WEHNER** that dirt would be hauled out of the pond all day. **FICK** stated there were a lot of variables dealing with the sand such as digging out the sand and letting it drain after it was dug out. The current stock piles of clay would be used for berms. Another stock pile of topsoil would be used for seeding and planting around the pond. The remaining dirt would be used in-house. **FICK** stated that 30,000 to 40,000 yards of sand would have to be removed from the pond. One truck haul would be a 10-yard truck. There are 8,000 to 10,000 yards of sand that is presently sitting ready to be removed.

GENSHEIMER wanted to know when the road restrictions would be off. The time would be from March 3 through approximately April 15, 2004, no later than May 1, 2004.

AREA OF POND:

BUELL inquired as to the size of the surface acreage of the proposed pond? **BARRETT** stated it was three and one-half (3 1/2) acres in size.

PROPOSED ROAD TO COLDWATER ROAD:

ROBERT RANSOM (RANSOM) owns the property where the road will be located. **RANSOM'S** property goes to the Boman Drain. The proposed lane would be located fifty (50) to seventy-five (75) feet from the corner (where tiles are located) straight South.

8:00 P.M. – OPEN TO THE PUBLIC

1. **Katherine Kiacz, 8094 Duff Road, Flushing, Michigan** – “what are the ponds being built for; Duff Road is just for two (2) houses; Duff Road is not a good road; will the pond get bigger and bigger.”
2. **Joan Pajtas, 3254 Duffield Road, Flushing, Michigan** – “road needs to be built up with gravel on it; there was supposed to be a grader on site to keep the road in working order.”

WHAT IF POND NOT COMPLETED BY COMPLETION DATE:

DOYLE realized the fact that the pond project would not be the kind of project that a completion date could be determined, but what if the sand could not all be taken out of the pond, what would be the alternative? **BARRETT** stated that if they could not complete the pond, the sand would be dug out to obtain the depth of the pond, the areas already dug out would be backfilled, and the size of the pond would be decreased.

LANE FROM POND TO COLDWATER ROAD:

BUELL wanted to know if **RANSOM** would restore the road, across his property, back to its original use after **BARRETT/WEHNER** had completed the hauling out of the dirt; the decision

would be left up to **RANSOM**. **SWANSON** wanted to know if **BARRETT/WEHNER** had checked with the Genesee County Road Commission to see if they (Barrett/Wehner) could use the gravel from their pond to build up the road. **BARRETT** stated the Genesee County Road Commission had been called to check on the requirements for the road; the Road Commission uses a specific size of aggregate, but have never come out to check to see if their (Barrett/Wehner) gravel would work for the road.

BARRETT stated that by having the road, from the pond, to Coldwater Road, it would eliminate all the complaints that have been received. **FLOWERS** stated the Planning Commission has been very lenient regarding the pond and earth removal project. **DOYLE** stated the road (lane) to Coldwater Road would be the most direct route to remove the sand. **GENSHEIMER** inquired from **FLOWERS**: if between now and March 1, 2004 would it be an ideal time to haul, considering the damage that currently has been done to Duff Road and Deland Road. If the haulers used Duff Road from now to March 1, 2004 and they (Barrett/Wehner) agreed to maintain the land or could work some agreement with the Road Commission to use their (Barrett/Wehner) gravel, so Duff Road residents are out of the situation, they (Barrett/ Wehner) would structure their future hauling on the lane out to Coldwater Road.

FICK stated that with the pounding of the road every day there could be three (3) to six (6) foot of frost in the road; in an open field there might be six (6) inches to a foot of frost. There would be different scenarios in the road conditions.

SOLUTION TO DUFF ROAD:

BUNKER wanted to know the solution to Duff Road: Get a permit from the Road Commission to bring in the material and grade it out. It would be done. It would be in a better condition than before the pond was started. **FICK** stated the permit from the Road Commission would take a couple of months. **FICK'S** trucks also have been damaged from the condition of the road. His company has tried to maintain the road so that he doesn't have to replace springs on his equipment.

BUELL wanted to know Mrs. Kiacz position of finishing up with the hauling of the material from now until frost laws go into affect at which point hauling would cease on Duff Road; there would then be the obligation of the haulers to get the road repaired and restored and a new road created which would go to Coldwater Road across Mr. Ransom's property with his agreement. It would be about six (6) more weeks and hauling would cease. Mrs. Kiacz understood the situation.

BUNKER felt the Duff Road issue should be restored to the Road Commissions standard, not one which the Planning Commission would select. **BARRETT** felt he and **WEHNER** should not have to restore Duff Road to a new road standard. **BARRETT** stated he could build up the low points on Duff Road. **BUNKER** stated approval had to be obtained from the Road Commission to make any improvements. **TROTOGOT** has contacted the Road Commission.

8:34 P.M. CLOSED TO THE PUBLIC

DOYLE stated points had to be made to solve the problem on Duff Road, to satisfy the complaints of the residents, and what **BARRETT/WEHNER**'s intent would be to help maintain Duff Road.

1. Duff Road – depends upon what Genesee County Road Commission accepts
 - a. put two (2) loads of gravel on road
 - b. not intend to make Duff Road a Class A road
2. 6' of sand dug out and stockpiled to let drain and then move to someplace else
 - a. finish by December 31, 2004
 - b. remaining sand not removed, fill in part of the pond or use as material for a berm
 - c. no more hauling out of sand
3. Use of Duff Road next two (2) months only
 - a. five (5) or six (6) months after the load restrictions lifted, Duff Road would not be used
 - b. would try to accommodate the County's recommendations for the road (**BARRETT** stated they would put \$1,500 into the restoration of Duff Road)

CONDITIONS PLACED ON THE RENEWAL:

1. **BARRETT/WEHNER** would work with the Genesee County Road Commission regarding the specifications for the road. (This would be arranged by **TROTOGOT**).
2. maintaining and using Duff Road until the load limits are in affect then build the temporary lane to Coldwater Road - at that time take care of the dust on the lane
3. lane on the Ransom Property
 - a. property across the street on the same side
 - b. couple hundred yards to the closet neighbor
 - c. a culvert would be put in to cross the ditch to Coldwater Road
 - d. when load limits are lifted, would use the lane thereafter to get rid of the sand
5. pond permit expires December 31, 2004
 - f. wanted to dig another five (5) or six (6) feet of sand from the bottom of existing ponds
 - g. if the digging did not happen during the stated period of time, the hauling of sand from the property would cease
 - h. continue to maintain the insurance bonds
 1. Earth Removal Bond would terminate on December 31, 2004
 2. permit for the pond would be maintained until **BARRETT/WEHNER** had come to the Planning Commission for

inspection of the pond – the bond would be terminated at this point.

6. hauling on Duff Road only until the load limits are set on the road, then contact the Genesee County Road Commission to maintain the road to the standards it was before the hauling started. (Duff Road would be used until the load limits are placed on the road, after that, the lane to Coldwater Road would be used).

GENSHEIMER MOVED, seconded by Buell that when the frost laws are in affect, Duff Road would be completed, would work with **SUPERVISOR TROTOGOT**, the Township and the County Road Commission to bring the road up to a reasonable standard; the road going to Coldwater Road would be a temporary lane and there would be a full agreement there would be no extensions; the roadways would be kept dust free; with the same stipulations as stated in the renewal of May 12, 2003; the pond bond would be extended another year from the earth removal, (earth removal bond terminates December 31, 2004) until December 31, 2005. The Planning Commission recommends that **FITCH**, periodically inspect the progress of the pond.

ROLL CALL VOTE:

AYES: Gensheimer, Swanson, Buell, Bunker, Doyle

NAYS: Flowers MOTION CARRIED.

ABSENT: Gibbs

2. Review of Mud Creek Condominium

DAVE ROWE (ROWE) of Inland Seas Engineering, was present to answer any questions regarding the By-Laws of the Mud Creek Condominium which was changed from Evening Shadows No. 3.

FITCH stated the project started out as a plat and then changed to a site condominium on June, 9, 2003. **ROWE** stated all the improvements have been turned in to the Planning Commission. **FITCH** stated that **ROWE** was present because the Master Deed and By-Laws have to be approved by the Township. The By-Laws and drawing were submitted in December 2003.

DOYLE read Section IV of Unfinished Minutes, number 1, of the June 9, 2003 entitled: “Dave Rowe, Inland Seas Engineering – Final Site Plan Review for Evening Shadows No. 3 Site Condominium” which states:

“Dave Rowe (Rowe) of Inland Seas Engineering, Flushing, Michigan was present to present to the Planning Commission Phase II of the Evening Shadows No. 3 Site Condominium permit approvals from: 1) Department of Environmental Quality (DEQ), dated March 7, 2003, which extends the original permit granted in 1994 to work within the Flood Plain, 2) Department of Environmental Quality, which calls for a permit to run a 12 inch line from the catch basin at the bottom into Mudd Creek (separate permit – same DEQ office), 3) Department of Environmental Quality, which authorizes the construction of an 8 inch watermain within the street, 4) Genesee County Drain Commission, which indicates the layout for the storm drain that has been approved, 5) Genesee County Road

Commission, dated June 4, 2003, which approves the road design of Evening Shadows No. 3 and 6: Genesee County Water and Waste, which approves both the sanitary sewer and the watermain; a letter has been sent to Lansing, Michigan. Rowe stated the lot configuration would stay the same.

The sewer permit request has been in Lansing since March 28, 2003, but has not been received by Rowe; the permit is expected any time.

Rowe stated the sewer would be connected to a 48" interceptor which would run along Mudd Creek; there will be no problems with sewer capacities.

The soil erosion permit is still lacking. The contractor has to obtain the soil erosion permit and he (the contractor) did not want to apply for the soil erosion permit until he has applied for the sewer permit so that he could start the project.

The Motion States:

SWANSON MOVED, seconded by Flowers to approve the Final Preliminary Approval as presented to the Planning Commission and recommend it proceed to the Board of Trustees; the building inspector can proceed as soon as the permit is furnished to finalize the approval. **MOTION CARRIED.**

DOYLE stated there had been a Preliminary Approval and a Final Preliminary Approval on the Plot Plan. **ROWE** stated it was his understanding for attending the Planning Commission meeting to make sure the building was constructed the way it was supposed to be constructed; and to make sure the By-Laws and Master Deed reflected the logic of what the Planning Commission had requested. **FITCH** stated he couldn't find any required specifications for the By-Laws or Master Deed. There had been a change in the ordinances during the process of reviewing the plans.

SWANSON stated that at the February 11, 2002 Planning Commission Meeting, Evening Shadows #3 had been changed from a plat Subdivision to a Site Condominium. The Final Approval for a plat subdivision had been given on May 10, 2001.

FLOWERS MOVED, seconded by Gensheimer to approve the final preliminary on Mud Creek Condominium as assembled. **MOTION CARRIED.**

BUNKER would like, for future approvals of a plan, to have some type of check list to make sure all the required steps have been completed before it is approved by the Planning Commission. **DOYLE** stated the process for approval has been 1) plans are sent out to the township's engineer who checks the plans, 2) the ordinance has been checked, 3) the engineer gives the Township a list of specific items of concern for the Planning Commission, 4) another Final Preliminary which would allow the contractor another chance to put the items that are

supposed to be on the plans, and 5) the Planning Commission would check to make sure that everything that had been discussed originally was on the plan.

BUNKER felt there needed to be a “letter of certification” from Rowe that plan such and such, was built according to plans approved by the Planning Commission on a particular date, therefore we (the Planning Commission) recommended approval.” **DOYLE** stated perhaps the Planning Commission should have a letter of this description.

FITCH stated the Planning Commission had been reviewing the plans for Evening Shadows #3 for a long, long time prior to **ROWE** reviewing the plans. The lot sizes were great; there were letters from the water, sewer, and soil erosion accepting the project. The storm sewer line had a couple of small items that needed to be repaired, but the line had been completed. **DOYLE** stated the completion of Mud Creek Condominium had been completed as to the plans that previously had been in affect before the requirements for the engineer technical plans were placed in the ordinance.

ROWE stated the Mud Creek Condominium would have sanitary sewer, water main, gas, electric, and all the home improvements.

FITCH stated that per the Ordinance, the Master Deed and By-Laws were approved by the Planning Commission, which was the purpose of **ROWE** being in attendance. **DOYLE** stated the Master Deed and By-Laws were of a personal matter and would affect the individuals living in the site condominium, as long as they (Master Deed and By-Laws) would not interfere with the ordinances. There were no certain issues addressed in previous minutes as to a specific issue being addressed in the By-Laws.

V. NEW BUSINESS:

1. Election of Officers for 2004

FLOWERS MOVED, seconded by Bunker to let the 2003 Planning Commission officers stay in their respective places for the year 2004. MOTION CARRIED. (Chair: Jerry Doyle; Vice Chair: Robert Gensheimer; Secretary: Eric Swanson; Recording Secretary: Julia Morford)

VI. BOARD COMMENTS:

None

VII. MEETING SCHEDULE:

PROBABLE WORK SESSION – TUESDAY, JANUARY 13, 2004 – 7:00 P.M. – DOUG PIGGOTT

REGULAR SCHEDULED MEETING – MONDAY, FEBRUARY 9, 2004 – 7:00 P.M.

PROBABLE WORK SESSION – TUESDAY, FEBRUARY 24, 2004 – 7:00 P.M.

REGULAR SCHEDULED MEETING – MONDAY, MARCH 8, 2004 – 7:00 P.M.

VIII. ADJOURNMENT: FLOWERS MOVED, seconded by Bunker to adjourn the meeting at 9:35 p.m.

JEROME DOYLE, Chair

JULIA A. MORFORD, Recording Secretary

ERIC SWANSON, Secretary

Date of Approval

Planningminutes 01/12/04