

DELHI CHARTER TOWNSHIP  
PLANNING COMMISSION  
May 11, 2009

MEMBERS PRESENT: Donaldson, Hayhoe, Leaf, O'Hara, Warfield, Weaver, Zietlow  
MEMBERS ABSENT: Craig, Goodall  
STAFF PRESENT: Malone, Miller

Vice-Chairperson Warfield opened the meeting at 7:06 PM

**Pledge of Allegiance**

**Amendments to Agenda: None**

**Approval of April 7, 2009 Joint Board & Planning Commission Meeting Minutes**

It was moved by Commissioner Leaf and seconded by Commissioner O'Hara to approve the April 7, 2009 joint meeting minutes.

Voice Vote: All Ayes

**MOTION CARRIED**

**Approval of April 13, 2009 Planning Commission Minutes**

It was moved by Commissioner Donaldson and seconded by Commissioner Zietlow to approve the April 13, 2009 minutes.

Voice Vote: All Ayes

**MOTION CARRIED**

**Public Comment (Non-Agenda Items): None**

**Final Site Plan Approval for 2495 Cedar Street – Kroger Fueling Station (33-25-05-15-126-018)**

Ms. Miller explained this case was started quite a while ago. The original site plan was provided to the Township in 2007. At that time there was discussion at the PC regarding how fueling stations are addressed in the Zoning Ordinance (ZO). This discussion led to an ordinance amendment, which resulted in fueling stations being permitted by Special Use Permit (SUP) in the C-2 district. In order to meet this new requirement, the Kroger Company applied for a Special Use Permit (SUP), which was granted by the Township Board on March 18, 2008. The SUP was approved with eight conditions. On March 5, 2008 the applicant submitted plans for final site plan approval of the Kroger fueling station site plan.

There was discussion about the landscaping and outdoor storage area, as outlined in the SUP. The site plan complies with the Zoning Ordinance and meets setback requirements. There will be no outdoor sales, only an attendant kiosk. The site is adequately served by all public utilities. All storm water drain issues have been discussed and the Ingham County Drain Commissioner (ICDC) has approved the plans. Staff explained that there is currently adequate parking, even with the removal of parking spaces for the station and surrounding shopping center, since shared parking, as permitted by the Ordinance, will occur. There was additional discussion about site lighting, dumpster locations and review by the Township's engineer for turning radius issues.

The Delhi Charter Township Community Development department received a letter today (May 11, 2009) from Wolverine. Wolverine is the owner of the Quality Dairy store. They are opposing the installation of the gas station.

Commission Leaf wanted to know the length of time a SUP is valid. Ms. Miller stated that Section 8.1.2(5) stipulates that a complete application for Site Plan Review must be submitted within 1 year of the SUP's approval in order for the SUP to remain valid, otherwise it expires.

There was discussion about the delivery of the gas and the tankers ability to maneuver around corners on the site, etc. Commissioner Zietlow stated her opinion that there is more of a problem with beer delivery at Quality Dairy than there will be at this proposed new station.

Damon L. Garrett, 1050 Wilshire Drive, Ste. 260, Troy, MI, architect and engineer for the applicant, spoke about coordination with the ICDC. They have approved the plan with conditions. A check valve will be installed down stream of the catch basin and the company will enter into a maintenance agreement with the ICDC. The lighting under the canopy has been changed from the normal design in order to accommodate staff and the Township's requirements.

Commissioner Leaf asked about the hours of operation for the fueling station. Tom Frank, Kroger Company Real Estate manager, said they would be open from 6:00am until 11:00pm.

### **Public Comment**

Mary Katherine Quasarano, 4282 Woodworth Avenue, Holt, MI. said she just recently heard about this possible station. She stated her opinion about the safety issues and parking and that she believed that in 2001 they wanted to have a fueling station, but due to customer safety and zoning they could not have it. She wanted to know what had changed? She feels there is too much chaos and traffic and not enough parking. She feels site safety is not appropriate.

Dan Fleckenstein, CEO & President of RPF Oil Company, in Grand Blanc, MI passed out a packet of printed materials containing the information he was prepared to discuss. He stated that he feels he has years of experience. Mr. Fleckenstein expressed his concern with the safety of customers, parking and traffic flow, particularly with entering and exiting the station.

Commissioner Hayhoe question if the Ingham County Road Commission approved the plan. Staff stated that they received a copy and had reviewed it, but with no new entrances or exits required they didn't have any requirements.

Richard Broder – 260 E. Brown #200, Birmingham, MI read a letter from the new owners of Delhi Commerce Center, (CapCar Realty in Boston MA), located at 2380 Cedar Street. The letter was not in support of approval of the site plan.

John Fifarek, of Lasky, Fifarek & Hogan, P.C., Attorney for CapCar Realty, 101 S. Washington Square, Lansing, MI, is concerned about public health and safety and does not feel the site is designed with these items in mind. Mr. Fifarek also discussed his opinion that the parking was not adequate and that a traffic impact analysis should be performed and that the site plan does not conform to a number of ZO requirements.

Marsha Bowers, 4626 Krental Avenue, Holt, MI, feels safety is the main concern along with pedestrian traffic. Ms. Bowers feels that the PC should consider requiring a bond to ensure that environmental contamination could be remedied in the future.

Tom Frank, Real Estate Manager for Kroger of MI, 39810 Grand River, Novi, MI, said they currently manage 21 gas stations in Michigan and that they can fit a station at the proposed location. Parking for the employees is not an issue, as they will park further out in the lot so the patrons can park closer to the door. The tanker can fit on the site and stated that the grocery deliveries occur daily without incident. There is more than adequate parking on the south side of the shopping center. The fuel center will be leased as all the other stores are. If they vacate the fuel center it will be returned to parking. This is how the Kroger gas stations are handled. As far of adequate time in the filing, they filed in March 2009 and made additional corrections based on feedback from then.

## **Closed Public Comment**

Commissioner Leaf questioned staff regarding the allegations that parking was not adequate. Staff explained that parking is calculated based on the current land uses. Presently, approximately one-half of the shopping center is empty. Our ordinance states that shared and joint use of parking is encouraged. All of that notwithstanding, we can always address parking inadequacies if they arise in the future.

Commissioner O'Hara spoke about parking including the parking at the laundry business at the end of the building which can be used. Parking calculations are revisited whenever anything new comes into the center. Ms. Miller said the parcel has a lot of spaces. Sometimes businesses move in and out without our knowledge.

Commissioner Leaf asked again based on our analysis and our ordinance is there adequate parking for both Kroger and their gas station? Ms. Miller feels this is correct. Commissioner Leaf also questioned when we received the final site plan documents? Ms. Miller stated March 6, 2008, but corrected that the date was actually March 24, 2008. The set of plans before the PC tonight was received May 6, 2009. Commissioner Leaf stated that he is concerned about safety and feels there is enough parking. The concern stated by others with regards to pedestrians being in danger he doesn't feel is a problem.

Commissioner Zietlow asked for additional detail about the sales kiosk. It was stated that it would be used for minor sales, lottery sales (scratch off tickets), minor candy sales, and cigarettes. Tom Frank stated that there are not generally purchases at the kiosk without the patron also getting fuel.

Commissioner Donaldson questioned what is shown next to kiosk on the site plan. Clarification was made that it is an ice machine.

Commissioner Leaf asked Ms. Miller if she believed that the design represents a dangerous site for people that will be walking to or from the grocery store? Ms. Miller replied that under ideal situations stores would not have drives in front of them (between the parking and store), but that they all seem to which requires you to cross the drive in order to enter the store. She provided examples such as L&L Shoprite, Meijer's, etc. Ms. Miller has no way to know how people will drive, but felt that the proposed landscaping would give drivers visual cues to slow down and notice that there is something is going on in the area and pay attention.

Commissioner Donaldson questioned how parking need was being determined. Ms. Miller said that the exact calculation was done awhile ago and that she did not have it in front of her. Ms. Miller stated that just today, she looked at the parking that is there now and compared it to what the current uses are and was able to determine that it appears reasonable, considering shared parking. We can go back and check the parking situation again, if the PC believes it is needed. Uses in shopping centers change all the time and uses are now in them that years ago never would have been, such as the church.

Commissioner Donaldson wondered about the brick wall for the outside storage and he thinks that they need to add another row of block. There was also the trash compactor and a grease holder outside by the sign. He feels a traffic impact study should be done. He thinks anything over three pumps should have a study done. He also stated his opinion that maneuvering of a fuel delivery truck is too tight. He also feels that the parking spaces are a problem if someone is at the pump and another car is behind waiting, he feels you wouldn't get in or out of the parking space.

Damon Garrett, the Kroger representative, commented regarding Mr. Donaldson's concerns regarding a traffic study. He stated that the fueling station will pull patrons mostly from the store, not from the street. They have handled the design for many of these stations and that only a few had to have a traffic study. Customers are generally from the store, not off the street. He also stated that Kroger doesn't want to create any safety problems since they would be the ones held liable.

Commissioner Weaver asked about “new sales”. He stated that someone may buy groceries and gas in the same trip, but that this isn’t always true. He stated that he believes that about 95% are sales from people that grocery shop there. There are not a lot of people from the street that use the station, it is generally Kroger shoppers.

Ms. Miller said the PC can always require a traffic analysis during site plan review if it is felt to be necessary, but asked what the goal or purpose of one in this case would be since the Township does not have jurisdiction over the use or traffic on Cedar, Willoughby or Cedar Park. The ICRC does not have issues with the use of drives, so she is wondering what we would be looking for? Commissioner O’Hara wondered if a traffic analysis would show the amount of turning and usage of the drives, but felt that with the center being mostly vacant it will not show a true picture of the impact if the shopping center were full.

Commissioner Leaf highlighted the procedure for the approval of the SUP. He stated that it is presented to the PC and that there was a public hearing. The PC recommends “approval” or “denial” and forwards it on to the Board of the Township who can consider it and reject it, return it to the PC or approve it. This process has been done already. The Board made a decision and now the PC must determine if this site plan meets our Ordinance and the SUP. It is his opinion that this site plan meets the Township’s standards.

Vice-Chairperson Warfield asked for a motion.

Ms. Miller reminded the board they could place conditions on the site plan, if approved, that need to be met before a building permit could be issued, but as Commissioner Leaf said, all the previous eight SUP conditions have been met.

Commissioner Donaldson spoke about the site a few years ago at Willoughby and Aurelius. A SUP was issued but no final site plan was submitted after the owner finally realized that there was not enough room for an oil station to be built there. Commissioner Donaldson wondered if this should have a couple more conditions and come back a look at this again.

Commissioner Leaf doesn’t feel a traffic impact study will be beneficial. There is already a problem there (at the intersection of Willoughby and Cedar). Commissioner Donaldson thinks it may change the level of service as classified from the Road Commission.

Commissioner Zietlow wondered if there is any way to do a comparative analysis at other gas stations from Kroger to see how many people it involves that just go in and out of the station and not shop at the store.

Damon Garrett, from Kroger, responded that he will provide what is needed but to always keep requiring new information, as he thought they had gathered the most pertinent information that was needed and now they have made commitments from Kroger to get this started relatively soon. He wasn’t aware that there was a traffic problem in this area.

Commissioner Hayhoe feels that we don’t need a traffic study.

Tom Frank, Real Estate manager from Kroger spoke about the percentages of people that will visit the fuel station and stated that there would not be a new traffic problem.

**Commissioner Zietlow moved, supported by Commissioner Hayhoe to approve the Final Site Plan submitted by the Kroger Company for the construction of a new Kroger Fuel Station to be located at 2495 Cedar street (33-25-05-15-126-018) based on meeting the Zoning Ordinance requirements for Site Plan Review pursuant to Section 3.3 for a Fueling Station in the C-2: General Business zoning district with an approved Special Use Permit (SUP07-252), with the following condition of approval:**

**1. That signage, including canopy signs, are not included in the site plan approval for this project and that the signs incidentally shown on the site plan are not approvable based on the requirements of the Zoning Ordinance. All signage proposed to be located on the site will be required to receive a separate sign permit.**

Commissioner Weaver will abstain from the vote since he works for a supplier of Kroger.

There was general discussion about the motion.

ROLL CALL VOTE:

Aye: Hayhoe, Leaf, O'Hara, Warfield, Zietlow  
Absent: Craig, Goodall  
Nay: Donaldson  
Abstain: Weaver

**MOTION CARRIED**

**Public Hearing: Case 09-859, Text Amendment to Zoning Ordinance – 39.152 –MZEA**

**Open public hearing @ 9:35PM**

**Closed public hearing @ 9:35PM**

Discussion: None

Donaldson moved, seconded by O'Hara, to recommend adoption of Zoning Ordinance No. 39.152 to the Township Board.

ROLL CALL VOTE:

Aye: Donaldson, Hayhoe, Leaf, O'Hara, Warfield, Weaver, Zietlow  
Absent: Craig, Goodall

**MOTION CARRIED**

**Case 09-861, Text Amendment to Zoning Ordinance – 39.153 – “All-Season Roads”**

Ms. Miller explained the reason for changing the ZO to include the language of “All-Season Roads”. There was discussion on the construction of new roads and they will now be made as All-Season Roads.

Donaldson made the motion to send this text amendment to Public Hearing, supported by Commissioner Leaf.

Voice Vote: All Ayes

**MOTION CARRIED**

**Election of officers:**

Commission Leaf moved to adopt the potential slate of officers from the PC meeting of April 27, 2009, supported by Commissioner O'Hara.

Chairperson: Rita Craig

Vice-Chair: DiAnne Warfield  
Secretary: Betsy Zietlow

Voice Vote: All Ayes

**MOTION CARRIED**

Meeting adjourned at 9:49PM.

Respectfully Submitted,

Michael Goodall  
Secretary