

Lake Lansing Property Owners Association  
Crannog O'Siochain  
6150 Columbia Street  
Haslett, Michigan 48840

June 1, 2008

Planning Commission  
Charter Township of Meridian  
5151 Marsh Road  
Okemos, MI 48840

Honorable Planning Commissioners:

Re: Special Use Permit Application No. 08071 (F & F Investments)

On behalf of the Lake Lansing Property Owners Association (LLPOA) and its over four hundred members who are Meridian Township residents, taxpayers and voters, we respectfully request that the Planning Commission deny the subject Special Use Permit (SUP) application for a car wash and oil change facility on the very edge of Lake Lansing and the Lake Lansing Marsh. This residential, recreational, scenic and natural jewel of Meridian Township is not the proper location for this proposed use. Traffic, noise and environmental impacts of this proposed use cannot under any circumstances be allowed to adversely affect the unique values that Lake Lansing affords to Township and area residents.

### **Introduction**

Although the property is zoned C-2, and that district does allow car washes and oil change operations at acceptable locations by SUP only, the Meridian Township Zoning Ordinance contains a number of express requirements and subjective criteria that must be met by these uniquely intense and potentially damaging uses. The drafters of the Zoning Ordinance certainly did not envision that property on the edge of a residential district and a major lake and wetland would ever be used for an oil change or car wash operation, as evidenced by several express provisions of the Zoning Ordinance that this particular application cannot possibly meet.

### **Violation of Express Zoning Ordinance Requirements**

Before turning to the special use permit criteria that require denial of this requested SUP, we first point out a number of express requirements in the Zoning Ordinance that cause this application to be dismissed on its face without any further subjective review. These serious and very clear express requirements include:

1. Section 86-402(18) provides that: "No noise exceeding 70 dBA shall be emitted, as measured from a property line." The proposed site plan shows that the car wash blowers will be located within 20 feet of the west property line, and the materials submitted by the developer admit that the noise level at that distance, even with a "silencer," will be at least

85.5-87 dBA. This is more than **fifty times** the permitted noise intensity allowable under the Ordinance (since the noise level increases logarithmically with increasing dBAs).

2. Section 86-402(20)(d) demands that: “Physical vibrations humanly perceptible at or beyond the lot boundaries shall be prohibited.” The equipment used by oil change and car wash operations include air compressors for tools and tire filling, vacuums, and industrial blowers, which are both noisy and set up vibrations. The distances reflected on the proposed SUP plan between the proposed buildings and the lot boundaries are extremely small, ranging from less than 20 feet to only 60 feet. At these distances, the vibrations caused by the equipment will be perceptible to persons beyond the lot boundaries.

3. Section 86-404(b)(3) mandates that: “No building, parking, access drive, or other structure shall be less than 100 feet from a residential district line . . .” The proposed SUP plan shows one access drive on Lake Drive, which immediately abuts the residential district north and east of the Lake Drive centerline. The parking on the north side of the site is also less than 100 feet from the residential district across Lake Drive. The intent of this Ordinance provision, which is to keep commercial parking from impacting residential districts and to keep commercial traffic from using residential roads, would be violated by the parking and Lake Drive access proposed for this site.

4. Section 86-402(5)(k) requires in a related vein that: “[E]xternal access to the project shall be directly provided by a major street or highway shown in section 86-367. Further the applicant shall demonstrate that such external access on any street or highway shall be fully capable of absorbing the maximum hourly traffic anticipated to be generated by the uses(s) without undue interference to other traffic on any street.” This site has no direct access to Haslett Road, but must share a narrow access to that road that passes by both the existing automobile body shop and the Haslett Post Office and is impeded by the adjacent railroad right-of-way. It is no surprise that the applicant seeks to funnel a large part of its expected traffic onto Lake Drive, a residential road, since the Haslett Road access cannot be expected to allow for the kind of access these commercial uses would require. However, in addition to violating the prohibited connection to a residential road under section 86-404(3) noted above, this SUP would also violate this section by causing “undue interference” with traffic on Lake Drive and other connecting residential streets, including Carleton Street.

5. Section 86-404(13)(b)(2) demands that “air compressors, tire filling stations vacuum cleaners, or similar equipment shall be set back a minimum of 300 feet from an abutting residential district line.” This noise-and-vibration-producing-equipment associated with the oil change operation would be located only 120-160 feet from the residential district line in the center of Lake Drive abutting this site, clearly in violation of this section.

6. Section 86-404(13)(c)(2) requires that for car washes: “Buildings shall be set back a minimum of 500 feet from an abutting residential district.” There is an abutting residential district immediately north and east of this property along the center line of Lake Drive. Notably, there is no point on the proposed car wash property that can possibly meet this setback requirement, demonstrating that the drafters of the Zoning Ordinance did not intend that car washes be located on small parcels on the edge of Commercial districts that border residential districts, such as we have in this case.

7. Section 86-404(13)(b) mandates that: "The site shall accommodate safe internal vehicle circulation." Since access to Lake Drive is prohibited for the reasons described above, circulation on the site will be problematic at best. Users of the site will have to enter and exit past the Post Office and body shop along the narrow access drive to enter from or leave to Haslett Road, and once on the site will need to navigate the labyrinthine maze of closely-packed internal drives to access the car wash or oil change operations. When more than a few cars are stacked-up in line waiting for the car wash, they will prohibit access to those wishing to use the oil change bays, and vice versa, since both uses depend on the same narrow, one-way access drive.

8. Section 86-404(13)(c)(4) requires that car washes "shall not be allowed to operate so as to adversely affect the adjacent residential properties and surrounding area." Apart from the unique recreational and natural amenities of Lake Lansing and its environs, discussed in more detail below, the immediate vicinity of this proposed site is unquestionably residential. As pointed out above, the property borders residential districts to the immediate north and east. Numerous existing homes are located within 500 feet of the property's boundaries. The distinctive and dangerous S curve in Lake Drive that abuts this property, which is used as a path for substantial residential automobile, bicycle and foot traffic, would pose a serious threat of harm by any commercial access from this site. The proposed blower area points directly north across the open expanse of Lake Lansing, where the noise of the blowers can travel unimpeded to the detriment of hundreds of additional homeowners along Lake Lansing.

9. The factors mentioned immediately above also violate Section 86-342(2), which prohibits any conditions that "constitute a hazard to health, safety, or welfare, are unsightly, or in any way create a nuisance or damage adjoining property."

### **Violation of Special Use Permit Criteria**

In addition to the express requirements enumerated above, the Zoning Ordinance requires that all SUPs also meet the criteria detailed in section 86-126. That section provides that:

"Sec. 86-126. Review criteria.

Applications for special use permits shall be reviewed for compliance with the following standards and requirements, where applicable. An application for a special use permit that complies with all the following standards and requirements in this chapter may be approved. The applicant shall assure that:

"(1) The project is consistent with the intent and purposes of this chapter.

"(2) The project is consistent with applicable land use policies contained in the township's comprehensive development plan of current adoption.

"(3) The project is designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the general vicinity and that such a use will not change the essential character of the same area.

“(4) The project will not adversely affect or be hazardous to existing neighboring uses.

“(5) The project will not be detrimental to the economic welfare of surrounding properties or the community.

“(6) The project is adequately served by public facilities, such as existing roads, schools, stormwater drainage, public safety, public transportation, and public recreation, or that the persons or agencies responsible for the establishment of the proposed use shall be able to provide any such service.

“(7) The project is adequately served by public sanitation facilities if so designed. If on-site sanitation facilities for sewage disposal, potable water supply, and stormwater are proposed, they shall be properly designed and capable of handling the longterm needs of the proposed project.

“(8) The project will not involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic, noise, smoke, fumes, glare, or odors.

“(9) The project will not directly or indirectly have a substantial adverse impact on the natural resources of the township, including, but not limited to, prime agricultural soils, water recharge areas, lakes, rivers, streams, major forests, wetlands, and wildlife areas.”

This project fails to meet substantially all of these criteria, including the following:

1. The proposed oil change and car wash operations are not consistent with the purposes of Chapter 86. As pointed out in the sections cited above, such uses are intended to be located at least 300 to 500 feet, respectively, from residential zoning districts, which purpose this site cannot meet. Section 86-5 of the Zoning Ordinance also explains that the purposes of Chapter 86 include the following:

“(1) Encourage the **preservation and use of lands, open space, and natural resources in accordance with their character and suitability** for particular purposes and **limit the improper use of land and natural resources**.

“(2) Foster **harmonious relationships among land uses** and **prevent or minimize land use incompatibilities**.

“(3) Promote and enhance the **stability of the township's neighborhoods**, commercial areas, and **special** or historic **areas**.

“(4) Avoid overconcentrations of population.

“(5) Reduce the hazards to life and property from fire, flood, and other dangers.

“(6) Limit or lessen **congestion on the public roads and streets.**

(7) Provide for adequate space, light, and air.

“(8) Promote wise and efficient expenditure of public funds for public improvements and services to **conform with the most advantageous uses of land and resources.**

“(9) Facilitate adequate and efficient provision of transportation systems, sewage disposal, safe and adequate water supply, storm drainage, hazardous materials management, education, recreation, and other public services, utilities, and facilities.

“(10) Establish controls for activities, operations, or uses that produce **environmental impacts or irritants to sensory perception including noise**, odor, dust, or other irritants.” (Emphasis added).

Many of these purposes would be violated by the proposed SUP, including “the preservation and use of lands, open space, and natural resources in accordance with their character and suitability for particular purposes and limit the improper use of land and natural resources;” “harmonious relationships among land uses and prevent or minimize land use incompatibilities;” “stability of the township's neighborhoods . . . and special . . . areas;” “congestion on the public roads and streets;” “the most advantageous uses of land and resources;” “environmental impacts or irritants to sensory perception including noise.”

2. The proposed SUP would not be consistent with the Township’s land use policies. The property directly adjacent to this site includes Lake Lansing and the Lake Lansing Marsh, which are designated as protected areas in the Township’s land use plans.

3. The proposed use would not be “harmonious and appropriate in appearance with the existing or intended character of the general vicinity” and that use would “change the essential character” of the surrounding residential and fragile natural resource area.

4. The SUP would “adversely affect or be hazardous to existing neighboring uses,” including the adjacent Lake Lansing residential and recreational areas.

5. This project would be “detrimental to the economic welfare of surrounding properties or the community.” The properties around Lake Lansing are not only a valuable natural resource but are a major portion of the Township’s tax base. Any impairment of those economic values would harm the Township and its residents financially.

6. The project is not “adequately served by public facilities, such as existing roads,” since the access to Haslett Road is restricted and the access to Lake Drive is prohibited for the reasons discussed above.

7. The SUP would “involve uses, activities, processes, materials, and equipment and conditions of operation that will be detrimental to any persons, property, or the general welfare by reason of excessive production of traffic [and] noise.”

8. The proposed project will “directly or indirectly have a substantial adverse impact on the natural resources of the township, including, but not limited to . . . lakes [and] . . . wetlands.”

#### **Prior Case Law**

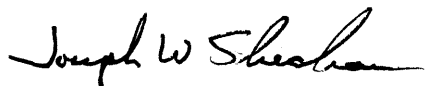
Our attorneys advise us that the Township would be on strong legal grounds if it denied the requested SUP. In addition to the applicant’s failure to meet the express requirements and subjective criteria of the Zoning Ordinance, past case law has favored municipalities in similar cases. In *Janigian v Dearborn*, 336 Mich 261; 57 NW2d 876 (1953), the Michigan Supreme Court affirmed the decision of a local zoning board to deny a permit for a car wash facility on facts much less extreme than those involved in this case. The Court of Appeals also recently affirmed a local government’s refusal to zone property for the use of a car wash in *Kernen v Walled Lake*, Case No. 229465 (February 21, 2003), where the Court affirmed the local government’s broad discretion to deny such uses and ruled against the developer’s due process and takings claims. The Township would be well within the bounds of the law to deny the requested SUP.

#### **Conclusion**

LLPOA and the residents of Lake Lansing believe strongly that the proposed SUP would violate the Zoning Ordinance (in several serious respects) and would impair the quality of the surrounding residential area and the unique abutting natural resources. We therefore ask, for all the reasons explained above, that the Planning Commission deny the SUP.

Respectfully yours,

LAKE LANSING PROPERTY OWNERS ASSOCIATION



Joseph W. Sheahan  
President

Cc: LLPOA membership