

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MI
PLANNING COMMISSION MINUTES
TUESDAY, SEPTEMBER 2, 2008**

The regularly scheduled meeting of the DeWitt Charter Township Planning Commission was called to order at 7:00 p.m. by Chairperson Zimmerman.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Shively.

MEMBERS PRESENT: Marsha Zimmerman, Bruce Keilen, Dale Dailey, Terrie Shively, Kim Smelker, Steve Gobbo, Jason Flower, and Trustee Ross.

MEMBERS ABSENT: None.

RESIGNATIONS: 1 (Nolen)

STAFF PRESENT: Township Planner Jim Foulds and Recording Secretary Linda Parkinson

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

APPROVAL OF MINUTES: **Gobbo moved to approve the minutes of the August 4, 2008 Regular Meeting as printed. Supported. MOTION CARRIED.**

CORRESPONDENCE: The following correspondence was received and noted by the Planning Commission.

1. Letter dated August 15, 2008 from Watertown Charter Township regarding their Comprehensive Development Plan Update.
2. Resignation letter dated August 26, 2008 from Planning Commissioner Mike Nolen.
3. Letter dated August 27, 2008 from Mark Schlegel regarding amendment to Rezoning Request 08-880004.

PUBLIC COMMENTS:

Joan Annis, 1012 Robins Road, Lansing, MI 48917, stated that the day after the August 4, 2008 Planning Commission meeting her mother experienced yard debris being put on her property from the adjoining Schlegel property (see attached statement submitted).

Annis also submitted pictures of the debris on her mother's property located at 1584 E. Clark Road (placed on file in the 9/2/08 Planning packet).

Mark Schlegel, 16527 Wood Road, Lansing, MI 48906, stated that the neighbors were dumping yard waste onto his property. They were asked to remove it. When it was not removed the caretaker of Mr. Schlegel's property placed the yard waste back on the neighbor's property.

UNFINISHED BUSINESS:

- I. **Rezoning Request 08-880004 from David Schlegel Limited Family Partnership** for property located at 1650 and 1720 E. Clark Road, Lansing, MI 48906, and a 19.11 acre vacant property located on the south side of E. Clark Road, east of Boichot Road, west of Wood Road, in the northeast ¼ of Section 22 of DeWitt Charter Township, to rezone approximately 46.86 acres from A (Agricultural) and R3 (Residential Single Family) to A (Agricultural). **Note: Postponed at the August 4, 2008 meeting.**

Township Planner Jim Foulds briefly reviewed staff's memorandum dated August 27, 2008. He noted that the Planning Commission held a Public Hearing on August 4th on a traditional rezoning application for the subject site. Testimony was taken from the applicant and the general public at that time. Ultimately, the Planning Commission postponed action on the request due to numerous questions raised.

On August 27, 2008 the applicant filed an amendment to the original rezoning application. The amended request addresses Section 12.2.1 of the Zoning Ordinance as it pertains to a conditional rezoning provision in the Ordinance.

Foulds explained that a conditional rezoning is a binding written agreement between the applicant and the Township. In this agreement the applicant voluntarily offers specific conditions that would be made part of the rezoning decision by the Board of Trustees and would be a contract that would run with the land, regardless of who owns the property.

The applicant has proposed three conditions as follows: naming the end use of the subject site to be returned to the R3 (Residential Single Family) and used for residential development; allowing the Township to initiate rezoning of the property back to R3 (Residential Single Family) should the applicant not take the appropriate measures to return the property back to the R3 zoning district; and, providing a conceptual site development of the end use to the Township.

In amending the original rezoning request the applicant is attempting to address some of the questions and concerns raised at the August 4th Planning Commission meeting.

Shively questioned how binding a conditional rezoning is and if it requires the applicant to

complete the residential end use by a specific date.

Foulds advised that, should the conditional rezoning be approved by the Township and signed by the applicant, it is attached to the deed of the property and will specifically clarify how the property would be developed. Currently, the request would require the applicant to rezone the property back to R3 (Residential Single Family) within 2-5 years after the completion of the project under the A (Agricultural) zoning. However, there is no time requirement for when the property would actually be developed for residential use.

Gobbo requested that the applicant's correspondence dated August 27, 2008 amending their request be made available to everyone present at the meeting (letter copied and distributed by staff). He asked for clarification of staff's recommendation.

Foulds advised that staff's recommendation is for postponement until the October 6th meeting to allow the Planning Commission, staff and Township legal counsel to review and make a recommendation on the proposed Conditional Zoning amendment.

Keilen noted that the amended request was submitted just a few days prior to the meeting. He feels it is reasonable to postpone action to allow staff the time to review the request in more detail.

Chairperson Zimmerman invited the applicant to speak.

Mark Schlegel, applicant, 16527 Wood Road, Lansing, MI 48906, stated that the subject property has been for sale for approximately 4 years. Potential purchasers have chosen not to buy the property because the existing topography is not conducive to development. If the rezoning request is approved it would allow the applicant to excavate materials from the site and level off the land so that it could expedite development of the end residential use. Schlegel explained the excavation plan and end land use pattern. The end goal is to make the property more desirable for development by providing berms and preserving existing trees. In closing, Schlegel advised that any excavation will not harm the surrounding wells. He encouraged anyone who has concerns to contact Dave DeYoung of the Michigan Department of Environmental Quality.

Shively questioned if the applicant intends to preserve the existing Darius Moon house located on the site.

Schlegel stated that they intend to demolish the Darius Moon house located at 1650 E. Clark Road.

Chairperson Zimmerman invited public comments.

Faye Hagy, 1745 E. Clark Road, Lansing, MI 48906, requested a copy of the sign in sheet for the meeting. She further requested that everyone on the sign in sheet be noticed by mail of the

next and all subsequent meetings regarding this request. Hagy stated that the Comprehensive Development Plan calls for the proposed site to be used as single family residential, not industrial. She expressed concerns with increased truck traffic, dust and noise.

Gerald Heiden, 1823 E. Clark Road, Lansing, MI 48906, expressed safety concerns related to increased truck traffic on Clark Road.

Thomas McMahon, 14001 Boichot Road, Lansing, MI 48906, questioned if it has been determined that there are regulated wetlands on the subject property.

Foulds advised that the Township is obligated to follow the State Wetland Regulations. It has not yet been determined whether any exist on the site. This would be addressed if the applicant proceeds with the Special Use Permit review process.

Bradley Throop, 14545 Boichot Road, Lansing, MI 48906, stated in light of the newly amended request, it would be best to postpone action to allow the public and the Planning Commission adequate time to review the new information. He does not feel the area needs another mining operation. Especially on property that is planned for single family residential use. In closing, he stated that he also owns and rents the home at 14509 Boichot Road. The tenants had expressed an interest in purchasing the home. They most likely will not follow through if this mining operation occurs.

Rebecca Stimson, 1841 E. Clark Road, Lansing, MI 48906, stated how important it is to restore and preserve historical sites such as the Darius Moon house located on the subject property. She hopes that the Township will make a positive effort to help maintain the integrity of the Gunnisonville area rather than allow a mining operation that would cause residents to leave their existing stable residential community due to deterioration of its rural character.

Lois Baumer, 14420 Boichot Road, Lansing, MI 48906, stated she attended the Gunnisonville one room schoolhouse as a child. She was also part of its restoration committee. It is very important that the historical character remain intact. Baumer advised that the original Brown Brothers mining operation is directly behind her home. She attended the meetings for their approval. At that time the applicant provided color slides of the final residential development with a lake that was to be developed within 6 to 7 years. It is now 36 years later and the site has still not been restored. In fact, recently the Township granted approval for more mining to take place on the site. She expressed concerns with how much control the Township would have over yet another mining operation in the area if this request is granted. She urged the Planning Commission to postpone action on the request to allow time for everyone to reexamine the issues and concerns expressed.

Joan Annis, 1012 Robins Road, Lansing, MI 48917, stated she is present to speak on behalf of her mother, Ila Gardner, who lives at 1584 E. Clark Road, Lansing, MI 48906. She spoke in opposition to the rezoning request (copy attached).

Kevin Annis, 1012 Robins Road, Lansing, MI 48917, spoke in opposition of the rezoning request. He expressed concerns with decreased property values, contaminated wells, dust and traffic safety.

Bruce Omundson, 1052 Wild Turkey Lane, Lansing, MI 48906, expressed concerns regarding decreased property values. Due to past issues with the Brown Brothers mining operation, he questioned what guarantees would be in place that would assure this site would be restored.

Jane Casler, 14333 Boichot Road, Lansing, MI 48906, stated that there were several trucks traveling from the Kirkside golf course site and onto Boichot Road. The dust generated from this activity was very substantial. She questioned who would enforce the conditions placed on the subject site, should a Special Use Permit be granted to the applicant and would residents face retaliation for filing complaints.

Chairperson Zimmerman advised that the Township would be responsible for enforcement and would certainly not retaliate against concerned residents.

Dailey commended the applicant for coming forward with his intentions for the site. He also appreciates the public's interest. He stated he has a mining operation on his property. There are both advantages and disadvantages involved. He feels it would be appropriate for him to abstain from voting on this item of business.

Keilen moved that Rezoning Request 08-880004, filed by David Schlegel Limited Family Partnership, be postponed until the October 6, 2008 regular meeting of the Planning Commission to enable the Planning Commission, staff, and Township legal counsel to review and make a recommendation on the proposed Conditional Zoning amendment as provided for in Section 12.3.1 of the DeWitt Charter Township Zoning Ordinance requirements.

Supported.

ROLL CALL on motion:

AYES: 7 NAYS: 0 ABSENT: 0 ABSTENTION: 1 (Dailey)

MOTION CARRIED.

Brief discussion followed regarding the fact that anyone who properly registered at the meeting will be sent notification of the October 6, 2008 Planning Commission meeting along with a copy of the proposed plan submitted by the applicant on August 27, 2008.

- II. PUBLIC HEARING - Request for Special Use Permit 08-990008 from Norma Keener** for property located at 2113 W. Clark Road, DeWitt, MI 48820, on the south side of Clark Road, east of DeWitt Road, west of Everett Street, in the northeast ¼ of Section 20 of DeWitt Charter Township, to allow the applicant to operate a group day care home from the existing residence on the site.

- A. Open Public Hearing. **Keilen moved to open the Public Hearing at 8:40 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Township Planner Jim Foulds briefly reviewed staff's memorandum dated August 27, 2008 pointing out the 7.49 acre site located at 2113 W. Clark Road. The applicant is requesting to operate a group daycare home for up to twelve (12) children. The property is currently zone A (Agricultural). The Township Zoning Ordinance requires a special use permit to allow a group daycare home in the A (Agricultural) zoning district.

The surrounding zoning consists of A (Agricultural). The surrounding Future Land Use designations consist of A (Agricultural) to the north and south, and SF-M (Single Family Residential) to the east and west. The surrounding current land uses consist of Single Family Residential to the north, east and west, and vacant to the south.

Staff's review of the request has determined that there are no barriers to approval. There are two minor issues involved. The applicant will be required to comply with the signage requirements of the Ordinance. Secondly, the driveway on the east property line is proposed to serve only the daycare operation. Should the Township approve the requested Special Use Permit, the applicant will be required to provide a specific parking diagram. The Ordinance requires a minimum of five (5) parking spaces for up to twelve (12) daycare children and one (1) employee.

With respect to public services and facilities, Foulds stated that the Southern Clinton County Utility Authority (SCCMUA) advised there will have to be an adjustment on the sewer fee based on the maximum occupancy load of the building.

In closing, Foulds invited any questions the Planning Commission may have.

Hearing no Commissioner questions, Chairperson Zimmerman invited the applicant to speak.

Norma Keener, applicant, 2113 W. Clark Road, DeWitt, MI 48820, stated she was present for questions.

Hearing no Commissioner questions, Chairperson invited public comment.

- C. Close Public Hearing. **Hearing no public comment, Gobbo moved to close the Public Hearing at 8:44 p.m.**
- D. Discussion and possible action by Planning Commission.

Flower moved that the Planning Commission recommend the Board of Trustees

approve Special Use Permit 08-990008 from Norma Keener to operate a group day care home licensed for up to twelve (12) children on the property located at 2113 W. Clark Road, DeWitt, MI 48820. Approval is recommended on the following basis:

- 1. Upon compliance with conditions of the Special Use Permit, the plans will comply with the site plan review standards and special conditions of Section 7.13.3 listed in the Zoning Ordinance. Specifically, compliance with the fence height requirements, compliance with signage requirements, and the provision of a detailed parking plan.**
- 2. The standards of the Basis for Determination listed in Section 7.4.3 of the Zoning Ordinance have been met.**

Supported.

ROLL CALL vote on motion:

AYES: 8 NAYS: 0 ABSENT: 0

MOTION CARRIED.

III. PUBLIC HEARING – DeWitt Charter Township Year 2009 Capital Improvement Plan.

- A. Open Public Hearing. Keilen moved to open the Public Hearing at 8:45 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant Comments/Public Comments.**

Township Planner Jim Foulds advised that Township Manager Rod Taylor would be presenting the proposed 2009 Capital Improvement Program.

Township Manager Taylor briefly explained the purpose and basic content of the proposed 2009 Capital Improvement Plan (CIP). He is recommending to the Board of Trustees that the first seven (7) items listed in the Plan be funded in the year 2009. Taylor briefly explained the first seven (7) improvements.

Brief discussion followed regarding some of the specific items listed in the CIP document.

Shively expressed concern that items such as the enhancement of Valley Farms park would be prioritized higher than police radios.

Taylor pointed out the police radios were a new item placed on the CIP. He conferred with Chief Russell to determine if this was an immediate need or something that could be addressed in the future. Chief Russell advised that there was no urgency with his

request for police radios. Secondly, much of the revenue acquired by the 425 Agreement with the City of East Lansing is used for non operating expenses, such as enhancement of parks.

In closing, Taylor commented on how committed the Board of Trustees is to funding all of the Township operations at the highest level possible.

Faye Hagy, 1745 E. Clark Road, Lansing, MI 48906, concurred with Commissioner Shively's comments. She stated that the police and fire services should be top priority as it affects all residents of the Township.

Gobbo stated it is important to honor the decisions made by the CIP Committee as they have reviewed each request in depth and concluded their priorities based on the information provided to them.

Township Manager Rod Taylor noted that approximately 44 percent of the General Fund goes toward funding the needs of the Police Department and Fire Department.

- C. Close Public Hearing. **Gobbo moved to close the Public Hearing at 9:10 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Keilen moved that the Planning Commission adopt the Resolution approving the DeWitt Charter Township 2009 Capital Improvement Program.

Supported.

ROLL CALL vote on motion:

AYES: 8 NAYS: 0 ABSENT: 0

MOTION CARRIED.

NEW BUSINESS:

- I. **Request for Special Use Permit 08-990009 from Ron Jona and Associates** for property located at 1171 and 1121 E. Webb Road, DeWitt, MI 48820 and 12651 and 12649 S. US 27 DeWitt, MI 48820, at the northeast corner of S. US-127BR (formerly US-27) and Webb Road, in the southwest ¼ of Section 10 of DeWitt Charter Township, to allow the applicant to construct a 13,579 sq. ft. drug store with a drive through pharmacy.

Ross moved that Request for Special Use Permit 08-990009 from Ron Jona & Associates be received and set for a Public Hearing to be held on Monday, October 6, 2008. Supported. MOTION CARRIED.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS:

Faye Hagy, 1745 E. Clark Road, Lansing, MI 48906, stated that when the Schlegel property on Clark Road went up for sale she contacted the commercial real estate company that had it listed. They advised that the property was currently zoned R3 (Residential Single Family) but didn't feel it would be difficult to rezone it to a commercial use. She expressed concern that there may be a perception that "anything goes" in DeWitt Charter Township. She asked if some of the concerns and questions expressed will be able to be addressed.

Chairperson Zimmerman advised that many of the questions pertain to a specific use of the property. The request before the Commission tonight is to rezone the property. If the applicant moves onto the Special Use Permit review process, perhaps other questions can be addressed more specifically.

Hagy further questioned how approval of Rezoning Request 08-880004 from David Schlegel Ltd. Family Partnership would affect her property value.

Foulds explained that the charge of the Planning Commission when considering a rezoning request is to consider land use, planning, and quality of life issues, rather than assessment concerns. Staff will obtain any information possible related to property value concerns as it relates to Rezoning Request 08-880004.

Gobbo stated he does not feel "discussion" in the community should shed a certain light on how the Planning Commission will or will not react to specific requests. The Planning Commission's roll is to assure that its decisions are made that are in accordance with State Statute and Township policy. Conversely, the Planning Commission has also been criticized for stunting the growth of commercial interests, especially during these challenging economic times. The Planning Commission simply adheres to the rules and regulations already in place.

Rebecca Stimson, 1841 E. Clark Road, Lansing, MI 48906, expressed her appreciation for how forthcoming staff has been when they have requested information from the Township. She questioned how the Commission can consider a rezoning request based on specific criteria without taking into consideration how the applicant intends use the property. She expressed concern with the guarantee amounts currently calculated to restore the site and how it would relate to costs in the future.

Commissioner Flower asked to be excused from the meeting at 9:20 p.m.

REPORTS:

I. Trustee:

Trustee Ross gave a brief report on business conducted and action taken at the August 11, 2008 and August 25, 2008 regularly scheduled Board of Trustees meetings.

II. Zoning Board of Appeals:

Commissioner Gobbo reported that there was no Zoning Board of Appeals meeting held on August 20, 2008, due to no applications being filed.

III. Committees: None.

IV. Staff:

Township Planner Jim Foulds referred to memorandum dated August 28, 2008 from Township Manager Rod Taylor, as well as the attached South Central Area Plan Final Draft and comments from Workshop held on August 12, 2008. Staff recommends the Commission review the draft plan and present any comments or suggestions at the October 6, 2008 meeting. The Plan will then be forwarded to the Board of Trustees and be distributed to surrounding jurisdictions for comments.

DISCUSSION: None.

ADJOURNMENT: **Gobbo moved to adjourn the meeting at 9:30 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Theresa Shively, Secretary