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Vice-Chair
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Mike Nolen
Commissioners
Steve Musselman, Trustee
Dale Dailey
Marsha Zimmerman
Tim Fair
Adam Bertram
Abby Lorenzen



Township Planner
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**PLANNING COMMISSION
MINUTES
MONDAY, OCTOBER 2, 2017
7:00 p.m.**

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

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

ROLL CALL by Secretary Nolen.

MEMBERS PRESENT: Keilen, Bertram, Krol, Lorenzen, Dailey, Nolen, Fair, Zimmerman and Trustee Musselman.

MEMBERS ABSENT: None.

ALSO PRESENT: Township Planner Brett Wittenberg and Township Attorney Gordon VanWieren.

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

APPROVAL OF MINUTES **Fair moved to approve the minutes of the September 5, 2017 meeting as printed. Supported. MOTON CARRIED.**

CORRESPONDENCE: None.

PUBLIC COMMENTS: John McComb, 14120 Myers Road, DeWitt, MI 48820, expressed concern with potential approval of Rezoning Request 16-880003. His concerns related to lack of consistency with the Comprehensive Development Plan, increased traffic and whether the infrastructure would be sufficient enough to accommodate additional water drainage and sewer capacity. Lastly, he questioned if approval of the request would be considered "spot zoning".

UNFINISHED BUSINESS:

- I. **Rezoning Request 16-880003 from Signature Land Development – Michael R. McGraw**, to rezone a 77.98 acre parcel from A (Agricultural) to R6 (Residential Single Family). The property is located south of Clark Road, north of Solon Road, east of Myers Road and west of Business 27, in the

northeast ¼ of Section 21 of DeWitt Charter Township (Parcel #050-021-100-005-50). **Action postponed at the September 5, 2017 meeting.**

Township Planner Brett Wittenberg noted additional correspondence received late this afternoon from Mr. Herrington (1561 W. Solon Road, DeWitt, MI 48820). In this correspondence Herrington requested that, should the applicant not meet the conditions of the conditional rezoning, the property be reverted back to its original zoning designation (Agricultural). The applicant was agreeable to this additional condition being added.

Wittenberg went on to review staff's memorandum dated September 26, 2017 providing a brief background of the request since the Public Hearing held on January 3, 2017 and again reviewing the conditions placed on the rezoning as follows:

1. The housing units developed on the site shall be "for sale" units and not "rental" units.
2. Maximum density shall not exceed 225 units.
3. Lots that front onto Myers Road shall be a minimum of 90' wide and 15,000 square feet in area
4. Lots that back up to Myers Road shall not have any structures within 50' of the right-of-way and the first 20' adjacent to the right-of-way will be improved with berming, evergreen, and deciduous trees.
5. There shall be no more than 8 residences either fronting on or directly backing up to Myers Road, north of the exception parcel.
6. There shall be no more than 14 residences either fronting on or directly backing up to Myers Road, south of the exception parcel.
7. There shall be no attached product of any type within 300 feet of the right-of-way for Myers Road.
8. Townhome buildings shall be restricted to the eastern 600 feet of the property. No portion of any townhome building shall be located more than 600 feet west of the east property line.
9. The submission of any request to alter, remove or otherwise modify any of the listed conditions contained within this Conditional Rezoning Agreement at any time by any current or future owner of any or all of the subject parcel shall automatically cause the parcel to revert back to previous zoning designation as of October 1, 2017. Therefore, any effort to modify these conditions by the current or any future prospective developer, shall require that the re-zoning process, inclusive of all required public hearings, start completely over from the very beginning, with the subject parcel having an A (Agricultural) zoning, as it did prior to this Conditional Re-zoning Agreement becoming effective.

Wittenberg went on to explain whether the property had a split zoning or conditional rezoning, any changes would require going through the complete rezoning process. The applicant is in essence creating a split zoning by limiting the locations of the products. Furthermore, the request is consistent with the overall density as identified on the Future Land Use Map. The FLU Map allows an overall density of 2.9 dwelling units per acre and the applicant is proposing 2.88 units per acre. Per State Statute, if a conditional zoning agreement is not complied with the property reverts back to its originally zoning designation, in this instance of A (Agricultural).

Fair stated staff has provided a lot of information. He asked staff to clarify how much of the proposed site would be zoned R6 if the request was approved.

Wittenberg stated the entire site would be zoned R6 with conditions.

Fair asked if there was an agreement as to certain placement of the townhomes within the property.

Wittenberg noted the placement of units is spelled out in the conditions.

Fair requested that a copy of the site plan be placed on the screen showing where the townhomes are to be placed.

Mike McGraw, applicant, Signature Land Development, 1188 East Paris, SE, Grand Rapids, MI 49546, pointed out intended areas for each type of unit (as stated in the conditions).

Fair questioned if the points of ingress and egress would be off of Myers Road, Solon Road and Clark Road.

McGraw stated the preference is to not have any access point off from Myers Road.

Gordon VanWieren, Township Attorney, Thrun Law Firm, P.C., 2900 West Road, Suite 400, East Lansing, MI 48823, asked that the applicant's representative state for the record that the proposed 9 conditions are voluntary and that there has been no coercion or suggestion by either the Township staff or any property owners adjacent to the site that these conditions be imposed. He would also like Mr. McGraw to state for the record that he has the authority to speak on behalf of the applicant.

Mike McGraw, representing the applicant, Signature Land Development, LLC, 1188 Est Paris, SE, Grand Rapids, MI 49546, stated he does have the authority to speak on behalf of Signature Land Development, LLC and all other entities. The conditions he has voluntarily offered are a summation of the questions and comments he has heard during the rezoning process.

VanWieren asked if condition 9, which was requested by Brian Herrington and Marcy Matson-Herrington was something that Mr. McGraw agreed to voluntarily.

Mr. McGraw stated he conferred with his attorneys regarding the condition suggested by Mr. Herrington and Ms. Matson-Herrington and there were no concerns with adding condition number 9.

Fair stated he has several comments. This request has been on the agenda for a long time. It has caused him to think about what are the responsibilities of a Planning Commissioner. There is a balance between the Township's interest and the community interest. In his opinion, the community interests far outweigh the Township's interests. He is glad this process has taken as long as it has. He thinks Mr. McGraw is a good guy and worked hard to try to merge both sides. He is a fan of business and a fan of developers and development. He realizes the Township needs senior housing but he does not think this is the right time or the right place.

Fair went on to read the criteria provided to the Planning Commission when reviewing rezoning requests to change, create, extend or reduce a mapped zoning district as follows:

1. Are there substantial reasons why the property cannot be reasonably used as currently zoned?

Fair stated "No". He feels the R6 (Residential Single Family) zoning district is a "huge jet propulsion from what Agricultural is". This is the best use for the developer, but is it the best

use for our community? At one of the very first meetings it was stated that once we do this we cannot go back.

2. Is the use more appropriately handled as a special land use in the existing district or another district?

Fair stated "This is a moot point".

3. If a zoning change is proposed, is it supported by the adopted master plan?

Fair stated, although there is a Master Plan, approval of this request is not what is best for the community.

4. Would a change of present district boundaries be compatible with existing land uses in the area?

Fair stated "absolutely not". These residents have lived in the surrounding area for years on their 1 to 5 acre lots. He lives 2 miles from Granger on Wood Road. He knew it was there when he moved there. When the residents surrounding the site moved into their homes this was not the plan for the subject property.

5. Would the rezoning constitute a spot zone granting a special privilege to one landowner not available to others?

Fair stated in this situation he thinks this is an "absolute yes". It is a special privilege for one landowner.

6. Was there a mistake in the original zoning classification?

Fair stated "No, this is not the case." The subject property is compatible with what is there which is R3, R4 and Agricultural.

7. Has there been a change of conditions in the area supporting the proposed rezoning?

Fair stated "The only thing that has changed is the Township says we need senior housing. We need places like this in the community". There are many other places where this can happen in our community.

8. Would the change severely impact traffic, public facilities, and the natural characteristics of the area, or significantly change population density?

Fair stated "That is in your face".

9. Is the proposed change out of scale with the needs of the community?

Fair stated "In this situation I think that is an absolute yes".

10. If the change is approved, what will be the probable effect on stimulation of similar zoning requests in the vicinity? Would these additional rezoning requests negatively impact community plans and public services?

Fair stated "I would say yes because these guys aren't going to sell their houses to developers. No way. They want to live there".

11. Is the proposed change precedent setting?

Fair stated "Absolutely. You bet it is".

12. Is the proposed boundary appropriate?

Fair stated "That is kind of a moot point."

Fair went on to state that he believes this request fails on 8 of the 12 criteria the Planning Commission considers. That is his opinion. He is not playing to the crowd. He questioned if the Township needs senior housing and stated he thinks we do. This is not the best place. This is a poor fit for this Agricultural property to be rezoned to R6.

Bertram noted the developer is not pitching the proposed development as only senior housing. The applicant has stated his intentions are to develop the property as a mixed-use housing development. He would respectfully disagree with Mr. Fair's comment that the site is intended for only senior housing. Bertram further stated initially, he was in favor of the applicant's original request. However, with all of the public input and the applicant's willingness to listen over the last ten months he thinks the conditional rezoning is a much better proposal. There are conditions in place that would dispute Mr. Fair's concerns with the proposed development overpowering the surrounding area. In reading the definition provided by Attorney VanWieren regarding spot zoning, this request does not fit that definition. With residential uses surrounding the site, this would not be considered spot zoning.

Wittenberg stated Bertram's comment would be a correct assumption.

Fair stated there is no multiple family use housing in the area.

Bertram pointed out that the Alana Woods apartment complex is adjacent to the subject site and the Four Seasons apartment complex is directly northeast of the site. It is very clear that the property is not out in the middle of an area where there are no high density residential units. The applicant's conditions limit higher density units to the eastern portion of the site with single family homes on the western portion of the site.

Zimmerman requested that staff again review the conditions offered by the applicant.

Wittenberg again reviewed the conditions offered by the applicant as follows:

1. The housing units developed on the site shall be "for sale" units and not "rental" units.

This was part of the early on discussions. There were concerns regarding rental units.

2. Maximum density shall not exceed 225 units.

Initially the applicant was requesting the R6 zoning district with no limitations which could have allowed over 300 dwelling units. With the currently proposed conditional rezoning, the density would be less than the R4 zoning district. The R4 district coincides with the SF-M (Medium Density Single Family Residential) designation on the Township's Future Land Use Map.

Fair asked if staff had these conditions available for review.

Wittenberg stated they are listed in the staff report and also in the copy of the conditional rezoning agreement which was provided in the Planning Commission packets.

3. Lots that front onto Myers Road shall be a minimum of 90' wide and 15,000 square feet in area.

This condition is consistent with the R4 zoning district regulations for lot width and square footage. The intent of this condition is to keep lots near Myers Road similar in size to the zoning designation of the residences nearby.

4. Lots that back up to Myers Road shall not have any structures within 50' of the right-of-way and the first 20' adjacent to the right-of-way will be improved with berming, evergreen, and deciduous trees.

This also is an attempt to address some of the concerns from residents along Myers Road. Wittenberg noted if a request was submitted for R3 or R4 zoning there would be no regulation to provide these additional setbacks, landscaping or screening along Myers Road.

5. There shall be no more than 8 residences either fronting on or directly backing up to Myers Road, north of the exception parcel.

This means there will be no more than 8 units north of the exception parcel (#050-021-100-006-00).

6. There shall be no more than 14 residences either fronting on or directly backing up to Myers Road, south of the exception parcel.

This condition assures that there will be no more than 14 residences south of the exception parcel (#050-021-100-006-00). Again, with the R3 or R4 zoning district there could potentially be more units allowed.

Fair stated it appears as if staff is directing his comments to him. He realizes there have been concessions made. However, the original request was for 320 units. Had there not been an initial vote of 4 ayes and 1 nay the request would have sailed through.

Wittenberg indicated he was clarifying and explaining the conditions as they address a lot of the concerns that Commissioner Fair and the public have raised.

Chairman Keilen asked that the Commission stay focused without comment until staff has reviewed the 9 conditions.

7. There shall be no attached product of any type within 300 feet of the right-of-way for Myers Road.

The applicant has submitted a map that identifies this area and would be attached to the conditional rezoning document.

8. Townhome buildings shall be restricted to the eastern 600 feet of the property. No portion of any townhome building shall be located more than 600 feet west of the east property line.

Wittenberg pointed out on the overhead screen that the Alana Woods apartment complex does abut the site and the Four Seasons apartment complex is directly northeast of the site.

9. The submission of any request to alter, remove or otherwise modify any of the listed conditions contained within this Conditional Rezoning Agreement at any time by any current or future owner of any or all of the subject parcel shall automatically cause the parcel to revert back to the previous zoning designation as of October 1, 2017. Therefore, any effort to modify these conditions by the current or any future prospective developer, shall require that the re-zoning process, inclusive of all required public hearings, start completely over from the very beginning, with the subject parcel having an A (Agricultural) zoning, as it did prior to this Conditional Re-zoning Agreement becoming effective.

This was the last condition provided today in an e-mail correspondence from Mr. Herrington and Ms. Herrington-Matson.

Fair again stated he realizes concessions have been made by the applicant. He thanked Mr. McGraw for listening to the community. However, the applicant is still requesting to rezone the property from A (Agricultural) to R6 (Residential Single Family) for the entire parcel. We trust that things will go the way that they are being presented but there is no certainty.

Bertram stated a conditional rezoning is a legal and binding document. It clearly states in condition 9 that the property would revert back to the original Agricultural zoning district should the conditions not be met.

Fair stated "They are words on a page and contracts are broken every day."

Wittenberg noted on the Future Land Use Map the proposed site has been designated for residential development (SF-M). The SF-M designation is consistent with the Township's R3 (Residential Single Family) and R4 (Residential Single and Two Family) zoning designations. With the conditions set forth in the conditional rezoning the applicant is essentially providing the regulations of the R4 zoning designation.

Zimmerman thanked staff for reviewing the 9 conditions related to the rezoning request.

Zimmerman moved that the Planning Commission recommend that the Township Board approve Rezoning Request 16-880003 from Signature Land Development/Michael McGraw on behalf of MSW Land Investments, LLC, subject to the 9 conditions outlined by staff during this meeting. Supported.

**ROLL CALL vote on motion:
AYES: 8 NAYS: 1 (Fair)
MOTION CARRIED.**

NEW BUSINESS:

I. PUBLIC HEARING - Request for Special Use Permit 17-990002 (Major Amendment) from DeWitt Charter Township, to be allowed to expand the area of the existing Special Use Permit (SUP 01-990002) at Valley Farms Park on properties located east of S. US 27 and south of State Road, in the northwest ¼ of Section 34 of DeWitt Charter Township (Parcel #050-034-200-205-00 and a portion of Parcel #050-034-200-005-00).

A. Open Public Hearing. Chairman Keilen declared the Public Hearing opened at 7:52 p.m.

B. Administrative Comments/Applicant Comments/Public Comments.

Township Planner Brett Wittenberg briefly reviewed staff's report dated September 28, 2017. He noted the applicant is requesting to expand the area of an existing Special Use Permit (SUP 01-990002) which is considered a major amendment and requires the Public Hearing process be followed.

Wittenberg indicated on the overhead projector where the expanded area is located. The current land uses in the surrounding area is Residential, Park, Public Facilities and Institutional. The surrounding zoning consists of R3 (Residential Single Family) and A (Agricultural).

Wittenberg went on to state at this point in time the Township does not have a site plan for the subject property. However, there is a need for additional parking in the area. The 5 year DeWitt Area Recreation Plan identifies additional parking as a number 1 priority.

Wittenberg briefly reviewed the 6 standards that must be met before a Special Use Permit can be approved (see pages 4 & 5 of staff's report). In closing, staff recommends that the Planning Commission recommend to the Board of Trustees approve Special Use Permit 17-990002, subject to the conditions set forth in staff's report and the SUP document.

Brief discussion followed regarding the fact that the proposed Special Use Permit would need to be amended, should the purchase of additional land does not go through.

Hearing no further Commissioner comments or questions, Chairman Keilen invited public comment.

Ruth Gingrich, 1160 E. State Road, Lansing, MI 48906, asked for clarification on the nature of the request.

Wittenberg briefly pointed out the areas of land that would be included in the existing SUP area.

There were no further questions or comments.

- C. Close Public Hearing. Fair moved to close the Public Hearing at 8:05 p.m. Supported. **MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Musselman moved that the Planning Commission recommend to the Board of Trustees that they approve Special Use Permit 17-990002 from DeWitt Charter Township to expand the area of the existing Special Use Permit, as described and defined in the application materials, that includes vacant properties identified as parcel #050-034-200-205-00 and a portion of parcel #050-034-200-005-00 with the conditions listed in the permit. Approval is subject to the following conditions:

1. The requirements of SUP 01-990002 are still in effect.
2. Prior to development of the parcels included in this application, the applicant is required to comply with all applicable Township Ordinances relative to review and approval.
3. That the applicant complies with any other Federal, State, County, or Township regulations.

Supported.

ROLL CALL vote on motion:

AYES: 9 NAYS: 0

MOTION CARRIED.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

I. Trustee:

Musselman gave a brief report on business conducted and action taken at the recent Board of Trustees meetings held on September 11, 2017 and September 25, 2017.

Musselman further indicated that while Commissioner Fair had some valid points regarding the rezoning request, he felt that the work the applicant had done with the residents and conditions offered make this a good development.

II. Zoning Board of Appeals:

Krol stated there was no Zoning Board of Appeals meeting held in September.


III. Committees: None.

IV. Staff:

Wittenberg reminded the Planning Commission of the Community Open House – Comprehensive Development Plan – 10/16/17 from 4:00 – 7:00 p.m.

DISCUSSION: None.

ADJOURNMENT: **Fair moved to adjourn the meeting at 8:20 p.m. Supported. MOTION CARRIED.**



Linda K. Parkinson-Gray, Recording Secretary



Mike Nolen, Secretary