

**Chair**  
Bruce Keilen  
**Vice-Chair**  
Kristen Krol  
**Secretary**  
Mike Nolen  
**Commissioners**  
Steve Musselman, Trustee  
Dale Dailey  
Marsha Zimmerman  
Tim Fair  
Adam Bertram  
Abby Lorenzen



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**Community Development Director**  
Tory Niewiadomski

**Township Planner**  
Brett Wittenberg

**Recording Secretary**  
Linda K. Parkinson

**PLANNING COMMISSION  
MINUTES  
MONDAY, APRIL 3, 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, Dailey, Nolen, Fair, Trustee Musselman, Zimmerman, Krol.

**MEMBERS ABSENT:** Bertram, Lorenzen.

**OTHERS PRESENT:** Community Development Director Tory Niewiadomski, Township Attorney Gordon VanWieren and Recording Secretary Linda Parkinson-Gray.

**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 March 6, 2017 meeting as printed. Supported. MOTION CARRIED.**

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

1. Mr. Herrington correspondence regarding 16-870001 and notice sent March 15, 2017.
2. Correspondence dated March 31, 2017 from Community Development Director Tory Niewiadomski.

**PUBLIC COMMENTS:** None.

Chairman Keilen noted that Gordon VanWieren, DeWitt Township Attorney, was present to clarify the action taken by the Planning Commission at the March 6, 2017 meeting to postpone action on the Request for Future Land Use Map Amendment 16-870001 from Signature Land Development – Michael R. McGraw.

Township Attorney Gordon VanWieren, Thrun Law Firm, P.C., 2900 West Road, #400, East Lansing, MI 48823, stated he has reviewed the action referred to by Chairman Keilen and it is consistent with the number of Planning Commissioners that were present at the March 6, 2017 Planning Commission meeting. It is his recommendation that action be postponed on Request for Future Land Use Map Amendment 16-80001 from Signature Land Development – Michael R. McGraw until the May 1, 2017 Planning Commission meeting so the request can be considered at that time. The applicant has requested this due to the fact that he has no representative available for the April 3, 2017 meeting and notice has been given to the residents advising that no action will be taken at this meeting of April 3, 2017.

Chairman Keilen invited questions or comments.

Brian Herrington, 1561 W. Solon Road, DeWitt, MI 48820, stated he had sent a correspondence to Attorney VanWieren and did not receive a response.

Chairman Keilen explained correspondence should be submitted through the Clerk's Office or Planning Department rather than to contact the Townships Attorney directly.

Herrington went on to reiterate his concerns addressed in his correspondence dated March 20, 2017 relating to the March 15, 2017 notification letter (included in Planning Commission packet).

Chairman Keilen clarified that the motion to approve failed. There was no motion to deny the request.

Attorney VanWieren concurred with Chairman Keilen regarding the action taken at the March 6<sup>th</sup> meeting. He then clarified that when he spoke to Mr. Herrington on the phone he asked him to provide his letter and any supporting documentation. He did not see any supporting documentation submitted with Mr. Herrington's letter. Mr. VanWieren then gave case law to support that the Planning Commission acted properly at the March 6, 2017 meeting to postpone and a failed motion to approve is not a motion to deny.

Brief discussion followed as to whether the Planning Commission has ever made a motion to deny or had a failed motion to approve.

Herrington questioned why the notification letter dated March 15, 2017 did not reflect the fact that a motion had been made at the March 6, 2017 meeting.

Chairman Keilen advised that the motion would be reflected in the official minutes.

Cindy Tice, 14300 Myers Road, DeWitt, MI 48820, questioned why the request was still under consideration if the motion made at the March 6, 2017 meeting failed. She expressed concern that the notification letter from the Township did not mention that a vote took place on the request. She stated many of her neighbors attended the Public Hearing and asked that the request be denied. She questioned if the Planning Commission works for the residents or the developer. She stated that the Planning Commission works for the Township residents. In closing, she stated it is all about money.

Chairman Keilen reiterated that there was a motion made to approve the request that failed. There was no motion made to deny the request for the Planning Commission to vote on. He asked that people understand the Planning Commission works for the Township which represents all residents and property owners. The applicant is a property

owner. Residents and property owners have the same rights. The Planning Commission treats everyone the same. The charge of the Planning Commission is to examine the facts and try to apply it to the law and make a decision that is best for the Township.

Attorney VanWieren advised there is nothing in the Michigan Planning Enabling Act that would prevent the Planning Commission from considering the request again. He reiterated that there was a motion to approve that failed. This is not the same as a denial. The Planning Commission members could have taken a second motion to deny the request to vote on but no such motion was made. He noted that Roberts Rules of Order 37 and 38 permit the type of action taken.

Chairman Keilen asked that public comments or questions be for Township Attorney VanWieren.

Marcy Matson-Herrington, 1561 W. Solon Road, DeWitt, MI 48820, asked Attorney VanWieren to state again the case law he previously mentioned.

Attorney VanWieren noted the following case law previously mentioned:

1. Roberts Rules of Order 37-38
2. Clark v. County Bd. Of Appeals for Montgomery County request 235 Md. 320, 201 A.2d 499
3. South Shore Audubon Soc., Inc. v. Town of Hamstead 185 A.D.2d 984, 587 N.Y.S.2d 29
4. Trinity Baptist Church of Hackensack v. Louise Scott Holding Co., 219 N.J. Super. 490, 530 A.2d 828
5. Union Village Development Associates v. Town of North Smithfield Zoning Bd. Of Review 738 A.2d 1084

Fair stated this situation is very confusing. He does not think the request is a good fit for the area. He stated there have been failed/denied motions in the past that have been recommended to the Board of Trustees. The Board of Trustees then has the option to ask the Planning Commission to reconsider the recommendation. In this situation, the motion to approve failed. This would make you think that one side would win and the other would lose. In this case there was a 4 to 1 vote and there was no majority. Therefore, the request was postponed. Although he is opposed to the request, reasonable minds can differ. The burden is on the residents to convince the Planning Commission that this is not a good fit for the surrounding area.

Steve Church, 1495 Solon Road, DeWitt, MI 48820, noted Mr. Fair stated past requests have gone on to be considered by the Board of Trustees and possibly sent back to the Planning Commission to reconsider. Why has this not been done for this request.

Keilen stated Mr. Church would have to ask Commissioner Fair as he is not familiar with the past requests he was referring to.

Fair stated he has been on the Planning Commission for 8 years and he recalls the Board of Trustees sending items of business back for reconsideration. Perhaps Trustee Musselman could answer Mr. Church's question. Again, the motion was for approval rather than denial.

Church stated he is still waiting to hear a specific statute that explains how a failed motion to approve is not considered a denial.

Amy Lusty, 14211 Myers Road, DeWitt, MI 48820, stated most residents understand the subject site is designated for medium density residential use on the Future Land Use Map and that the property will be developed. What is unclear to her is why the Township supports high density residential.

Fair stated this is why he disagrees with the request to amend the Future Land Use Map. He does not feel the subject site is a good location for a mixed use development.

Chairman Keilen again reminded everyone present that the discussion at hand is to clarify the motion made at the March 6, 2017 meeting and direct questions to Township Attorney VanWieren.

Lusty noted the last time the Comprehensive Development Plan was updated the subject site remained under the medium density designation.

Chairman Keilen explained that many factors come into play when going through the Comp Plan Update process. The Planning Commission is an ever changing working group of residents with varying opinions. The Future Land Use Map is a fluid document that is subject to change.

John McComb, 14120 Myers Road, DeWitt, MI 48820, expressed concerns with traffic safety.

Chairman Keilen directed Mr. McComb to contact the Clinton County Road Commission since they have jurisdiction over the roadways within the Township.

#### UNFINISHED BUSINESS:

- I. **Request for Future Land Use Map Amendment 16-870001 from Signature Land Development – Michael R. McGraw**, to amend from SF-M (Medium Density Single Family Residential) to SF-H (High Density Single Family Residential) for a 77.98 acre parcel 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). **Postpone until the May 1, 2017 meeting at the request of the applicant.**

**Fair moved to postpone action on Request for Future Land Use Map Amendment 16-870001 from Signature Land Development – Michael R. McGraw until the May 1, 2017 Planning Commission meeting at the request of the applicant.**

**Supported. MOTION CARRIED.**

- II. **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). **Postpone until the May 1, 2017 meeting at the request of the applicant.**

**Fair moved to postpone action on Rezoning Request 16-880003 from Signature Land Development – Michael R. McGraw until the May 1, 2017 Planning Commission meeting at the request of the applicant.**

**Supported. MOTION CARRIED.**

#### NEW BUSINESS:

- I. **Request for Site Plan Review 17-150002 from Carter Lumber**, to be allowed to construct a 60,000 sq. ft. warehouse/manufacturing building to support the existing business on an approximately 19.34 acre site located at 16700 S. US 27, Lansing, MI 48906, on the west side of S. US 27, south of Mak Tech Drive and north of Sheridan Road, in the southeast ¼ of Section 33 of DeWitt Charter Township (Parcel #050-033-400-030-00).

Chairman Keilen invited staff's comments.

Community Development Director Tory Niewiadomski briefly reviewed staff's report dated March 30, 2017 pointing out the location of the subject site where the applicant is requesting approval for the construction of a 60,000 sq. ft. warehouse/manufacturing building. The building is proposed to be located behind the existing business.

Niewiadomski provided some background information related to the subject site advising the applicant received their original site plan approval in 1989 for the existing business currently in operation. In early 2016 Carter Lumber received Administrative Site Plan approval, as provided in the Commercial Overlay District, to expand the outdoor storage area, and demolish the existing warehouse building and replace it with a new structure in the same footprint. As a result, the applicant has updated some of the fencing around the site.

The subject site is zoned IL (Industrial, Light). The surrounding zoning is IL (Industrial, Light) and BC (Business, Community) to the north; IL (Industrial, Light) to the east; IL (Industrial, Light) and R5 Residential Single and Two Family) to the south; and MHP (Mobile Home Park) and A (Agriculture) to the west. Current surrounding land uses consist of Industrial, Commercial; ROW, Vacant; Auto Salvage, Residential; and Mobile Home Park, Agricultural. The subject site is in an area that is planned for Industrial use on the Future Land Use Map.

Niewiadomski advised the request meets all Site Plan requirements for the IL (Industrial, Light) zoning district. With respect to public services and facilities, no concerns have been expressed by the reviewing agencies.

Chairman Keilen invited Commissioner questions.

Dailey questioned if this new facility would increase truck traffic and would the access be onto S. US 27.

Niewiadomski advised the applicant would continue to use the existing access point on S. US 27. He noted that MDOT was part of the review process and expressed no concerns with traffic.

Keilen invited the applicant to speak.

Chuck Price, applicant, Carter Lumber, 601 Tallmadge Road, Kent, OH 44240, reiterated MDOT did not express concern with increased truck traffic. The intended use for the proposed building is to manufacture trusses. This operation would generate 20 to 30 new jobs in the area. Construction is expected to be completed by the end of this year.

There were no further questions or comments.

**Fair moved that the Planning Commission approve Site Plan Review 17-150002 from Carter Lumber, to construct a 60,000-square foot truss assembly facility subject to the following conditions:**

- 1. The applicant shall comply with the requirements of all reviewing agencies having jurisdiction over the project and coordinate the construction of drainage improvements with the Clinton County Drain Commissioner.**

2. **The applicant complies with the Board of Water and Light and Southern Clinton County Municipal Utility Authority requirements regarding public water and sewer.**
3. **The applicant complies with the Fire Department's requirement for the gravel areas to support a 75,000-pound vehicle.**
4. **The applicant shall comply with all the use requirements listed under Section 42-775 and site development requirements provided in Section 42-776 as outlined in the staff report.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 7      NAYS: 0      ABSENT: 2 (Lorenzen, Bertram)**

**MOTION CARRIED.**

- II. Request for Step I Review 17-670001 from Lawrence D. Clark (L.D. Clark Co., LLC), for Shadybrook (Clark Road Site Condominiums), Phase III (Units 49-78) and Phase IV (Units 79-96), on property located on the north side of Clark Road, just west of the I-69 overpass, and south of the DeWitt High School, in the southeast ¼ of Section 18 of DeWitt Charter Township (Parcel #050-018-400-015-51).**

Niewiadomski briefly reviewed staff's report dated March 27, 2017 advising that the subject site is part of a Planned Unit Development that was approved in 2016 (SUP 15-990003). The overall layout consists of four professional or health services office buildings on 4.75 acres and 96 single family residential units on 31.01 acres of land.

This Step I review process is more for informational purposes and is consistent with the plans for Special Use Permit 15-990003. At Step II of the review process there will be a Public Hearing held. This will be a review of the design and final engineering work to assure that the project will be viable. Lastly, there is a Step III review conducted to ensure that the streets and utilities have been constructed to meet agency requirements.

There were no questions or comments.

**Musselman moved that the Step I review of the Shadybrook Site Condominiums Phases III & IV be placed on file in the Township Planning Department and the applicant be advised of the following:**

1. **The applicant should review the application requirements for Step II Site Condominium review listed in Section 42-963 (B)(2) and (B)(3) of the Zoning Ordinance.**
2. **The applicant shall submit copies of preliminary plan that complies with the requirements listed in Section 42-963 (C)(1) of the Zoning Ordinance with the application for Step II Review.**
3. **The applicant shall comply with the requirements of all reviewing and permitting agencies.**

**Supported**

Dailey stated he was particularly pleased to see that the site is continuing to be developed as residential rather than expansion of commercial.

**ROLL Call vote on motion:**

**AYES: 7      NAYS: 0      ABSENT: 2 (Lorenzen, Bertram)**

**MOTION CARRIED.**

**III. Comprehensive Development Plan (CDP) Update.**

Community Development Director Tory Niewiadomski stated he has accepted a position in another community. Therefore, this will be his last Planning Commission meeting he will attend. With the changes in staff the Planning Commission may have to slow down the process of updating the Comprehensive Development Plan. The Township Manager has been working with staff and the Board members to come up with steps for moving forward with the update of the Master Plan. The Planning Commission will be kept up to date on the future plans for this project.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

**REPORTS:**

**I. Trustee:**

Trustee Musselman gave a brief report on business conducted and action taken at the recent Board of Trustees meetings.

**II. Zoning Board of Appeals**

Commissioner Krol advised there was no Zoning Board of Appeals meeting held in the month of March and there will be no meeting for the month of April.

**III. Committees:**

Musselman provided brief information regarding the Japanese Sister City Program.

**IV. Staff:**

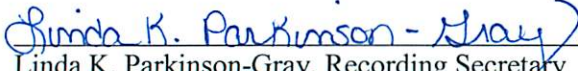
Community Development Director Tory Niewiadomski thanked the Planning Commission Members for a job well done during the past 4 years that he has worked with them. Being employed at DeWitt Township has been a great experience for him. He would not be moving on to his new position if it wasn't for the growth and knowledge that he gained by serving at DeWitt Charter Township. He is grateful to have been a part of this organization and looks forward to seeing what the future holds for the Township.

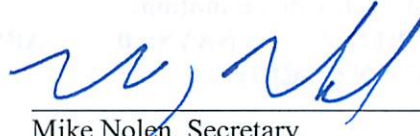
Chairman Keilen commended Niewiadomski for the amazing job he has done for the Township during his time here. He and the Planning Commission appreciate staff's outstanding performance in providing them with the information they need to make informed decisions.

Keilen also thanked Township Attorney Gordon VanWieren for being in attendance for tonight's meeting.

DISCUSSION: None.

ADJOURNMENT: Fair moved to adjourn the meeting at 7:55 p.m. Supported. MOTION CARRIED.

  
Linda K. Parkinson-Gray, Recording Secretary

  
Mike Nolen, Secretary