

**DEWITT CHARTER TOWNSHIP  
1401 W. HERBISON ROAD, DeWITT, MI  
PLANNING COMMISSION MINUTES  
MONDAY, FEBRUARY 4, 2008**

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

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

ROLL CALL by Secretary Shively.

MEMBERS PRESENT: Kim Smelker, Mike Nolen, Terrie Shively, Bruce Keilen, Dale Dailey, Marsha Zimmerman, Trustee Ross and Steve Gobbo (arrived at 7:04 p.m.).

MEMBERS ABSENT: Jason Flower.

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

APPROVAL OF MINUTES: **Nolen moved to approve the minutes of the regular meeting of January 7, 2008 as printed. Supported. MOTION CARRIED.**

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

1. Planning Department Activity Report for January 2008.
2. Reminder – South Central Area Plan Special Meeting.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS:

- I. **Rezoning Request 07-880003 from Avalon Place**, for property located at 13180 Schavey Road, DeWitt, MI 48820, south of Herbison Road, west of Schavey Road, in the northwest ¼ of Section 18 of DeWitt Charter Township, to rezone approximately 6.61 acres from the M-2 (Multiple Residential) zoning district to the M-3 (Multiple Residential) zoning district.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated January 31, 2008 advising that action on this request was postponed at the January 7, 2008 Planning Commission meeting pending additional information from the applicant. The applicant has now provided sufficient information regarding her intended use of the property for staff to make a

recommendation on this request. The site is located at 13180 Schavey Road, south of Herbison Road, in the northeast ¼ of Section 18 of DeWitt Charter Township. The applicant is requesting to rezone approximately 6.6 acres from M-2 (Multiple Residential) to M-3 (Multiple Residential).

The site currently has 50 units. The current M-2 zoning allows for 52 units. The applicant intends to remove a 16 unit apartment building located along Herbison Road, and replace it with multiple townhouse buildings for a total of 24 units, for a net gain of 8 units, bringing the total on site to 58 units. This would be 6 more units than what is allowed in the M-2 zoning district. Therefore, the applicant is requesting to rezone the property to M-3 to allow for the 6 additional units.

The surrounding zoning consists of R5 (Residential Single and Two Family) to the north and south, PO (Professional Office Services) and BSC (Business, Shopping Center) to the east, and A (Agricultural) to the west.

Gmazel went on to advise that the State of Michigan recently granted Townships the ability to accept applications for “conditional rezonings”, or rezonings that include conditions proposed by the applicant. Staff has included a copy of Section 12.8 of the Zoning Ordinance in the staff report which contains an outline of the elements for a conditional rezoning.

Gmazel reviewed the three conditions submitted by the applicant as follows:

**Condition 1:** “The portion of the land to be developed would be no greater than Herbison Road to the north, the parking lot to the west end of building 13040 Apple Tree Lane to the south, Apple Tree Lane to the east and Padgett Park to the west.”

**Condition 2:** “The elevation of the buildings would be similar to the photos submitted, or to the existing Avalon Place apartment buildings with brick and vinyl.”

**Condition 3:** “To demolish the existing 13030 Apple Tree Lane building of 16 units and re-build 24 units, for a net change of 8 additional units.”

Gmazel pointed out that if the request was approved without conditions, the applicant would be allowed to build 79 units on the site. The applicant proposes only 58 units.

The proposed M-3 zoning is consistent with the Future Land Use designation and commercial land use goals for the Comprehensive Development Plan. The surrounding future land use designations consist of SF-H (High Density Single Family Residential) to the north and south, NC (Neighborhood Oriented Commercial) to the east and INS (Institutional) to the west.

With respect to public services and facilities, Gmazel stated the following: the Clinton County Road Commission has advised that any future development will require a commercial driveway

permit; the site is served with public water and sanitary sewer; SCCMUA (Southern Clinton County Municipal Utility Authority) commented that two existing manholes near the site must be brought up to final grade and be in good repair; the Clinton County Drain Commissioner's office stated that if future construction occurs beyond the existing impervious areas, the applicant will be required to provide detention/retention areas on the site; no additional agencies expressed concerns or objections to the request.

Gmazel noted that all residents living within 300 feet of the site were notified in writing of the proposed request. Several phone calls and office visits were fielded, and one letter, dated January 22, 2008 was received.

In closing, Gmazel stated she would take any questions the Commissioners may have.

Dailey questioned if a playground area is planned for the site.

Gmazel advised that during the site plan review process the applicant will be required to provide a certain amount of open space. Playground equipment is not required by the Zoning Ordinance.

Planning Director Jeff Gray added that the Zoning Ordinance does make reference to a certain amount of square footage of "recreation facilities".

Nolen questioned if a plan was in place for the current residents who would be displaced from their homes.

Gmazel advised that staff is not aware of any information regarding the current residents. Any calls received by the Planning Department were advised to contact their landlord.

Brief discussion followed regarding the fact that the conditions proposed by the applicant will be recorded at the County and are legally tied to the property, including the boundaries of the development area.

Smelker questioned if drainage or play areas were restricted to the development boundaries.

Gmazel advised that those things would apply to the entire parcel. The first condition provided by the applicant calls out the development area where the proposed town homes will be constructed. The requirements for landscaping and sidewalks will apply to the entire parcel.

Chair Zimmerman invited the applicant to speak (the applicant was not present but arrived later during public comment).

Chair Zimmerman called for public comments.

Rick Galardi, Supervisor, DeWitt Charter Township, 1401 W. Herbison Road, DeWitt, MI

48820, spoke in support of the concept of conditional rezoning. He feels it is a good planning tool that allows the applicant to state exactly what their intentions are for a specific site.

David Ladd, 13210 Starwood Lane, DeWitt, MI 48820, stated that his rear yard backs up the community pool for Avalon Place. He expressed concern with excessive noise coming from the pool area. He would expect that it would only get worse if the applicant is allowed to construct additional units.

Gobbo questioned how Mr. Ladd has resided at his current address.

Ladd stated he has lived at 13210 Starwood Lane for approximately four years.

Keilen questioned if staff could address the noisy pool issue at site plan review.

Gray advised that there is no site plan review requirement that addresses noise. Perhaps the applicant could speak to the issue regarding pool noise.

Julie Lawton, owner of Avalon Place, 13180 Schavey Road, DeWitt, MI 48821, stated that her proposed plan meets the open space requirements of the Ordinance. She acknowledged Mr. Ladd's comments regarding pool noise.

There were no further comments.

**Keilen moved that the Planning Commission recommend that the Board of Trustees approve Rezoning Request 07-880003, from Avalon Place, to rezone approximately 6.61 acres located at 13180 Schavey Road from M-2 (Multiple Residential) to M-3 (Multiple Residential) with the three conditions offered by the property owner on the following basis:**

- 1. The requested rezoning is consistent with the Future Land Use designation and commercial land use goals of the Comprehensive Development Plan.**
- 2. The requested rezoning is consistent with the Growth Management Strategy component of the Comprehensive Development Plan.**
- 3. The site can be adequately served with the necessary public facilities, including public water.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 8    NAYS: 0    ABSENT: 1 (Flower)**

**MOTION CARRIED.**

**II. PUBLIC HEARING - Rezoning Request 08-880001 from Patrick Feldpausch**, for property located at 13393 S. US-127BR, DeWitt, MI 48820, north of Twinbrook Drive, south of Commerce Park Drive, in the northwest ¼ of Section 15 of DeWitt Charter Township, to rezone approximately 1.42 acres from the BL (Business, Local) zoning district to the BC (Business, Community) zoning district.

- A. Open Public Hearing. **Keilen moved to open the Public Hearing at 7:30 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated January 28, 2008 pointing out the location of the 1.43 acre site. The property is currently zoned BL (Business, Local). The applicant is requesting to rezone the property to BC (Business, Community). He intends to demolish the existing buildings and construct a multi story commercial office building. The surrounding zoning consists of BC (Business, Community) to the north, east and west, and R1 (Residential Single Family) to the south. The requested BC (Business, Community) is the Township's most general commercial classification intended to serve more of the community at large. This district allows for structures to be a maximum of 35 ft. in height whereas the existing BL (Business, Local) zoning district allows for only 28 ft. in height. The applicant intends to construct a multi story building on the site.

Gray further advised that the site is designated for CC (Community Oriented Commercial) on the Future Land Use map. It is surrounded on all sides by properties that are also planned for CC (Community Oriented Commercial) use. The requested BC (Business, Community) zoning district is consistent with the CC Future Land Use designation.

With respect to public services and facilities, Gray stated the following: MDOT (Michigan Department of Transportation) has indicated that a change of use on the property will cause the site access to be limited to a single driveway; public water is provided to the site by the Board of Water and Light; the Southern Clinton County Municipal Utilities Authority (SCCMUA) has confirmed that sanitary sewer is available to serve the site; the Drain Commissioner's Office notes that any future redevelopment of the property will be subject to current storm water management standards; lastly, none of the other reviewing agencies have expressed issues or concerns with the request.

Gray stated that staff has received a few phone calls from residents who simply needed clarification between the existing BL (Business, Local) and the requested BC (Business, Community) zoning district. In addition, staff received an e-mail correspondence dated February 4, 2008 from resident Kevin Coveart stating his concerns with site access.

Keilen questioned if the Township has any influence on the location of curb cuts on the site.

Gray advised that the Township does have some authority due to the site being located within the Access Management Plan area.

Brief discussion followed regarding Mr. Coveart's assertions in the last paragraph of his e-mail.

Chair Zimmerman invited the applicant to speak.

Patrick Feldpausch, applicant, 12805 Escanaba Drive, DeWitt, MI 48820, stated that he intends for the site to have one access. The potential uses for the new building are a drive-through bank, restaurant and real estate office.

There were no public comments.

- C. Close Public Hearing. **Ross moved to close the public hearing at 7:40 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

**Nolen moved that the Planning Commission recommend that the Board of Trustees approve Rezoning Request 08-880001, from Patrick Feldpausch, to rezone approximately 1.43 acre property located at 13393 S. US-127BR (formerly US-27) from BL (Business, Local) to BC (Business, Community). Approval is recommended on the following basis:**

- 1. The requested rezoning is consistent with the Future Land Use designation and commercial land use goals of the Comprehensive Development Plan.**
- 2. The requested rezoning is consistent with the Growth Management Strategy component of the Comprehensive Development Plan.**
- 3. The site can be adequately served with the necessary public facilities, including public water.**

**Supported.**

**ROLL CALL vote on motion:**

**AYES: 8    NAYS: 0    ABSENT: 1 (Flower)**

**MOTION CARRIED.**

NEW BUSINESS: None.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

REPORTS:

I. Trustee:

Trustee Ross reported on business conducted and action taken at the Board of Trustees meetings held on January 14, 2008 and January 28, 2008.

II. Zoning Board of Appeals:

Commissioner Gobbo stated that the Board of Appeals did not meet in the month of January, due to no applications being filed.

III. Committees: None.

IV. Staff:

Gray gave a brief update on Planning Department activities for the month of January.

DISCUSSION: None.

ADJOURNMENT: **Gobbo moved to adjourn the meeting at 7:50 p.m. Supported. MOTION CARRIED.**

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Linda K. Parkinson, Recording Secretary

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Theresa Shively, Secretary