

**DEWITT CHARTER TOWNSHIP
1401 W. HERBISON ROAD, DeWITT, MI
PLANNING COMMISSION MINUTES
MONDAY, MAY 5, 2008**

The regularly scheduled meeting of the DeWitt Charter Township Planning Commission was called to order at 7:04 p.m. by Chair Zimmerman.

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

ROLL CALL by Secretary Shively.

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

MEMBERS ABSENT: Trustee Ross and Mike Nolen.

STAFF PRESENT: Planning Director Jeff Gray, Assistant Planer Harmony Gmazel, Township Manager Rod Taylor, Planning Secretary Linda Parkinson (arrived at 7:30 p.m.).

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

APPROVAL OF MINUTES: **Dailey moved to approve the minutes of the regular meeting of April 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 April 2008.
2. Bath Charter Township – Notice of Intent to Update Comprehensive Development Plan.
3. Correspondence dated May 5, 2008 from Wendalyne Greene regarding her request for Special Use Permit 08-990005.
4. Memorandum from Deputy Clerk Judy Martiny regarding the 4th Annual Meadows Celebration at Granger Meadows Park.

PUBLIC COMMENTS: None.

PRESENTATION:

Planning Director Gray reminded the Commission that staff has had several meetings with representatives from the Vilican Leman consulting firm to clarify the Township's expectations regarding the contents of the South Central Area Plan, as well as the performance of the consultant. Gray introduced John Iacoangeli, a principal with Beckett and Raeder, the parent company of Vilican Leman. He advised that Mr. Iacoangeli would now be the primary contact person responsible for the completion of the Plan.

Mr. Iacoangeli gave a brief presentation of the reorganized outline for the completion of the South Central Area Plan for DeWitt Charter Township.

Commissioner Dailey expressed that he feels the timetable presented appears to be somewhat leisurely.

Iacoangeli explained that he has taken this project on within the past few weeks and is currently in the process of incorporating it into his existing work load.

Chair Zimmerman commended Mr. Iacoangeli for his presentation and diligent efforts in getting this process on task.

Brief discussion followed regarding goals and objectives of the Planning Commission as it relates to public input with regard to incorporating these ideas into the final draft of the South Central Area Plan.

UNFINISHED BUSINESS:

- I. **Request for Site Plan Review 08-150001 from Michael Davis** for property located at 5250 N. Grand River Avenue, Lansing, MI 48906, on the north side of Grand River Avenue, west of the Waverly Road intersection, in the southwest ¼ of Section 31 of DeWitt Charter Township, to allow the applicant to construct an 8,500 sq. ft. retail building. **Note: Postponed at the April 7, 2008 meeting.**

- A. Administrative Comments/Applicant Comments/Public Comments.

Planning Director Jeff Gray briefly reviewed staff's report dated May 2, 2008 pointing out the location of the approximately 1.10 acre site. The applicant intends to construct an 8,500 sq. ft. retail building (Family Dollar) on the property.

Gray noted that this request was tabled at the April 7th meeting due to some unresolved issues, including the physical access to the site for vehicles, connection to a public

storm drainage system, and some onsite violations to the Township's Junk Ordinance. Over the last 30 days the applicant has been working on these issues. Staff is now ready to move forward with a review and recommendation on the request.

The site is the former site of the Westhaven Motel. The only remaining structure on the property is a garage. The site was recently rezoned from the IL (Industrial, Light) zoning district to the BC (Business, Community) zoning district. The subject property is designated on the Future Land Use Map for commercial use.

The surrounding zoning consists of BC (Business, Community) to the north and east, IL (Industrial, Light) to the west and E-2 (Local Shopping) – City of Lansing and F (Commercial) – City of Lansing to the south. The surrounding Future Land Use designations consist of CC (Community Oriented Commercial) to the east and west, ACOM (Airport Oriented Commercial) to the north, and Commercial (City of Lansing) to the south.

With respect to Site Plan Review standards, Gray advised the following: the proposed facility complies with the lot area, width, building height, and setback requirements listed in Section 5.18 of the Zoning Ordinance; staff recommends that the applicant provide sufficient proof that all proposed site improvements are located on the subject property; staff recommends that the applicant provide a shared agreement with the Knights of Columbus property for additional parking or request a variance to the number of parking spaces required; documentation must be provided that the applicant has an agreement with the Knights of Columbus for the shared entrance drive off of Grand River Avenue; the plan depicts sufficient area for delivery trucks to park and unload; since the applicant has not submitted a parking lot lighting plan, staff recommends as a condition of approval that the applicant provide an acceptable lighting plan; no signage is proposed at this time. However, any signs proposed in the future are subject to review and approval by the Planning Department; an amended landscaping plan must be provided that meets the minimum requirements of the Zoning Ordinance for review by staff; the site plan must be revised to depict the required sidewalk placement as a condition of approval; lastly, the applicant has indicated that all trash and debris on the site will be eliminated no later than June 30, 2008.

Construction is anticipated to commence once all approvals have been received and should be completed by the end of the year 2008.

With respect to public services and facilities, Gray advised the following: the Michigan Department of Transportation (MDOT) notes that a driveway permit will be required from MDOT prior to issuance of a building permit; the site will be served with public water by the Board of Water and Light; sanitary sewer will be provided by a private on-site septic system; however, the applicant intends to contact the City of Lansing to discuss the feasibility of connecting to their public system; an on-site storm drainage

system is proposed to connect to the established drainage system that is under the jurisdiction of the Michigan Department of Transportation (MDOT); the Drain Commissioner's office indicates that connection to the MDOT system is workable, but some amendments to the plan are necessary; lastly, the Township Fire Marshall advised that the proposed plan allows adequate room for the aerial truck to circulate on the property; he also will require that the drive aisle along the building be designated as a fire lane.

In closing, Gray noted the four Review Standards set forth in Section 7.3.2 of the Zoning Ordinance that must be met (see pages 8 and 9 of staff's report). The proposed plan will comply with all of the conditions once staff's recommendations are met.

There were no Commissioner questions or comments.

Chair Zimmerman invited the applicant to speak.

Mike Davis, applicant, 5236 Dumond Court, Lansing, MI 48917, had no comments. However, he was available for questions.

There were no Commissioner questions or comments.

Chair Zimmerman called for public comments.

There were no public comments.

B. Discussion and possible action by Planning Commission.

Keilen moved that the Planning Commission approve Site Plan Review 08-150001 from Michael Davis to construct an 8,500 square foot retail building on property located at 5250 N. Grand River Avenue. Approval is subject to the following conditions:

- 1. The applicant shall satisfactorily demonstrate that all proposed site improvements will be placed on the subject site, prior to issuance of a building permit.**
- 2. The applicant shall provide an executed agreement for shared parking with the Knights of Columbus and/or obtain a variance for deficient parking spaces prior to issuance of a building permit. Said agreement shall be in a form acceptable to the Township Attorney.**
- 3. The applicant shall provide an executed agreement to utilize the driveway access on the Knights of Columbus property prior to issuance of a building**

permit. Said agreement shall be in a form acceptable to the Township Attorney.

- 4. The applicant shall provide a site lighting plan that meets the requirements of Section 10.1.10(6) of the Zoning Ordinance for review and approval by the Township Planning Department prior to issuance of a building permit.**
- 5. Proposed signs shall be subject to review and approval by the Township Planning Department prior to issuance of a sign permit.**
- 6. The applicant shall provide a revised landscaping plan for perimeter buffer yard landscaping and internal parking lot landscaping that complies with the requirements of Chapter 11A of the Zoning Ordinance.**
- 7. The Site Plan shall be amended to depict the location of the required sidewalks prior to issuance of a building permit.**
- 8. The applicant shall provide the Township with copies of permits from the Michigan Department of Transportation for the proposed driveway and storm water connection prior to issuance of a building permit.**
- 9. The applicant shall provide written approval from the Clinton County Drain Commissioner's office prior to issuance of a building permit.**
- 10. The applicant shall provide appropriate signage to comply with the Fire Code and execute the necessary order with the Fire Department for the fire lane prior to issuance of a Certificate of Occupancy for the structure.**
- 11. The applicant shall comply with the requirements of all reviewing agencies having jurisdiction over the project.**

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0 ABSENT: 2 (Nolen, Ross)

MOTION CARRIED.

- II. PUBLIC HEARING – Request for Special Use Permit 08-990002 from Classic Pool and Spa, Inc.** for property located at 12455 S. US-127BR (formerly US-27), DeWitt, MI 48820, south of Howe Road, north of Webb Road, in the northwest ¼ of Section 10 of DeWitt Charter Township, to allow the applicant to have two above ground display pools outdoors on the site.

- A. Open Public Hearing. **Gobbo moved to open the Public Hearing at 7:43 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Assistant Planner Harmony Gmazel briefly reviewed staff's report dated April 30, 2008 pointing out the location of the 0.66 acre site. The applicant is requesting a Special Use Permit to be allowed to operate an open-air display area. The site currently has an existing retail building, two accessory sheds and a paved parking lot. Access to the site is by a private drive on the north side of the property.

The site is zoned BC (Business, Community). The surrounding zoning consists of R3 (Residential Single Family) to the south and west, A (Agricultural) to the east and BC (Business, Community) to the north. The surrounding land uses consist of Single Family Residential to the south and west, vacant to the east and commercial to the north. The surrounding Future Land Use designations are CC (Community Oriented Commercial) to the north, south, east and west, and SF-H (High Density Single Family) to the east.

Gmazel went on to review the request for compliance with the five conditions for Open Air Businesses listed in section 7.13.35 (see pages 4 and 5 of staff's report). Only one issue needs to be resolved. The fence located five feet east of the west property line must either be shifted to the east in order to block the clear line of vision between the house and the display area, or must be lengthened to address this issue. All other conditions have been met, or are inapplicable.

Gmazel then reviewed the request for compliance with Site Plan Review standards set forth in Section 7.2.1(3) of the Zoning Ordinance stating the following: the address on the site plan must be changed to depict the correct property address as being 12455 South U.S. 27; the applicant will revise the site plan to depict a 36' by 50' mulched area to be used for an open-air display area so that various pools and/or tubs that may be displayed there at any given time; the site plan meets all requirements for height, bulk, density, and area set forth in Section 5.18 of the Zoning Ordinance; the site plan meets all off-street parking requirements set forth in Section 10.1.7 of the Zoning Ordinance; as a condition of approval staff recommends the applicant address two ordinance violations on the site consisting of outdoor sale of non-business related items and the outdoor storage of equipment, wood, chlorine, etc.; all pools, tubs and spas in the display area will be a minimum of four feet in height and will not be equipped with ladders; therefore, the pools will not have to be equipped with fences; lastly, the project is anticipated to be constructed in a single phase, with work commencing immediately after the Special Use Permit is issued. Construction will take place over a few days.

With respect to public services and facilities, Gmazel advised the following: the Michigan Department of Transportation (MDOT) has no objections to the request as long as the display area is not within the MDOT Right-of-Way; the Clinton County Drain Commissioner's Office have reviewed the site plan and has no objections or concerns regarding excess runoff; lastly, none of the remaining reviewing agencies have cited issues or concerns.

Lastly, Gmazel reviewed the request for compliance with standards set forth in Section 7.4.3, Basis for Determination (see pages 9 and 10 of staff's report). Staff finds the request meets all six standards.

Brief discussion followed regarding the fact that the applicant will not be required to place fencing around the display area.

Dailey noted that his personal hot tub is only 3 ft. 9 in. in height.

Gmazel reiterated that the displays are limited to a minimum height of 4 feet and will not be equipped with ladders. Perhaps the applicant can address the issue of hot tub displays.

Hearing no further questions or comments from Commissioners, Chair Zimmerman invited the applicant to speak.

Randy Baumchen, representing Classic Pool & Spa, Inc., 12455 S. US 27, DeWitt, MI 48820, stated that any hot tub displays will not have water in them.

Dailey questioned if the applicant had resolved all ordinance violations on the site. He noticed a vehicle parked in front of the business on his way to the meeting.

Baumchen advised that he would be glad to move the existing vehicle from the lawn.

Chair Zimmerman invited public comment.

- C. Close Public Hearing. **Hearing no public comment, Gobbo moved to close the Public Hearing at 7:55 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Gobbo moved that the Planning Commission recommend the Board of Trustees to approve Special Use Permit 08-990002 from Classic Pool and Spa, Inc. to construct a 36' by 50' open-air display area on the property located at 12455 S. US-127BR. Approval is recommended on the following basis:

1. **The proposed open-air display area has been designed in accordance with the requirements of Section 7.13.35 of the Zoning Ordinance.**
2. **The proposed open-air display area will be operated in accordance with the requirements of Section 6.4.3 of the Zoning Ordinance.**
3. **Upon compliance with the conditions of the Special Use Permit, the plans will comply with the site plan review standards listed in the Zoning Ordinance.**
4. **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: 7 NAYS: 0 ABSENT: 2 (Nolan, Ross)

MOTION CARRIED.

III. Request for Site Plan Review 08-150002 from JNL Partnership, LLC for property located at 13161 Schavey Road, DeWitt, MI 48820, south of Herbison Road, north of Clark Road, Lot #84 of Country Meadows Estates, in the northeast ¼ of Section 18 of DeWitt Charter Township to allow the applicant to construct a drive through ATM, a new building, and an addition to an existing building to be used for retail sales and professional offices.

A. Administrative Comments/Applicant Comments/Public Comments.

Gray briefly reviewed staff's report dated May 1, 2008 pointing out the location of the approximately 8.48 acre site. The request is to construct a 2,800 sq. ft. addition to an existing building, a 4,000 sq. ft. freestanding building, a drive-through automated teller machine (ATM), and landscape improvements within the parking lot.

The proposed site is located in the BSC (Business, Shopping Center) zoning district and is designated on the Future Land Use Map for NC (Neighborhood Oriented Commercial) use. The surrounding zoning consists of M-3 (Multiple Residential) to the east and south, M-3 (Multiple Residential) and PO (Professional Office Services) to the north, and R5 (Residential Single and Two Family and M-2 (Multiple Residential) to the west. The surrounding Future Land Use designations consist of MFR (Multiple Family Residential) to the east and south, MFR (Multiple Family Residential) and NC (Neighborhood Oriented Commercial) to the north, and SF-H (High Density Single Family Residential) and MFR (Multiple Family Residential) to the west.

Gray advised that, although the proposed structures do meet the normal standards for setbacks, the BSC (Business, Shopping Center) zoning district does also require a 100 ft transition strip where the commercially zoned property abuts a residential area. Areas along the north and east sides of the property do not meet the required 100 ft. transition strip area. The applicant has applied for a variance of 39.44 ft from the north property line and 29.75 ft. from the east property line. Staff recommends that any action to approve the site plan include the condition that the applicant receives the necessary variances. Otherwise the applicant would have to modify their currently proposed site plan.

Gray went on to review the request for compliance with the remainder of the standards set forth related to site plan review advising the following: the plan well exceeds the minimum requirement of 24,385 sq. ft. of parking area; the plan provides for additional landscaping that far exceeds ordinance requirements; although no new signage is proposed any future signs are subject to the requirements of Chapter XI of the Zoning Ordinance; the cumulative expansion of floor area proposed by the applicant does not trigger the installation of sidewalks; the request complies with each of the 5 conditions set forth in Section 7.13.30 of the Zoning Ordinance as it relates to drive-through facilities; lastly the construction schedule includes three phases with a completion date expected in the spring of 2009.

With respect to public services and facilities, Gray advised the following: the Clinton County Road Commission has no objections to the request, but does note that the sanitary sewer connection that is proposed within the road right-of-way will be subject to a permit; the applicant intends to connect to the public sanitary system. The Southern Clinton County Municipal Utilities Authority (SCCMUA) notes that existing public main has settled over time, affecting the flow in the pipe. After review by the Township Engineer, he has advised that the addition of new flows from the building addition will not exacerbate the condition or create a “tipping point” for blockages in the system. The Clinton County Drain Commissioner’s office has indicated that they have no objections to approval of the site plan. However, the applicant will be required to comply with the Drain Commissioner’s requirements. The Fire Marshal notes that Knox Boxes will be required for the new building and proposed addition; lastly, there were no concerns or issues expressed by the remaining reviewing agencies.

In closing, Gray advised that the request complies with all standards set forth in Section 7.3.2 of the Zoning Ordinance pertaining to Site Plan Review (see pages 8 and 9 of staff’s report).

B. Discussion and possible action by Planning Commission.

There were no questions or comments from the Commissioners.

Chair Zimmerman invited the applicant to speak.

Gray noted that the applicant was not present.

Chair Zimmerman called for public comments.

There were no public comments.

Flower moved that the Planning Commission approve Site Plan Review 08-150002 from JNL Properties, LLC to construct a 2,800 square foot addition to an existing building, a 4,000 square foot freestanding building, a drive-through automated teller machine (ATM), and landscape improvements within the parking lot at the DeWitt Shopping Center located on the east side of Schavey Road. Approval is subject to the following conditions:

- 1. The applicant obtains a variance to the 100-foot transition strip requirement from the north and east property lines for the proposed addition.**
- 2. Audio transmission devices shall not be clearly audible at the property lines, in accordance with the requirements of Section 7.13.30(5) of the Township Zoning Ordinance.**
- 3. The applicant shall comply with the requirements of all reviewing agencies having jurisdiction over the project.**
- 4. The sanitary sewer connections shall follow the appropriate Municipal Standards and Building Code requirements.**
- 5. The applicant shall comply with the requirements of the Clinton County Drain Commissioner, as stated in his correspondence dated April 23, 2008.**
- 6. The applicant shall provide Knox Boxes, in accordance with the requirements of the Township Fire Department.**

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0 ABSENT: 2 (Nolen, Ross)

MOTION CARRIED.

IV. PUBLIC HEARING – Request for Special Use Permit 08-990004 from Raymond and Marie Mohre for property located at 16231 S. US-127BR (formerly US-27), Lansing, MI 48906, at the southeast corner of Wieland Road and S. US-127BR, in the northwest ¼ of Section 34 of DeWitt Charter Township, to allow the applicant to construct a 40' x40' addition to an existing building and have outdoor storage on the site.

- A. Open Public Hearing. **Gobbo moved to open the Public Hearing at 8:10 p.m. Supported. MOTION CARRIED.**
- B. Administrative Comments/Applicant Comments/Public Comments.

Gmazel briefly reviewed staff's report dated May 2, 2008 pointing out the location of the 0.59 acre site located at 16231 S. US-127BR (formerly US-27). The applicant is requesting to construct a 40' by 40' addition to the north side of an existing building and operate a retail establishment with an open-air storage area. In addition, a 40' by 18' concrete pad is proposed at the north end of the new building to serve as an area where water softener bags would be stored and sold during business hours only.

The property is located in the BC (Business, Community) zoning district and designated for CC (Community Oriented Commercial Use) on the Future Land Use Map. The surrounding zoning consists of BC (Business, Community) to the north, south, east and west. However, it should be noted that a commercially zoned single family residence is located east of the site. The surrounding Future Land Use designations consist of CC (Community Oriented Commercial) to the north, south, east and west.

Gmazel went on to review the request for compliance with the five conditions listed in 7.13.35 relating to open-air businesses (see pages 4 and 5 of staff's report). The request meets all conditions, with the exception of number three as it pertains to lighting being shielded from adjacent properties. Staff has recommended that the proposed Special Use Permit include a condition that requires the applicant to provide a revised lighting plan for review and acceptance by the Township before the issuance of a building permit.

Gmazel further reviewed the request for compliance with site plan review standards set forth in Section 7.2.1(3) of the Zoning Ordinance stating the following: the proposed retail building and open-air storage area complies with the lot area, width, and building height requirements for the BC (Business, Community) zoning district. The site plan does not comply with setback requirements; the applicant has submitted a variance application to address encroachments into both the front and rear setbacks. Should the Board of Appeals determine that a variance is not warranted, the applicant will have to adjust the plan accordingly. The site plan exceeds all parking requirements; the site plan meets landscaping requirement; any signage will be subject to the review and approval of the Planning Department prior to issuance of a sign permit; the site plan

meets the sidewalk requirements set forth in Ordinance No. 225; the applicant does intend to dedicate an approximate four and a half-foot wide sidewalk easement due to the location of a utility pole near the intersection of the sidewalks at US-127BR and Wieland Road; lastly, construction is proposed in one phase to begin immediately after all approvals are granted and is expected to take place over four to five months.

With respect to public facilities and services, Gmazel stated the following: the Clinton County Road Commission (CCRC) has advised that the applicant has begun the proper permitting process for a driveway on Wieland Road and has no objections to the request; the applicant intends to connect the new building sanitary services to the existing lead inside the existing building; the proposed Special Use Permit includes a condition that requires the site plan to be amended to depict the proposed connection with public sanitary sewer service, in compliance with all requirements of the Southern Clinton County Municipal Utilities Authority (SCCMUA); the applicant is proposing to connect the site to the Lansing Board of Water and Light (LBWL) water main; the Special Use Permit includes a condition that requires that the site plan be amended to depict the proposed connection in compliance with all LBWL requirements; the Clinton County Drain Commissioner's Office has no objections to the proposed site plan; however, they have noted that any drainage improvements that occur within the MDOT or CCRC rights-of-way should satisfactorily meet all conditions of these agencies; lastly, there were no issues or concerns expressed by the remaining reviewing agencies.

In closing, Gmazel advised that the request meets all six standards set forth in Section 7.4.3 of the Zoning Ordinance, Basis for Determination (see page 9 of staff's report).

Gobbo questioned the nature of the business being proposed for the new building.

Gmazel advised that the new building would be an expansion of the existing Mohre Soft Water business currently located at 16231 S. US-127BR, Lansing.

Smelker questioned if the applicant intends store his merchandise inside the building when his business is not opened.

Gmazel stated that the applicant has represented to her that everything will be brought inside at night.

Chair Zimmerman invited the applicant to speak.

Raymond Mohre, applicant, 16231 S. US 27, Lansing, MI 48906, stated he was present for questions.

Gobbo questioned if the applicant is intending to conduct the exact type of business he is currently operating.

Mohre stated his current business is selling water softeners and salt. That is all he intends to do at the new location.

Hearing no further Commissioner questions or comments, Chair Zimmerman invited public comments.

- C. Close Public Hearing. **Hearing no public comment, Gobbo moved to close the Public Hearing at 8:20 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Keilen moved that the Planning Commission recommend that the Board of Trustees to approve Special Use Permit 08-990004 from Raymond and Marie Mohre, to be allowed to construct a 40'x40' addition to an existing building, and to operate a retail establishment with an open-air storage area on a 0.59 acre property located at 16231 S. US-127BR. Approval is recommended on the following basis:

1. **The proposed retail business and open-air storage area has been designed in accordance with the requirements of Section 7.13.35 of the Zoning Ordinance.**
2. **Upon compliance with the conditions of the Special Use Permit, the plans will comply with the site plan review standards listed in the Zoning Ordinance.**
3. **The standards of the Basis of Determination listed in Section 7.4.3 of the Zoning Ordinance have been met.**

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0 ABSENT: 2 (Nolen, Ross)

MOTION CARRIED.

- V. **PUBLIC HEARING - Request for Special Use Permit 08-990005 from Wendalyne T. Greene** for property located at 1933 E. Stoll Road, Lansing, MI 48906, east of Boichot Road, west of Wood Road, in the southeast ¼ of Section 22 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. **Gobbo moved to open the Public Hearing at 8:21 p.m. Supported. MOTION CARRIED.**

B. Administrative Comments/Applicant Comments/Public Comments.

Gmazel reviewed staff's report dated May 2, 2008 pointing out the location of the 0.57 acre site. The applicant is requesting a Special Use Permit to be allowed to operate a group day care home licensed for up to twelve (12) people.

The site is zoned R3 (Residential Single Family). The surrounding zoning consists of A (Agricultural) to the north, R3 (Residential Single Family) to the east and west, and R5 (Residential Single and Two Family) to the south. The site is designated for SF-M (Medium Density Single Family Residential). The surrounding Future Land Use designations consist of SF-M (Medium Density Single Family Residential) to the north, south, east, and west.

The applicant has operated a day care on this site in the past. Recently, the Michigan Department of Human Services is requiring that all licensees be permitted by their local municipality as well. The Planning Department sent out nineteen (19) notification letters to owners and occupants of the surrounding properties within 300 feet of the subject site. To date, one person has called and voiced no concern about the request, one person has visited with staff to discuss opposition to the request, particularly the traffic backups that it may create on Stoll Road; and one letter has been received in opposition of the request (Carlock letter dated April 29, 2008).

Gmazel went on to review the request for compliance with the seven conditions listed in Section 7.13.3 of the Zoning Ordinance as it relates to "Day Care Facilities" (see page 4 of staff's report). All conditions seem to be met, with the exception of Condition d) which states "The hours of operation shall not exceed sixteen (16) hours within a twenty-four (24) hour period. Activity between the hours of 10:00 p.m. and 6:00 a.m. shall be limited so that the group day care home is not disruptive to the neighboring residents."

The applicant proposes to operate the day care between the hours of 4:00 p.m. and 7:30 a.m., or 15.5 hours per day, seven days a week. This is similar to the care that the applicant provided under her last license approximately two years ago. It should be noted that staff received comments from the neighbors to the west whose house is located fifty (50) feet from the applicant's day care entrance expressing concern with disruptive activity during nighttime hours.

Gmazel went on to note that today staff received a communication from the applicant revising her hours of operation to be 6:00 a.m. to 10:00 p.m.

Gmazel pointed out an area photograph to help the Commission better understand the situation. Under the last day care license, the applicant's driveway was an open drop-off area for clients. The clients then descended down a wide stairway to the basement

level at the back of the house and entered at a side entrance. After dark, the stairway was lit by a motion-sensor light that was installed on the side of the house, but has now been removed. It is not certain what location the applicant is proposing for lighting. The Special Use Permit contains a condition that the lighting be placed toward, or on, the ground. This would help mitigate the lights from shining into the neighbors bedroom windows to the west of the site. The stairway was, and still is bordered on the west side by a long wall of lattice work that is approximately seven (7) feet tall. Mr. and Mrs. Carlock live in the house to the west, just fifty (50) feet from the subject site. In their letter dated April 29, 2008 they express concerns with night time disruptions such as lighting and noise.

Staff is also recommending that a four (4) foot high fence be installed on the west side of the neighbor's driveway and a six to seven foot fence down the stairway (see page 7 of staff's report). This would minimize the impact of commotion and headlight glare during pick up and/or drop off.

Gmazel noted that Mr. Carlock contacted her by phone today. He has been in discussions with the applicant. They are trying to reach an agreement on the fencing issue. Staff recommends that the fencing be required to avoid any problems in the future, or should the Carlock's no longer live in the neighboring home.

With respect to Section 7.2.1(3) of the Zoning Ordinance Gmazel stated the following: the existing parcel and home complies with the lot area, width, and building height requirements listed in the Schedule of Regulations, Section 5.18 of the Zoning Ordinance; the Clinton County Road Commission (CCRC) indicates that the traffic volumes generated would be minimal and the driveway is sufficient to safely accommodate expected traffic; the Southern Clinton County Municipal Utilities Authority (SCCMUA) has commented that the Residential Equivalent Unit (REU) would change with this new use; staff has included a condition in the proposed Special Use Permit that addresses this issue; lastly, the remaining reviewing agencies have expressed no additional concerns regarding this request.

Lastly, Gmazel reviewed the request for compliance with the six standards set forth in Section 7.4.3 of the Zoning Ordinance, Basis for Determination, (see pages 10 and 11 of staff's report). Staff has indicated that potential for disruptions to adjacent landowners has been addressed by the conditions noted in the proposed Special Use Permit.

Dailey asked staff to characterize the nature of the relationship between the applicant and the adjacent neighbor to the west.

Gmazel gave a brief chronology of her conversations with both the applicant and the adjoining property owner.

Gray noted that staff received concerns from the adjoining neighbor and reacted normally by visiting the site to get a better understanding of the situation. It is staff's opinion that given the nature of the proposed use, as well as the location of the neighbors bedroom windows, there is reason for legitimate concerns related to noise and lighting. Staff has addressed the issues effectively in the conditions of the proposed Special Use Permit. It is important when a request is made to operate a business out of a home, that the character of the area remains primarily residential rather than commercial.

Gobbo noted that the applicant's recent change in requested hours of operation are quite different compared to the original request (4:00 p.m. to 7:30 a.m.). He questioned if there was some sort of assurance that the newly requested hours of operation (6:00 a.m. to 10:00 p.m.) would be adhered to. In addition, the proposed Special Use Permit allows the applicant to operation until 11:00 p.m. The applicant is only requesting to operate until 10:00 p.m. He questioned why the extra hour of operation was included.

Gray advised that staff was trying to meet the intent of the Ordinance and provide flexibility for the applicant. Discussions with both the applicant and the adjoining neighbor indicated that everyone was comfortable with operations being allowed until 11:00 p.m.

Gobbo questioned if the Township could expect to receive many requests for zoning compliance from daycares now that the State is requiring local governmental approval. He also noted that the State requires a 1,500 foot separation between licensed group daycare facilities. He questioned how staff could regulate this requirement.

Brief discussion followed regarding the fact that the State of Michigan is now requiring approval from local units of government for daycare facilities, prior to State approval.

Gray advised that the State of Michigan has an excellent website that allows you to search for the addresses all licensed group daycare facilities in the State.

Shively questioned if nighttime daycare is allowed in the Township. She further questioned if the applicant now intends to only operate during day hours and if an outdoor play area exists.

Gray advised that nighttime daycare is allowed, provided that it does not cause disruptions to the surrounding residences. With respect to hours of operation, staff suggested that perhaps the applicant could clarify their intended hours of operation.

Chair Zimmerman invited the applicant to speak.

Todd Greene, husband of the applicant, 1933 E. Stoll Road, Lansing, MI 48906, stated he would be representing the applicant, Wendalyne Greene. He advised that the applicant originally intended to retain her current day job and operate an overnight group daycare at the same time. However, she has now come to the conclusion that she has enough potential business for daytime hours that she would be able to afford to quit her current daytime job. Once she is established, they intend to re-address the hours of operation to allow for possible nighttime hours of operation. An outdoor play area is provided. It consists of approximately 750 square feet of fenced in patio.

Gobbo asked for clarification as to whether the applicant intends to employ additional help for her business.

Todd Greene advised that the State required ratio is one adult to every six children. Since the applicant is requesting a group daycare that allows up to twelve children, the applicant does intend to employ additional help.

Shively questioned if the applicant has reached an agreement with the adjoining neighbor that would address the issue of providing fencing or screening along the west side of the applicant's property.

Todd Greene stated that they do have a point of contention with the fencing requirement. He feels ultimately it can be addressed by continuing discussions with the neighboring property owners (Mr. and Mrs. Carlock). The property backs up to a future golf course and fencing would block the view of the course. With respect to the outdoor lighting, Greene stated he was not aware that it was an issue with the neighbors. He noted that the light has been non functional for three years and has been removed. He is in the process of replacing it with a light that is less obtrusive to the neighbor. Also, any nighttime clients could be asked to point their headlights away from the neighbor's house. He further stated that the stairway entrance has a lattice wall with a hand rail. They have provided plantings that would eventually provide a "green" wall (Boston Ivy) that would also be present during the winter months.

Zimmerman asked if it has definitely been agreed upon between the applicant and adjoining neighbor that the fencing along the driveway is not needed.

Todd Greene stated that, based on his conversation with Mr. Carlock, it is his understanding that the fencing along the driveway is not needed.

Zimmerman questioned if staff's understanding of the situation is the same, regarding the fencing.

Gmazel concurred that her understanding is that the applicant and the Carlock's do not feel the fencing along the driveway is necessary but that Mr. Carlock still feels there is a

need for a solid fence along the stairway.

Gobbo noted that information available in the neighbor's letter dated April 29, 2008 suggests that past clients have been very disruptive when dropping off and picking up during night hours. If the Planning Commission is going to err on the side of trying to figure out how to approve this request without impacting current or future neighbors perhaps they should consider that "fences make good neighbors".

Todd Greene stated that his wife has not operated a daycare in their home for the past two and a half years. The concerns expressed by the neighbor are duly noted. However, why is the issue being addressed now rather than three years ago? Regardless, they are willing to do whatever it takes to make the existing or future neighbors happy.

Gobbo stated that he feels as if it is not exactly clear what the neighbors want opposed to what the applicant is willing to provide. He requested clarity from anyone who could provide it and suggested perhaps that the request be tabled until the issue is clear.

Chair Zimmerman advised that staff has photos of the site available and would be passing them around for the Commission to look at.

Smelker questioned if the adjoining neighbor is aware of the applicant's amended hours of operation.

Wendalyne Greene stated that she advised Mr. Carlock that the Township would not allow her to operate between the hours of 11:00 p.m. and 6:00 a.m. Mr. Carlock advised that he had no issue with those hours of operation. However, the Carlock's are out of town and she did not have the opportunity to share her amended hours of operation with him. She stated that it was always her intent to begin with nighttime hours and then transition over to daytime hours if she was unable to develop the overnight daycare.

Smelker stated that if the neighbors are unaware of the amended hours of operation, perhaps that is where the communication breakdown has occurred.

Gobbo noted that Todd Greene has previously stated tonight that at some point in the future they intend to expand hours of operation to include nighttime. This would still pose an issue with lighting and screening. He feels it is in the best interest of the Commission to consider mitigating any lighting or noise issues whatever the hours of operation may be.

Todd Greene stated that evening shifts are typically 10:00 p.m. to 6:00 a.m. Although there is no guarantee, it would be extremely rare that anyone would be arriving or leaving between those hours. At this point they are only requesting hours of operation from 6:00 a.m. to 10:00 p.m. He feels that nighttime issues should be addressed at the

time that they decide to extend their hours. Lastly, Greene noted that, as part of the Kirkside development, any fencing would also have to be reviewed and approved by their association.

Wendalyne Greene responded to Commissioner Gobbo's concerns by stating that in her past fifteen years of providing daycare, she never has had children arriving or leaving after the hours of 10:10 p.m. She does not intend to ever have someone accessing her home during the hours of 11:00 p.m. and 6:00 a.m.

Chair Zimmerman invited public comments.

- C. Close Public Hearing. **Hearing no public comments, Gobbo moved to close the Public Hearing at 9:06 p.m. Supported. MOTION CARRIED.**
- D. Discussion and possible action by Planning Commission.

Shively stated after looking at the pictures of the site, she agrees that something more solid or permanent would be needed along the stairway. She does not feel the existing lattice fencing provides enough of a barrier for the adjoining neighbor.

Smelker questioned if the fencing is simply a recommendation or a condition of approval listed in the proposed Special Use Permit.

Gray noted that the fencing is listed as a condition of the proposed Special Use Permit under Section I(B). If the Commission is so inclined to amend this condition, staff recommends that Condition II(C) be amended to state that the hours of operation be as presented by the applicant (6:00 a.m. to 10:00 p.m.).

Shively stated she is in favor of deleting the 4 foot high fencing around the driveway since it appears that the applicant and the neighbor are not in favor of it.

Smelker concurred.

Dailey stated he is not in favor of removing the condition of the driveway fencing. He feels that this is a request that would allow a special use to operate in a residential neighborhood and the same standards used for any special use should apply to this request. Regardless of the fact that the applicant and existing neighbor might be able to come to an agreement, the special use should include the fencing around the driveway.

Flower moved that the Planning Commission recommend the Board of Trustees to approve Special Use Permit 08-990005 from Wendalyne Greene to operate a group day care home licensed for up to twelve (12) children on the property located at 1933 E. Stoll Road. Approval is recommended on the following basis:

- 1. Upon compliance with the 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.**
- 2. The standards of the Basis for Determination listed in Section 7.4.3 of the Zoning Ordinance have been met.**

Supported.

Brief discussion followed regarding the fact that failure of the existing motion does not deny the request.

Keilen noted that deviation from staff's recommendations can expose the Township setting a precedent for future requests of this nature. He recommends the request be approved as staff has recommended.

ROLL CALL vote on motion:

AYES: 5 NAYS: 2 (Zimmerman, Smelker) ABSENT: 2 (Nolen, Ross)

MOTION CARRIED.

NEW BUSINESS: None.

EXTENDED PUBLIC COMMENTS ON NON-AGENDA ITEMS:

Loretta Spinrad, representing the DeWitt Area Community Alliance (DACA), expressed her disappointment in the outcome of request for Special Use Permit 08-990005. Although she understands that the Township has rules to adhere to, the Commission should try to encourage people and businesses to move into this area. There has to be a "gray" area. The Commission is trying to impose a condition upon two families that do not want a fence between them. In closing, she stated that she is very disappointed with the Planning Commission's recommendation.

Zimmerman respectfully disagreed with Ms. Spinrad's disappointment. Many factors have been reviewed before the Commission makes a recommendation. When a neighbor expresses concern, it is the Township's responsibility to investigate and possibly mitigate the issues.

Commissioner Keilen stated that it seemed as if the adjoining neighbor (Carlock's) didn't really know what type of screening they wanted. In that case, the Commission should insure that they follow the Ordinance requirements very precisely. He noted that neighborhoods change and the Carlock's may not always own the home adjacent to the site. He views the fencing requirement as a protective measure for the applicant.

Shively concurred.

REPORTS:

I. Trustee:

Trustee Ross was absent. Therefore, there was no report given on the recent meetings of the Board of Trustees.

II. Zoning Board of Appeals:

Gobbo reported that there was no Zoning Board of Appeals meeting held in the month of April.

III. Committees: None.

IV. Staff:

Gray noted that each Commissioner received a memorandum from Deputy Clerk Judy Martiny regarding the 4th annual Meadows Celebration scheduled for July 17th. He encouraged Commissioners to attend or volunteer for the event.

DISCUSSION:

Keilen thanked staff for successfully getting the consultant for the South Central Area Plan back on task. He is optimistic that the end result will be a good quality product.

Smelker thanked the Commission for working well together. With the dismal state of the economy, she is pleased to see DeWitt Township still growing.

ADJOURNMENT: **Smelker moved to adjourn the meeting at 9:24 p.m. Supported. MOTION CARRIED.**

Linda K. Parkinson, Recording Secretary

Theresa Shively, Secretary