

**CHARTER TOWNSHIP OF FENTON PLANNING COMMISSION
MINUTES FOR REGULAR MEETING OF FEBRUARY 12, 2008**

**TOWNSHIP CIVIC COMMUNITY CENTER
12060 MANTAWAUKA DRIVE, FENTON, MICHIGAN**

Chairman Tucker called meeting to order at 7:06 p.m.
Present: Carlson, Franz, Richard, Root, Spees, Tucker
Recording Secretary McDonald
Absent: None

APPROVAL OF AGENDA:

Motion to approve the agenda as presented
Motion by: Tucker
Seconded by: Carlson
Ayes: Carlson, Franz, Richard, Root, Spees, Tucker
Nays: None
Absent: None

Motion carried

NEW BUSINESS:

SP08-001 Fenton Lakes Building & Design, 4306 W. Baldwin, Grand Blanc:

06-23-300-044 14381 North Rd.

Preliminary site plan: 4418 sq. ft. addition (IMS)
Secretary Carlson reviewed file. Scott Tarkleson, Fenton Lakes Building & Design sworn in to represent the owner of the IMS building. Tarkleson explained the request to construct an addition to the existing building, the use of the additional space will be for offices. The owner wants to consolidate other IMS office sites into this one location. He noted the site plan shows the elimination of one of the driveways to keep curb cuts to a minimum. Chairman Tucker called for audience comments. There were none. Tucker asked about the area shown on the plan as a gym. Tarkleson replied the area is proposed to be a gym for the employees of the business only, this is only conceptual at this time, it may become file storage. Tucker noted there are details that are missing on the plan that are required for preliminary approval. He noted the information lacking includes the number of employees, the buildable area, building height and dumpster location. Tarkleson said there will be 25 new employees, the building height is 22-ft. to the peak or 18-ft. to the mean point, he noted the buildable area will be added on the final site plan. Tarkleson explained they have several options for the dumpster location, this has not been determined yet because they are waiting for comments from the county agencies with regard to the detention area and driveway location. Root noted the buildable area cannot include the road right of way and asked that the applicant provide a sidewalk along the North Rd. frontage. He explained the request for the sidewalk is consistent with other applications. Tucker concurred and requested the walk extend from property line to property line. Spees noted handicap parking is not noted on the plan.

Motion to grant preliminary approval with the following items to provided on the final site plan:

- Number of employees
- Buildable area of the parcel
- Height of the proposed building
- Dumpster location
- Sidewalk along the North Rd. frontage
- Location of handicap parking

Motion by: Root
Seconded by: Carlson
Ayes: Carlson, Franz, Richard, Root, Spees, Tucker
Nays: None
Absent: None

Motion carried

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PUBLIC HEARING:

R08-001 Capitol Realty Holdings LLC, 140 E. Second St. Flint:

06-31-400-034

NW corner of Owen and Linden

Rezone: R-3 to PUD

Secretary Carlson reviewed the file and read an e-mail dated 2-11-08 from Tamara Zingaro, 16420 Shadow Ln. stating her opposition to the request. She noted a memo from Zoning Administrator, Piggott dated 1-17-08 was also new to the file. John Pavone, Capitol Realty Holdings LLC, sworn in. Pavone explained this request was postponed last month to obtain an opinion from the Township Zoning Administrator, Doug Piggott. Pavone stated he had received a copy of the memo dated 1-17-08 and wanted to address the issues raised by Piggott. First there is the question of whether the site meets the intent of the PUD ordinance for parcels to be eligible for PUD development. Pavone stated the requirement for mixed or varied land uses is met. He added other statements in the intent section of the PUD ordinance refer to unusual topography or a unique setting in the community or costly development problems or contains natural features such as wetlands, farmlands or woodlots that are important for the Township to retain. Pavone stated these are "or" statements which he interprets to mean any one or more of those items need to be met in order to qualify. Pavone said the applicant feels all of these conditions, with the exception of the unusual topography, which is somewhat subjective, exist on the site. He stated that it is the applicant's opinion that the parcel's location at the intersection of two major roads qualify as a unique setting in the community, the extensive ditch improvements proposed and the purchase of additional property to manage the storm water from the site make the parcel costly to develop. The applicant said they feel they meet the natural features test because of the wetland, proposed to be increase in size, and a historic stand of trees proposed to be preserved, including an historic, natural rock wall created when the fields were prepared for farming. Having said that, Pavone stated it is the applicant's contention that the parcel is eligible for PUD development according to the ordinance. Pavone stated the next question to consider is whether the proposed rezoning is consistent with the future land use plan. He noted the proposed outdoor commercial recreation will be accessory to the proposed religious institution which is permitted by special use permit in the R-3 zoning district and medium density land use classification. He stated neighborhood medical facilities are permitted by special use permit in the R-3 zoning district and office and local commercial uses are permitted in the medium density classification if the parcel has access to sanitary sewer, access to a paved county primary road, is at or near an intersection, is of adequate size to provide buffering from all adjacent residential uses and close to a concentration of residences intended to be served by the use. It is the applicants opinion that these are all true of this location and the request. Pavone noted the Township Zoning Ordinance defines "neighborhood commercial" as 25,000 sq. ft. or less, the proposed retail is less than 25,000 sq. ft. He stated that according to Piggott's memo, to allow assisted living and nursing home as part of the concept plan the Commission would have to find that the area is appropriate for high density residential uses which would require a change to the land use plan. Pavone said it is the applicants opinion that changes in conditions and policies have occurred since the adoption of the future land use plan in 2002 that render the plan less relative. He claimed similar type facilities have been approved on similarly zoned property in other locations of the Township including a mixed use PUD on Thompson Rd. and US-23 and a mixed use PUD on the corner of Thompson and Torrey, both with assisted living, and precedence was set when bonus density was given because of an economic challenge as part of a PUD on Thompson and Fenton Rds., which was approved with 54,000 sq. ft. of office space. Pavone said market changes have recently occurred. He stated these changes in conditions include an increase in the retirement age population, an increase in population on the west side of the Township, which the applicant feels is under served by convenience commercial, and an extreme reduction in the demand for single family homes. He said the applicant has found an increased demand for religious/recreation facilities. He read a letter from a religious institution indicating their interest in this location. Pavone said it is the applicants opinion that this parcel meets the all of the requirements to be considered for high density residential uses. He noted the land use plan states appropriate locations for high density have sanitary sewer, access to a paved county primary road and

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are near a city or commercial center. It is the applicants opinion that the proposed PUD is consistent with the future land use plan, changes in policy and conditions have occurred since the plan was last updated and the request is appropriate because the locational criteria for the proposed uses have been met. Pavone asked that based on this presentation the Commission recommend the rezoning be approved. Chairman Tucker explained that assisted living and skilled nursing homes are allowed in R-M zoning districts which is equivalent to high density land use classification, the parcel has a low density classification but it became available for medium density when sanitary sewer was extended into the area, therefore it was rezoned to R-3. He added that in order for the concept plan presented to be consistent with the future land use plan, the Commission would have to find that this parcel would be appropriate for a high density classification. Chairman Tucker called for audience comment. James Arceo, 5490 Deer Tr. stated concerns about increased traffic and negative impact on the sanitary sewers and the area's aquifer because of the volume of water required to support these types of uses of the property. He explained that, during de-watering when the nearby District 3 waste water treatment plant was expanded several wells in the area went dry. He added concerns about the sanitary sewer system's ability to handle arsenic, antibiotics and other medical waste. He said he wants to see the trees and the wetland preserved as they presently exist. He stated it is his opinion the parcel is not appropriate for high density because the access to the county primary road is limited. Jerry Kimball, 16248 Orchard Tr. stated his opposition to the rezoning, he said the property is appropriately zoned R-3, medium density is consistent with the future land use plan and the surrounding area. Kimball said that most of the uses proposed by the developer are uses permitted by special use permit in R-3, at a smaller scale. Kimball said it is his interpretation that the land use plan and the ordinances are in place to protect surrounding neighborhoods. He quoted from the developers presentation page 28, number 3 where the applicant contended that they cannot receive a reasonable return on investment through developing the property with 1 of the uses permitted under the current zoning. He explained the applicant stated because of changes in land use that have taken place in close proximity to the site, a rezoning to PUD for the purpose of developing the property as the mixture of uses found on the concept plan is not only reasonable, but, in the applicant's opinion, required, for the owner of the property to receive a reasonable return on their investment. He stated his understanding that it would not be prudent for the applicant to construct single family homes on the property given the depressed market for single family homes. Kimball said he agreed with the statement that the housing market is depressed, however he asserted that the property can in fact be developed with more than 1 use permitted under the current zoning so that a zoning change is not necessary. He noted that there are 7 uses permitted by right and 20 uses permitted by special use permit in the R-3 zoning district. He added it is the area residents' opinion that a reasonable return on their investment is achievable with R-3 zoning. Kimball also quoted from the applicants presentation on page 31, number 7 as follows, the quality of the residential housing in the township, a highly acclaimed school district, and convenient access to retail shopping and the interstate, has fueled tremendous residential growth in the Township. Most of the growth has occurred, or is planned to occur, within the vicinity of the site. The type of development contemplated herein will complement the adjacent developments and provide additional housing alternatives for those of retirement age, and shopping/recreation alternatives for all the Township's residents. Kimball stated the developer has acknowledged that there is convenient access to retail shopping already existing in the Township. He said it is the residents' opinion that with Silver Parkway and the City of Linden only about 2 miles from the site, they feel that there is no need for this scale of commercial development as proposed as part of this rezoning request. Referring to the applicants presentation Kimball noted on page 35, number 10, which says if the request is for a specific use, is rezoning the land more appropriate than amending the list of permitted or special land uses in the current zoning district to allow the use? Kimball noted amending the list of permitted uses is not necessary, due to the fact the uses proposed on the concept plan are all allowable within the current R-3 zoning district. He expressed his objection to rezoning the property to PUD, to allow for more intense use of the land. He also stated that if developed under the existing zoning, the development would be more in tune with the surrounding land uses. Kimball stated concerns that on page 35, number 11 the applicant says that the requested rezoning will not create an isolated and unplanned spot zone. Kimball noted the applicant states the uses proposed

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are all permitted uses within the medium density classification when the following site criteria are met; access to sanitary sewer, access to a paved county primary road, at or near an intersection, of adequate size to provide buffering for all adjacent residential uses, and close to a concentration of residences intended to be served by the use. Thus, the request will not create an isolated and unplanned spot-zone. Kimball said that using this criteria, the proposed development may not technically be a spot-zone. However there is no commercial zoning in the immediate area, which is primarily residential and agricultural in character. Kimball stated adequate buffering is also a concern. He added the existing R-3 zoning district does provide the developer with diverse development options, the existing zoning it is reasonable and flexible enough to allow many of the uses proposed with a special use permit. He said it is his opinion the property can be developed in a way that keeps the scale of the commercial and office uses in check and provide protection to the existing residents. Will Chavez, 15178 Orchard Tr. stated concerns about this rezoning setting a precedence for further commercial development. He said he has concerns that the developer argued that Mueller's Orchard is an existing commercial operation. He disagreed and said this is not a commercial use. Rather it is primarily agricultural in nature and helps to protect and preserve the existing rural character of the area. He added concerns about the additional traffic this project would generate, he submitted several photos of the traffic at the corner of Owen and Linden Rds. Chavez said that if developed, this project would have a negative impact on property values in the surrounding area. Chairman Tucker noted the Township Board is looking into this intersection and the problem the Orchard View residents are having with vehicles cutting through their development. Amanda Chavez, 15178 Orchard Tr. stated she has had conversation with the Road Commission and they are not even aware of the project. She said that at this time, once they have the plan, the Road Commission would not be able to complete a review until May. She stated concerns that there has not been enough research to determine if the project is feasible. She added it is her opinion that the request is not consistent with the future land use plan and asked the Commission to recommend denial. Susan Kimball, 16248 Orchard Tr. stated concerns about the size and scale of the commercial development. She noted that the Fenton Township Zoning Ordinance defines "neighborhood retail" as having a maximum size of 25,000-sq. ft. with individual units not to exceed 5,500-sq. ft. She stated Capital Holdings had been cited for a wetland violation and stated concerns about other authorities having jurisdiction over the wetlands. She added concerns about this development adding to the congestion at the intersection of Owen & Linden and stated that she is opposed to the rezoning to PUD. Claudine Hildreth, 16161 Lydia Ct. said there is no need for another pharmacy as there is already a Rite Aid and a well respected local pharmacy in the City of Linden, a Walgreens and pharmacies located in VG's, Walmart and K-mart on Silver Parkway. She explained she has contacted the Michigan Department of Community Health regarding the application process for nursing homes. She said the licenses for nursing home beds are granted according to need and she questioned the feasibility of the proposed facilities, based on the need. She noted that she was told for 2008 new bed inventory for Genesee County shows 73 new beds and the need for 2008 is for 60 beds for the entire County. She stated concerns that the inventory exceeds the need and if the developer's application for a Certificate of Need is not already in progress, this applicant will have 7 other applications ahead of them and therefore not likely to granted. She encouraged the Commission to uphold the medium density classification for which this property is master planned, to preserve the rural character of the area and she thanked the Commission for addressing their concerns regarding the use of Orchard View development as a cut-through to avoid this congested intersection. Amede Hungerford, 16534 W. Horseshoe Tr. stated concerns about storm water run off. He presented picture showing water problems in Lakeview Farms. Several other residents stated concerns about the loss of rural character, existing traffic problems being exacerbated with the proposed development, the scale and scope of the commercial, office and medical uses, setting a precedence for more commercial development, the stated there is no need for the nursing and skilled care or the commercial and office uses, no studies have been done or submitted to demonstrate a need for this type of development, all of these services are available within a 5 minute drive from this parcel and concerns were stated about frequent power outages in this area. They stated that, like the developer, they have made substantial investments in their homes and properties. They argued that the residents are currently unable to sell their homes because of the economy and drop in

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home values. Consequently, the residents have no other option but to wait for the economy to improve. They argued that the developers should be required to continue to hold onto their investment until the economy improves in the same manner the residents are forced to keep their homes until the economy improves. They stated opposition to the request and asked that the Commission to recommend the rezoning from R-3 to PUD be denied. The following people came forward and stated for the record they agreed with the concerns previously stated by others and are opposed to the rezoning request: Tamera & Gary Zingaro, 16420 Shadow Ln. Gary stated he is representing himself and the residents of Shadow Lane, Alan Maus, 5468 Owen Rd., Scott Jacques, 16429 E. Horsehoe Tr. representing himself and the residents of Lakeview Farms, Richard & Heidi Strauss, 5330 Blossom Ln., Rodney Porter, 16218 Orchard Tr., Kevin & Amy Begola, 16225 Orchard Tr., Mark Miller, 15188 Orchard Tr., Daralee & Marilee Rowan, 16150 Lydia Ct., Julie Burkett, 16170 Tania Ct., Wendy Armstrong, 5395 Deer Tr., Dan Shannon, 16429 Shadow Ln., Bob Brisebois, 16164 Tania Ct., Stephanie McMunigal, 5455 Deer Tr., Tim Dawes, 16481 Dusklight and Richard Paulson, 16484 E. Horseshoe Tr. James Arceo, 5490 Deer Tr. returned to the podium and summarized the residents concerns. He thanked the Commission for their time and noted that they all have invested their time and done research in an effort to protect their property and quality of life. He reiterated the fact that there are development options in the R-3 zoning district other than single family homes. He noted that everyone at the meeting will have to ride out the hard economic times. He indicated that the residents feel that there will be conflicts with traffic, storm water management, sanitary sewer treatment and well water supply if this type of development is approved. He asked the Commission to protect the rural character of the area. He also stated that the residents support the commercial development of Thompson Rd. but do not need the proposed services in this area. Chairman Tucker thanked the audience and the applicant for their presentations. Carlson agreed that most of the uses proposed, at a smaller scale, could be permitted by special use permit in R-3. She stated she opposed the commercial and office component of the concept plan. Root said he did not feel the concept met the requirements of the PUD provisions of the Zoning Ordinance. He stated opposition to the extent and scale of the commercial and office uses. He noted the parcel was changed from low density to medium density. However he did not feel high density or office and commercial development is appropriate for this parcel. He explained, in his opinion, neighborhood commercial is intended to be the "ma & pa" type businesses, not a chain drug store. He added concerns about the use and maintenance of the athletic fields. He said other developments that have been approved with a higher density are in the Thompson Rd. corridor. He felt the Commission has the right to direct that type of development to the area that is master planned for it. He stated the criteria for high density includes that the property be near a city or urban center, though the word "near" is subjective, in his opinion this property is not near enough to either the cities of Fenton or Linden to meet this criteria. Spees stated he feels in concept that this a good plan and a good fit as this plan preserves open space, provides a needed housing type for an aging population and provides an area for recreation. Spees explained that this area was nothing but farm fields just a few years ago and all of the developments represented tonight where approved with this same type of opposition. He said he believes the commercial component could actually relieve some of the congestion and if approved a signaled intersection would also help. He stated the proposed recreation facilities will compliment the nearby soccer fields and county park and provide interest for those that will be living in the assisted and skilled facilities proposed. He felt this type of development will provide seniors with a place that will enhance their quality of life. He noted that in concept the plan appears to be a good one, but also stated concerns about the need for additional information that could be provided to help to make an informed decision. He suggested a hydro- geological study of the surrounding aquifer and a traffic generation study of the area would be helpful. He noted that he would like to be able to compare the impact of this type of development with the existing approved R-3 plan for the property. He added he is not concerned with the uses proposed and the waste water treatment plant's ability to process the waste. Franz concurred, he stated that he feels this concept is a good fit for the area, it meets the requirements of the PUD and the locational criteria of the future land use plan. Richard stated concerns about the need for another assisted living facility. He note there are 7 assisted living facilities and 2 nursing homes in close proximity to this site. He added Lockwood (senior community) has vacancies. He said there are 7

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pharmacies within 3 miles of this site and questioned a need for another. Pavone explained the applicant's desire to move forward with this concept. He stated that Capitol Realty does not have any wetlands violations and the operator they are working with has an application in for the nursing home beds and is confident they will be granted. Ed Joubran also asked that the Commission move forward stating in his opinion that the concept meets the requirements of the PUD and the locational criteria of the future land use plan for high density uses. Pavone explained the zoning change will only allow for the concept to move forward and that all of the details will be worked out during the site plan approval process. Tucker said that in his opinion the concept plan meets the criteria in the Zoning Ordinance for establishing a PUD. However the issue before the Commission is the rezoning of the property from R-3 to PUD with this concept. The 2 things the Commission must consider are pertain to the future land use plan. The first issue to be decided is whether the request complies with the Master Plan, including the Future Land Use Plan. To determine this, the Planning Commission should compare the request with the Future Land Use map, the location criteria for the land use classification that equates to the proposed zoning district and the plan's overall goals and policies. The second part of the test is to identify any relevant mistakes in the current plan or relevant changes in conditions or policies that impact the plan's recommendations. Tucker explained, the property, for the purpose of this request, is shown in the plan suitable for medium density uses. He noted that some of the uses proposed by the applicant would be equivalent to a high density classification. However the applicant has stated that it is their opinion that the property qualifies for a high density classification because it meets the requirements of the locational criteria to be considered for high density classification. Tucker noted he did not feel there is a mistake in the plan. However it is clear, and many of the residents that spoke agree, there has been a change in the current economic conditions with the recent housing market downturn. Tucker explained his concern about changing a 20 year Master Plan based on a fairly recent market trend. He also noted that many of the uses proposed are consistent with the underlying R-3 zoning district and medium density land use classification, including neighborhood medical and local office and commercial uses. The question is what constitutes "neighborhood commercial and small clusters of office uses" as described in the Master Plan for medium density developments. Tucker noted the Township is encouraging the higher, more intense commercial, office and multi-family uses in the Thompson Rd. Corridor consistent with the existing Thompson Rd. Corridor Overlay Plan. Pavone stated the applicant would like to work with the Township to address the size of the proposed commercial and office footprint. Root stated concerns that the draft of the proposed PUD ordinance that the Commission has before them tonight is based on this concept and thought that to begin negotiations for a different development is not prudent at this time. Spees said that in his opinion, this concept is more appropriate for this area than for Thompson Rd. because of the lack of these types of services and the recreation aspect that is not a fit for Thompson Rd. Franz concurred with Spees. Pavone referred to the letter from the church stating their desire to locate on the subject parcel and operate and maintain the athletic fields for those in the community that are interested. Pavone explained that as a PUD there can be a cohesive design for the entire site. He requested the applicant have the opportunity to modify the plan and the Commission to create a list of conditions that could be acceptable for a favorable recommendation. Spees said one of the problems in the site analysis for this concept is the lack of a parallel plan. The parallel plan gives the Commission the ability to compare the impact on the area if it were developed as it is presently zoned as apposed to the impact arising from proposed zoning. Tucker said in order to approve the assisted living and skilled nursing facilities the Commission must find that this parcel qualifies for a high density classification. Tucker said the Commission will act on the plan as submitted. He explained a modified plan may be presented to the Township Board who will have the final say as to the approval or denial of the request.

Motion to recommend the Township Board deny the request to rezone based on inconsistencies with the future land use plan and the fact that there is not currently, sufficient enough change in conditions to warrant a change in policy or to initiate a change to the future land use plan.

Motion by: Carlson

Seconded by: Root

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Ayes: Carlson, Richard, Root, Spees, Tucker
Nays: Franz
Absent: None

Motion carried

DISCUSSION ITEMS:

Michigan Economic Developers Association – The Commission decided they will talk about this when they complete the special meetings for the Thompson Road Corridor Pattern Book

Update from Rod Arroyo – Date for workshop

McDonald read e-mail from Arroyo offering several dates for a presentation of the summary of the input gathered from the visual preference survey, the Commission agreed on February 27, 2008 at 7:00 p.m.

MINUTES: January 8, 2008 stand approved as submitted

ADJOURN: 9:50 p.m.

John Tucker, Chairman
Minutes Posted 03/11/08

Sandra Carlson, Secretary