

Chair
Jim Ostrowski
Vice-Chair
Dave Pohl
Secretary
Pam Pohl
Commissioners
Bing Barks
Shannon Schlegel
Mark Simon
Robert Kudwa

**CLINTON COUNTY
PLANNING COMMISSION**

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Community Development Director
Richard M. Trent

Assistant Planner
Daniel Leonard

Assistant to the Director
Wendy Ward

PLANNING COMMISSION MEETING
Thursday, January 8, 2009
7:00 p.m.

1. Call to Order and Roll Call -

The January 8, 2009 Planning Commission meeting was called to order at 7:00 p.m. with Chair Ostrowski presiding. A quorum was reported, 6 members present, 1 absent/with notice.

Members present: Mark Simon, Dave Pohl, Earl Barks, Jim Ostrowski, Shannon Schlegel, and Robert Kudwa

Members absent and excused: Pam Pohl

Staff present: Rich Trent, Community Development Director, Wendy Ward, Administrative Assistant, Community Development Department

2. Pledge of Allegiance -

The pledge of allegiance was given to the flag.

3. Approval of Agenda -

Mr. Trent requested to remove Item 11 - Other Business (B) 2008 Community Development Annual Report from the agenda as there is no report to present this evening but will be presented at the February 12th Planning Commission meeting.

PLANNING COMMISSION ACTION

Moved by Barks, supported by Kudwa to accept the agenda with the deletion of Item 11.B. There being no further discussion, motion carried 6-0, 1 absent w/notice.

4. Election of Officers -

A brief discussion was presented by Mr. Trent stating that it is suggested and recommended that the Planning Commission not have a person who has affiliation with or is a supervisor or high ranking officer of a local unit of government to serve in the capacity of Chairperson; they may be able to serve as a Vice Chairperson or Secretary but not a Chairperson (of the Planning Commission). Also, a County Commissioner cannot serve in the capacity as Chairperson but can serve in the capacity of Vice Chairperson or Secretary. There are four (4) potential Planning Commissioners who could serve in the capacity of Chairperson.

PLANNING COMMISSION ACTION

Moved by Dave Pohl, supported by Barks to nominate Shannon Schlegel as Chairperson of the Planning Commission for 2009. There being no further discussion, motion carried 6-0, 1 absent w/notice. At this time, Chair Ostrowski stepped down and Madam Chair Schlegel presided.

PLANNING COMMISSION ACTION

Moved by Barks, supported by Ostrowski to retain Dave Pohl as Vice Chairperson of the Planning

Commission for 2009. There being no further discussion, motion carried 6-0, 1 absent w/notice.

PLANNING COMMISSION ACTION

Moved by Dave Pohl, supported by Kudwa to retain Pam Pohl as Secretary of the Planning Commission for 2009. There being no further discussion, motion carried 6-0, 1 absent w/notice.

The 2009 Planning Commission Officers are: Chairperson - Shannon Schlegel, Vice Chairperson - Dave Pohl, and Secretary - Pam Pohl

5. Approval of Per Diem Vouchers -

PLANNING COMMISSION ACTION

Moved by Barks, supported by Dave Pohl to approve the January 8th Per Diem Vouchers. There being no further discussion, motion carried 6-0, 1 absent w/notice.

6. Approval of Planning Commission Meeting Minutes -

A. December 11, 2008

PLANNING COMMISSION ACTION

Moved by Dave Pohl, supported by Simon to approve the December 11th Planning Commission meeting minutes, as presented. There being no further discussion, motion carried 6-0, 1 absent w/notice.

7. Communications -

There were no communications to be presented.

8. Public Comments -

There were no public comments to be presented.

9. Old Business -

There were no Old Business items to be presented.

10. New Business -

There were no New Business items to be presented.

11. Other Business -

A. City of Dewitt - Draft Updated Comprehensive Development Plan

Mr. Trent recommended to the Planning Commission that this be acknowledged, accepted and placed on file. Staff will review the document and submit comments via correspondence to the City of Dewitt on behalf of the Planning Commission, with copy given to Madam Chair Schlegel and Commissioner Dave Pohl.

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Barks to acknowledge, accept and place on file the City of Dewitt's Draft Updated Comprehensive Development Plan. There being no further discussion, motion carried 6-0, 1 absent w/notice.

B. Case PC-30-11-02 - Site Plan Review - Jerry Malek Discussion

Mr. Trent provided a brief discussion and update on Case PC-30-11-02. Mr. Malek had approached the Planning Commission during public comment back at the November 13, 2008 meeting to talk about his particular site and the question at hand as to *whether or not this particular site, when initially established in 2002 (started) - 2003 (approval received) and when*

approved, was the use then authorized to sell used vehicles from the site. Staff was directed to go back and approach the Bingham Township, look at their meeting minutes, speak to anyone who had knowledge, look through current records, reach out to Mr. Pete Preston, former Development Director, at the time of approval and Mr. Steve Schafer, former Bingham Township Supervisor, at the time of approval. Mr. Trent did indeed contact Mr. Preston and Mr. Schafer and requested their presence at tonight's meeting. Mr. Preston stated that he would be able to speak privately with Commissioners but would not be able to attend this evening's meeting. Mr. Schafer stated that he would gladly attend this evening's meeting but he had a prior commitment. Both men did share with staff that they remember that the "sale of used vehicles" was not a use permitted on this site back in 2002.

Discussion continued. In 2005, Mr. Malek came into the office requesting a Dealer's License for dealer classification (required by the State) and a local unit of government needed to sign and approve it. Mr. Preston and Mr. Schafer both signed this document at the time. Mr. Preston indicated that, in his estimation, *this site was in compliance with the Clinton County zoning ordinance as the operation exists. Also, any expansion or change in operation shall require a review and approval from the Community Development Department to ensure continuing compliance with the zoning ordinance.*

Mr. Trent then approached the Planning Commission and shared pictures that were in the file. In the pictures, there are no vehicles for sale at the time; parked on the asphalt either serviced or waiting to be serviced. Mr. Trent added that the reason Mr. Preston signed this document was to allow Mr. Malek the opportunity to sell approximately 2-3 vehicles from site that might have been left there, if clients didn't come and pick up the vehicles, etc., but not for a full-blown auto sales dealership as it presently exists. Mr. Preston also indicated that it was his understanding that there was some sort of handling of parts that might have been the impetus for having the document signed and submitted to the State. Mr. Schafer concurred and recalled conversation that selling of 1-3 vehicles wasn't an issue. He did continue that if it's something becoming more, Mr. Malek should be required to adhere to the ordinance and staff and the Planning Commission should do their part to try to help Mr. Malek as a business owner. Mr. Trent stated that staff does not wish to put Mr. Malek out of business but he must understand that staff, the Planning Commission, the Board of Commissioners, must treat each case consistently and fairly and therefore permits must be paid for and the process must be followed. Mr. Barks added a brief discussion on a similar issue that arose in his Township and that he is very sympathetic to Mr. Malek's issue; he felt that he was as up to date and following the rules and that the County was satisfied with his use. Mr. Pohl added that Mr. Preston provided approval for Mr. Malek to fix the cars (that was the intent) but what do you do with unclaimed cars - two (2) or three (3) unclaimed cars wouldn't have been a big issue but now it's changed and Mr. Malek is now in a different league. We do not have to make it tough for Mr. Malek but we do need to go through the proper steps.

Mr. Trent stated that there are currently about 6-8 vehicles on the north end of this site, other times there were 15-16 vehicles on site; staff has spoken with Mr. Malek to downsize a bit. If this is to be increased then the land use is changing and, under the current Zoning Ordinance, Mr. Malek would be required to submit a Special Land Use application as per the Clinton County Zoning Ordinance requirement. Ostrowski reviewed, for clarification purposes, that the issue at hand is that the previously approved Site Plan did not cover the "sale of used vehicles" but that the Site Plan was approved with the specified use on the Site Plan. The number of vehicles being placed on site became out of hand; 15-16 vehicles for sale placed on the front of the property; hence the complaint was generated. The Planning Commission is willing to work with Mr. Malek and his violation (in violation of the approved Site Plan as this Site Plan did not address the sale of "used vehicles"). Discussion also followed on the possibility of an amendment to the approved Site Plan; to sell twenty (20) or more used cars. Mr. Malek would need to submit an updated Site Plan and, as per the 2005 Zoning Ordinance, would also need to submit a Special Land Use application to allow for

the sale of used vehicles. Mr. Malek acknowledges this but shared that this would cause a financial hardship. On a side note, a Final Site Plan has not been submitted on this site.

Mr. Malek stated that his business including the sale of vehicles was approved and established in 2003, before the 2005 Zoning Ordinance change. Mr. Trent clarified that the business was established and approved on the Site Plan for “*vehicle repairs*” in 2003 but not for the “*sale of used vehicles*”. Discussion then followed on the financial hardship this process might bestow upon Mr. Malek. Is there a possibility that Mr. Malek could request to the County Board of Commissioners (can only be approved by them) that the application fees be waived? The estimated cost is approximately \$900.00 with both a Special Land Use application and Final Site Plan Review, along with the possibility for other fees; such as building permits, Drain Commissioner review fee, etc. The engineered blueprints will be an additional cost, also. To help alleviate some of the costs; Mr. Pohl suggested that the Special Land Use/Final Site Plan Review fee be based on a “2-acre” fee – not charge for the entire eight (8) acre site. The number of vehicles that could be allowed for sale on this property would be part of the site plan review and listed under the conditions for approval. Another consideration is the required setbacks and if Mr. Malek wishes to deviate from the required setbacks and then additional costs would be incurred in order to approach the Zoning Board of Appeals. The Planning Commission, as well as staff, is willing to work with Mr. Malek.

Mr. Trent added that the Site Plan that exists on file is not in compliance, does not meet the conditions of approval and that Mr. Malek would now have the opportunity to approach staff and the Planning Commission with a new and fresh Site Plan; asphalt versus gravel to allow for drainage (generally a retention pond is required with more black top per the Drain Commissioner’s Office), an area to store vehicles, a larger number of vehicles allowed on site, allow for the sale of “used vehicles”, and an opportunity to distinguish between vehicles for sale and those being repaired.

Discussion followed on “minor change” versus “major change” regarding the current Site Plan. It was questioned as to whether or not this existing Site Plan could be amended versus the need for a revised and updated Site Plan and a Special Land Use application; this is just a “minor change” due to simply a change in the parking lot. Mr. Trent stated that it is a “major change” because the original Site Plan is not currently in compliance. Mr. Pohl added that this business was never approved for “used car sales” and Mr. Malek is now asking to sell a large number of used cars on site. It is not necessary to require the black top in the back of the building. Direction followed for staff to check with the Drain Commissioner on any extra processing / filing fees and the Planning Commissioners will contact Mr. Preston if they have any questions. There is no motion needed this evening but some direction could be offered to applicant. Staff would like to resolve this issue and provide Mr. Malek with some clear direction. After discussion this evening, if there are still questions out there and not quite sure how to direct staff or Mr. Malek, a month to think it over would be acceptable. Staff’s position would be to bring the site into compliance as best it can and that the Special Land Use would safeguard Mr. Malek in the future; twenty-five (25) cars now is the foundation with the Site Plan, his use has been established, conditions of approval must be met. A modified Site Plan is required; there isn’t enough information on the current Site Plan to support this new request. Madam Chair Schlegel reviewed what is needed; a motion to hold off for a month to allow Mr. Malek to gather any information to gather what would be helpful or a motion giving specific direction as to what Mr. Malek needs to do. Ostrowski stated that a motion isn’t necessary; it’s not a posted item. This is strictly an advisory issue. Mr. Malek needs to decide what direction he wants to go.

Discussion followed on the cost to proceed. Barks recommended that all costs be made aware to Mr. Malek so he can decide which direction to go. Ostrowski added that the Site Plan isn’t really

the problem; it's the proposed *land use*. The proposed land use was never approved for this property /or business; the operation was not set up for the selling of "used cars". If the land use to sell used cars had initially been approved, this could be a "minor change" – to place the cars in the back for repairs and for sale. Mr. Malek shared a concern that once you cross that line and become a Car Dealer there is no limit to number of cars you have on site; it makes no difference to the State of Michigan – you're approved, you're approved. The site is the "car dealer"; it does not go with the business owner. Mr. Trent clarified that the local laws must also be adhered to.

The Planning Commission advised the applicant to draft something up; what he sees in growth for the next 10 years as a "used car dealer" and then meet with staff. Mr. Trent added that staff will look at a cost breakdown for a Special Land Use, for a Site Plan that has some modifications and those costs together. Staff will prepare a package (cost breakdown of permits, reviews, modified Site Plan) and present this information to Mr. Malek for consideration. Mr. Malek can then decide which direction he would like to go.

12. Community Development Report -

Mr. Trent had previously provided the Community Development report to the Planning Commission. There was no further discussion.

13. Adjournment -

PLANNING COMMISSION ACTION

Moved by Ostrowski, supported by Dave Pohl to adjourn the January 8th Planning Commission meeting. There being no further discussion, motion carried 6-0, 1 absent w/notice. The January 8, 2009 Planning Commission meeting was adjourned at 8:35 p.m.

Respectfully submitted,

Wendy Ward, Assistant to the Development Director and the Planning Commission
Community Development Department