

**MINUTES OF THE MEETING OF THE MIDLAND CITY PLANNING
COMMISSION
WHICH TOOK PLACE ON TUESDAY,
OCTOBER 27, 2009, 7:00 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

1. Roll Call

PRESENT: Brown, Eyre, Gaynor, Hanna, King, Mead, Pnacek, Senesac and Stewart

ABSENT:

OTHERS PRESENT: Keith Baker, Planning Director; Cheri King, Community Development Specialist and seven others.

2. Approval of Minutes

Moved by Senesac, seconded by Hanna, to approve the minutes of the regular meeting of October 13, 2009 as written. Motion passed unanimously.

3. Public Hearing

- a. Conditional Use Permit No. 36**, the request of Daniel and Mary Spegel for a group daycare home (7-12 children) located at 5805 West Wackerly Street.

This conditional use permit is for a group child day care for 7-12 children, located in a Residential A-1 zoning district. A conditional use permit is required for this use in an RA-1 District. This one is similar to petitions considered earlier this year. The Planning Commission must consider both discretionary and nondiscretionary standards.

Mr. Baker showed an aerial photograph of the subject property. It is located on the south side of West Wackerly Street. There is Regional Commercial zoning to the north, just east of the Stark Road & West Wackerly intersection. The future land use for this area is low density residential with medium density residential to the west and south. Existing land use shows commercial activity as well as residential uses to the north, east and south of the property. The property has a large vacant area to the rear of the residence. To the extent that this is a request for a day care in an existing residential use, there are no natural features on the site. It is a single family residence. There are no landscaping requirements necessary. The existing property complies with required setbacks. There is an approximately 120 foot long residential driveway providing access to the dwelling. There are no sidewalks in this area. There is no curb and gutter on West Wackerly Street. There is an asphalt turn-around to provide for vehicles to turn around and drive back on to West Wackerly Street. The paved driveway can accommodate additional vehicles and the turn-around can accommodate two additional vehicles. Public utilities are available to this site. Signs are restricted and it is recommended that none be permitted.

At the time of decision, it will be up to the Planning Commission to look at the discretionary standards including air quality, light and openness. Staff recommends approval with the following contingencies:

1. That no on-premises signs be permitted.
2. That the hours of operation not extend past 6:00 p.m. Monday through Friday.
3. That no exterior or interior alterations to the building be permitted that would otherwise change the character or nature of the dwelling as a residential use.
4. That no more than one additional non-resident adult employee be present at any given time.

One written comment was received to date expressing no opposition to the request. The applicant is not present to make a presentation this evening.

Mr. Eyre asked for the distance between the house and the existing turn-around. Mr. Baker stated it is about 26 feet from the front façade of the house to the vehicle parked in the turn-around. The driveway appears to be a single-width, about 10 feet at the most. Mr. King asked about the traffic count on West Wackerly Street in this area. Mr. Mead asked about the possibility of requiring a fence and a turn around at the end of the driveway. The Planning Commission would also like to know the hours of operation.

There were no public comments in support of or in opposition to this petition. The public hearing was closed.

- b. Planned Unit Development No. 16** initiated by Gary DeShano for Carolina Cove Condominium Association, a request to eliminate the interior 4' walkway as shown on The previously approved site plan, west of Abbott Road north of Betsy Drive and south of Alta Court.

Mr. Baker showed an aerial photograph of the subject property. This is an amendment to a plan for Carolina Cove Condominium Association. The private drive in this development is called Kitty Hawk Circle. The site is approximately 6.74 acres. It is zoned RA-2 and RA-4. There are 47 units in 30 buildings planned for this development. Abbott Road runs north and south along the east property line. Alta Court is to the north of the property, additional condominiums are located to the south of this property.

The request is to remove the requirement to construct a 4' wide sidewalk on Kitty Hawk Circle as shown on the original approved development plan. At the time of the PUD approval by the City Council, a sidewalk was required in this location as well as a connector to Abbott Road.

The City Council placed the following contingencies on their approval:

1. Walkways be provided along at least one side of the street within the site, connecting to southwest on Abbott Road.
2. Site lighting shall not cast off the subject parcel.

3. Utility easements, acceptable to the City of Midland, shall be provided prior to consideration of the final PUD plan.
4. A storm water retention plan is approved by the City of Midland Engineering Department.
5. Vertical separation between sidewalk and street to be a minimum of 4".

The areas shaded are the actual units that have been completed. Future land use is medium density residential. Eastlawn Apartments are to the southwest. There is commercial activity further down Abbott Road. The church and existing apartments all fit in with the existing land use. The original site plan was approved in 2003. The petitioner is requesting the removal of a contingency placed on the site plan approval six years ago. Mr. Baker showed a copy of the original development plan. It did provide for the loop of a sidewalk around the interior circle of Kitty Hawk and an extension to Abbott Road.

Based on consideration of the overall site plan, the need to provide safe and efficient circulation for pedestrians and bicyclists and the specific requirement of the City Council to require sidewalks within the development and connecting to Abbott Road at the time of original approval of the project, staff feels approval of the request to amend the site plan to remove the requirement for sidewalks is not warranted.

The Planning Commission will deliberate and make their recommendation to City Council on November 10, 2009. City Council will set a public hearing on November 23, 2009. The City Council will consider the site plan and Planning Commission recommendation at its meeting on December 23, 2009.

The petitioner, Gary DeShano, stated he got involved with Chemical Bank when the development ran into financial difficulties. Mr. DeShano passed out a letter from Jim Siler, the President of the condominium association at Carolina Cove. Very few condominium associations in the City of Midland have sidewalks as most people living there do not have children. They are also considering making Kitty Hawk Circle a one-way street. The driveways are very short to these units so, if sidewalks were installed, people walking or riding bicycles would have to go around cars that are parked in the driveways of these units. There are group mailboxes at the southeast corner of the development. Mail is not delivered to individual units. Mr. Eyre asked what conditions have changed since the original site plan was approved? Mr. DeShano stated that nothing has changed, and he feels sidewalks never should have been required of the original site plan. There are six units that have been sold, the rest have been rented. Chemical Bank has rented about five units and two units have been finished as a "shell". If this request is approved, they will pursue the development of additional units. There is a condominium association in place now. The approximate length of the driveways on the interior units is 18-20 feet from the front of the garage door to the street.

Mr. Gaynor asked Mr. Baker what the Zoning Ordinance says about sidewalks. Mr. Baker stated that this is a private drive, and, thus, does not require sidewalks automatically.

Richard Johnson, 2701 Kitty Hawk, states he has one of the stand-alone units. He parks his car in the driveway and it backs up to the road. People walking would be able to walk approximately 30 feet from unit to unit until they would have to walk around a car in a driveway. It might create hazards requiring sidewalks to be installed. Mr. Johnson states he has a letter written by one of their residents supporting Mr. DeShano's comments.

Jane Kennedy, 2645 Kitty Hawk Circle, states she lives on the inside of the circle. She supports Mr. DeShano's request completely. She thinks there is eight feet between her unit and the unit next to her. You would have to walk approximately eight feet and then walk around a car, and then walk another eight feet and walk around another car if there was a sidewalk there.

There were no public comments in opposition to the petition.

Mr. DeShano stated this is not his development so he has no financial interest whether sidewalks go in or not.

Mr. Senesac asked Mr. Baker if he would clarify the requirements for sidewalks in the zoning ordinance at the next Planning Commission meeting. It seems that nothing has changed since City Council approved the site plan so why would they change their minds today?

The public hearing was closed.

4. Public Comments (unrelated to items on the agenda)

None

5. Old Business

None

6. New Business

None

7. Communications

Planning Commissioners received copies of the "Planning and Zoning News" and the Michigan Planner.

8. Report of the Chairperson

None

9. Report of the Planning Director

The December 8th Planning Commission meeting will be devoted to training and an informal workshop for the Planning Commission. If any commissioner has any subjects they would like to have addressed at this workshop, please notify Planning Department staff.

This will most likely be Commissioner Gaynor's last meeting as a Planning Commissioner if he wins the election on November 2nd. He stated he has enjoyed being on the Planning Commission and it has been a good learning experience for him.

10. Adjourn

Adjournment at 8:00 p.m. was unanimously approved.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Keith Baker". The signature is fluid and cursive, with the first name "Keith" written in a larger, more prominent script than the last name "Baker".

Keith Baker, AICP
Director of Planning & Community Development

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