

**MINUTES OF THE MEETING OF THE MIDLAND CITY PLANNING
COMMISSION
WHICH TOOK PLACE ON TUESDAY,
DECEMBER 8, 2009, 7:00 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

1. Roll Call

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

ABSENT: Eyre

VACANCY: One

OTHERS PRESENT: Keith Baker, Planning Director, Cindy Winland, Contract Planner; Cheri King, Community Development Specialist and 16 others.

2. Approval of Minutes

Moved by Senesac, seconded by Hanna, to approve the minutes of the regular meeting of November 24, 2009 as written. Motion passed unanimously.

3. Public Hearing

- a. Conditional Use Permit No. 37**, the request of Mann Construction, Inc. for an A&W Restaurant with a drive-up window located at 1514 Washington Street.

Mr. Baker presented the background for Conditional Use Permit #37. The property is 1.37 acres in size. Mann Construction Inc. is the petitioner. The request is to build a drive-in/drive-thru restaurant. Drive-thru restaurants are a conditional use in the Regional Commercial Zoning District. It would be adjacent to existing retail, commercial and restaurant developments.

The property is located on the east side of Washington Street, just south of Haley Street. South Saginaw Road is located to the east of the K-Mart Shopping Plaza. Properties in this area are zoned Regional Commercial to the north, east and south. The city's Fire Station #1 is to the immediate west.

Discretionary standards are found in Section 28.03B of the city's zoning ordinance and are to be determined by the Planning Commission during deliberation on the petition. They include: protection of public health, safety and general welfare, compatibility with surrounding land uses, detrimental effects, impact of traffic, adequacy of public services, protection of site characteristics, compatibility with natural environment, compatibility with the Master Plan and intent of Zoning Ordinance and public comments.

The proposed parking is to the south and the north of the proposed structure. The property is very irregular in shape. There would be a single means of ingress and egress on Washington and another means of ingress/egress with a shared driveway

easement that allows access by K-Mart, Wendy's, Auto Zone and the proposed development. Staff has reviewed the proposed site plan. The applicant has made all of the requested changes that the various departments identified upon site plan review. Staff believes adequate information has been provided for the Planning Commission review this evening. A total of 15 trees and 75 shrubs are required so they exceed the requirements for landscaping. The highest point of the building will be 17.2 feet. There are no natural features on this property. It is a vacant lot. There is one drive approach on Washington. The initial site plan had two and the applicants relocated it to one at the request of city staff. There are two other means of access to the property from the east, within the joint use easement area.

This is a commercial development. There is a 5-foot sidewalk required. Vehicular circulation within the site will circulate through a drive-thru which has adequate stacking spaces and it deposits vehicular traffic onto Washington or back out the rear access to the east. They have parking for both the building itself and the drive-up ordering stations for a total of 37 parking stalls, two of which will be ADA compliant.

There is a storm water detention pond and storm water catch basins throughout the site. Soil erosion and sedimentation control has been met by the submission of a plan to the building department. A photometric plan has been provided with this site plan. It includes four 20-foot high light poles and one wall mounted fixture. These must meet illumination maximums which have been reviewed by the city's electrical inspector. The project will be built in one construction phase.

This property adjoins existing commercial properties that provide easements so they have the same availability for the movement of their traffic. Regarding signs, they proposed one pylon sign and signage on the building. One pylon sign is the maximum that is allowed. The Fire Department has reviewed the site plan for adequate vehicle access, which includes adequate turning radius for the maneuvering of emergency vehicles. These seem to have been met.

Staff recommendation is for approval if the Planning Commission believes this site is suitable for a drive-thru restaurant and that it meets the Conditional Land Use permit criteria. The petitioner has expressed interest in an expedited review. If approved, City Council could hold a public hearing on January 11, 2010.

Mrs. Hanna asked about the detention pond. It is shown with a potential depth of four feet. Is there a fence proposed for this site? Mr. Baker stated it is not required by the ordinance. Between the slope and the depth of the pond, Engineering does not require a fence. Mr. Baker showed an elevation drawing with a rendering of the proposed building. There will be some interior seating. Mrs. Hanna asked if they would provide bike racks. Mr. Baker suggested that question be posed to the petitioners.

Lee Coughlin, Mann Construction, 260 E. Oak, Harrison, Michigan, represented the owner of this parcel. The owner does own another A&W in Standish so they are familiar with the trademark. They are very excited about coming to the City of Midland. The hours of operation will be similar to the surrounding businesses – probably 7:00

a.m. to 9:00 or 10:00 p.m. If the owners feel their customers would use bike racks, Mr. Coughlin is sure the owners would provide them.

No one else spoke either in favor of or in opposition to this zoning petition. The public hearing was closed. No public comments were received by the Planning Department either in favor of or in opposition to this Conditional Land Use permit.

Motion by Senesac, seconded by Mead that the Planning Commission deal with this plan this evening. The petitioners have been responsive to the wishes of city staff and there is no opposition to this petition. The Planning Commission has only one meeting this month so this could place undue hardship on the petitioners. The voice vote was unanimous (7-0) to deal with this petition tonight.

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

None

5. **Old Business**

a. **Zoning Petition No. 563**, initiated by Earl D. Bennett Construction, Inc. for property located at 204 Commerce Drive from Larkin Township zoning to Residential B. (A conditional zoning request.)

Mrs. Winland showed an aerial photograph of the subject property. The property is located on Commerce drive, west of Jefferson Avenue. The existing land use is primarily vacant agricultural land. It is shown on the Master Plan as vacant as it is not in the city. There is no city zoning on this property at the present time. The nearest city zoning is Regional Commercial and LCMR to the west. In a rezoning request with conditions, the petitioner has the ability to offer a limit on the permitted uses in the area. The petitioner has offered to limit the number of dwelling units to nine units per acre with no more than two stories. Any conditions approved with the rezoning are recorded and run with the land. This is a 37-acre site. Staff has reviewed the 10 criteria and their recommendation has been that, with the density and height limitations, this is consistent with the Master Plan for medium density residential. The Planning Department has received one additional letter in opposition to this zoning request since the last meeting.

Sheila Messler, Bennett Construction, stated that, at the last meeting, she brought up a study that was done for her employer regarding this area of town. This study looked out at the supporting neighborhoods surrounding the mall area. It was paid for privately, to be used as a tool for future planning in this area. During early discussions with Mr. Poprave and Mr. Baker, they talked about this area being more suitable for being developed with a higher density of development. If this area were zoned RA-4 and developed as Joseph's Run, as a PUD, it would allow up to 10 units per acre. With the discussion of the Letts Road extension, Ms. Messler submitted a letter to the Planning Department, dated March 20, 2007, the only concerns that they had with how the Master Plan was going was the three zoning classifications on the south end of Commerce Drive, specifically, the area of commercial that is on the north side of the road. Commerce Drive contains a lot of commercial property. The petitioner is looking

for medium density residential. They are looking to follow the future land use map. They are trying to follow the uses proposed in the Master Plan.

Mike Pnacek, 2661 Blackhurst, Larkin Township, stated his family does own the property to the south. It is split by Commerce drive. The Master Land Use Plan called for their property to be divided between commercial and residential. They currently have no plans for the property. They are not planning to do anything with it right now.

Doug Stevens, 2102 N. Jefferson Road, stated he is concerned about the number of potential people on the site. At nine units per acre multiplied by 37.5 acres equal 337.5 units. 337.5 units multiplied by three people per unit equals 1,012.5 people. Two weeks ago, the petitioner stated there was no way they could get 1,000 people on that site. Then why didn't they limit themselves to a smaller number of units per acre? Their letter last time also stated 5-plexes and 6-plexes. You could very easily get to that 1,000 person density with 6-plexes. This property was able to be annexed to the city by virtue of the road being there. Usually properties annex by way of being adjacent to other properties in the city. All the land surrounding this property is agricultural and low-density residential. Based upon today's economy, he does not see that changing for some time. The density will have an impact on the surrounding area in Larkin Township. The city's Master Plan was just adopted last year. This area is shown as medium density. RB is not medium density. He thinks regular zoning should be applied rather than conditional zoning. One of the 10 items the Planning Commission looks at is the "intent", which is in Article 30 of the Zoning Ordinance. The subjective criteria in the Zoning Ordinance are not met in his opinion, for the development of this property. Are Commerce Drive and Jefferson Avenue going to be able to handle the increased traffic this will create? There are many times during the year that traffic turning left off Jefferson onto Joe Mann Drive is backed up almost to the overpass.

John Bartos, 2095 N. Jefferson, stated he lives on the north line of the subject property. The Northside Mixed-Use Neighborhood study was done in 2007. The study encouraged people to walk rather than drive, like is done in some European countries. The concept of this study is to go from the south to the north, not from the top down. This zoning request, he calculated, would bring over 800 people to this area. Please examine Section 1.02B of the zoning code where it discusses the population density. Please deny this request and start over.

Ms. Messler spoke about the density amount. If she were to do the math the same way they did, she would come up with the same numbers. However, they did not include roads, sidewalks, and open spaces that are required in subdivisions. This development would be done in stages. Until one phase is done and sold, the second phase would not be started. The study that was done included the entire area including the church and multi-family housing that might be developed in this area.

Mrs. Winland stated the approved development must be commenced no later than 18 months after it is approved and must continue diligently. That is part of the zoning ordinance that pertains to the conditions discussed with this petition.

Ms. Messler stated they have someone who has a purchase agreement on the front half, toward Jefferson. She does not see the 18 month development requirement as a problem. If they do not develop the back of the property within 18 months, they will just have to come back to the Planning Commission at a future date.

Mrs. Hanna stated she took a second look at this property today. There was a lot of traffic on Jefferson. She had quite a time turning left onto Commerce Drive and then getting back onto Jefferson. There are a lot of very nice two and 2-1/2 story homes developed on very large lots in this area. If she owned those properties, she would be very concerned about her property value with this proposed development across the road.

Mr. Pnacek stated this is more than single family residential. But he thinks toward the east by Jefferson, it is doing an injustice to the property owners to the north and the south. For the parcel closer to Jefferson Avenue, this is not the right zoning for this area.

Mr. Senesac stated whenever the city moves into new areas, it is disruptive to some people in those areas because it is not consistent with what has been there and what they would like it to be. The Planning Commission spent a lot of time on the Master Plan. As Ms. Winland pointed out, this is consistent with the Master Plan and it meets all the criteria. He is in favor of it.

Mr. Mead stated that zoning is painful, and they are moving toward that right now. What they looked at and thought was the right zoning for this area several years ago still holds today. They looked at the whole city, including this part of the city. He thinks this is the right zoning and it is in the right place and he is also in favor of it.

Mr. King stated he was not around when the Future Land Use map was adopted. We are currently looking at the redevelopment of downtown in a very similar way. However, he will not be able to support this.

Mr. Stewart stated he also came on board after the Master Plan was adopted. Even though he understands all the arguments opposing this proposal, it is going to be a phased development and he does not see any reason why they should deviate from the Master Plan.

Mrs. Hanna asked if RA-4 is medium density. Ms. Brown stated she was here when the Master Plan was developed. Because of the direction this is going and the direction that is planned for the future, she is in support of this proposal.

Motion by Senesac, seconded by Mead, to approve Zoning Petition No. 563 initiated by Earl D. Bennett Construction, Inc. for property located at 204 Commerce Drive from Larkin Township zoning to Residential B (with conditions).

Vote:

YEAS: Brown, Mead, Senesac and Stewart

NAYS: Hanna, King and Pnacek

ABSENT: Eyre

VACANCY: One

Motion passes 4-3.

b. Northside Downtown Overlay District zoning district language scheduling of public hearing date.

The Planning Commission received a letter from Mr. Baker regarding the proposal for the Northside Downtown Overlay District.

Motion by Mead, seconded by Senesac, to schedule a public hearing date for the Northside Downtown Overlay District on January 12, 2010. The motion was approved by unanimous voice vote.

Motion passes 7-0.

6. New Business

Conditional Use Permit No. 37, the request of Mann Construction, Inc. for an A&W Restaurant with a drive-up window located at 1514 Washington Street.

There was no additional input since the public hearing.

Mr. Pnacek stated he is in support of this petition. City staff has reviewed the petition and there does not seem to be any opposition. He is in favor of it. Mrs. Hanna asked if the addition of bike racks could be added as a contingency.

Mr. Stewart stated he is in support of the plan.

Motion by Hanna, seconded by Senesac, to recommend approval to City Council, Conditional Use Permit No. 37, with the eight recommended contingencies plus the addition of a contingency to add bike racks to the plan.

Vote:

YEAS: Stewart, King, Hanna, Brown, Mead, Senesac and Pnacek

NAYS: None

ABSENT: Eyre

VACANCY: One

Motion passes 7-0.

7. Communications

Minutes of the Non-motorized Transportation Committee were presented. This group has become a sub-committee of the Planning Commission so their minutes will be presented to the Commissioners periodically.

8. Report of the Chairperson

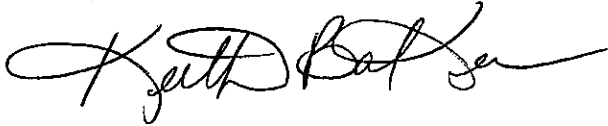
None

9. **Report of the Planning Director**
None

10. **Commissioner Comments**
None

11. **Adjourn**
Adjournment at 8:41 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 a long horizontal stroke extending to the right.

Keith Baker, AICP
Director of Planning & Community Development

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE PLANNING COMMISSION