

**MINUTES OF THE MEETING OF THE MIDLAND CITY PLANNING  
COMMISSION  
WHICH TOOK PLACE ON TUESDAY,  
FEBRUARY 23, 2010, 7:00 P.M.,  
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

**1. Roll Call**

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

**ABSENT:** Eyre and Senesac

**VACANCY:** One

**OTHERS PRESENT:** Keith Baker, Planning Director, Cheri King, Community Development Specialist, Cindy Winland, Contract Planner, and 9 others.

**2. Approval of Minutes**

Moved by Hanna, seconded by Pnacek, to approve the minutes of the workshop and the regular meeting of February 9, 2010 as written. Motion passed unanimously.

**3. Public Hearing**

- a. Zoning Petition No. 564 initiated by Face Ice Drive, LLC,** for property located at 218 Fast Ice Drive from Agriculture zoning to Limited Commercial, Manufacturing and Research (LCMR).

Shawn Pnacek disclosed that the company he works for has the contract for construction of the facility to be located on this property. Motion by Mead, seconded by King, that Mr. Pnacek be allowed to abstain from deliberations on this petition. Motion carried 5-0.

Mr. Baker presented the background of Zoning Petition #564. It is initiated by Fast Ice Development, LLC for property located at 218 Fast Ice Drive. The parcel is approximately 4.0 acres in size. It is currently zoned Agricultural. The petitioners are requesting it be rezoned to Limited Commercial, Manufacturing and Research (LCMR) zoning. The site in question is located on Fast Ice Drive, south of Bay City Road. The city's ice arena is located in this area. The adjoining site currently has the Apothecary Shoppe pharmaceutical facility to the southwest of this property and the Midland County Jail facility to the southeast. The petitioner's site is currently vacant. The surrounding area has seen significant change within the last two to three years. The Planning Commission shall review this petition in accordance with Section 30.03 of the Zoning Ordinance. They must address the "ten question test".

- Is the proposed amendment consistent with the city's Master Plan?
- Will the proposed amendment be in accordance with the intent and purpose of the Zoning Ordinance? Staff believes it will.

- Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment? Yes, the Zoning Ordinance, adopted in 2005, created the LCMR zoning district. There has been significant development in this area since the zoning ordinance was adopted. Other properties in this area are zoned LCMR.
- Will the amendment merely grant special privileges? No, staff believes it will not.
- Will the amendment result in unlawful exclusionary zoning? No, the rezoning will continue a pattern for development of parcels in this area as other parcels have been rezoned to this classification.

Mr. Baker showed an aerial photograph from the city's GIS system. The current zoning of two surrounding properties is LCMR for both the Apothecary Shoppe and Columbia Pipe. At Bay City Road and Fast Ice Drive, there is Community Commercial zoning for a medical office facility. The LCMR District is in keeping with the Future Land Use map, which designated this area as light industrial or LCMR, except for the "public" future land use classification.

The amendment will not set an inappropriate precedent and is consistent with the zoning classification of the surrounding land. The proposed zoning is consistent with the future land use designation of the surrounding land in the city's Master Plan. All requirements in the proposed zoning classification could be complied with on the subject parcel. The proposed zoning is consistent with the trends in land development in the general vicinity of the property in question. Staff believes that this rezoning request is consistent with the Future Land Use map which identifies the area as appropriate for "Light Industrial" development. Staff recommends approval.

Elaine Rapanos, 1400 Avalon Street, represents Fast Ice Development, LLC. Mrs. Rapanos stated she appreciates all the development in this area and thinks it will benefit this community. Ms. Brown asked about what will eventually be developed on this property. Mrs. Rapanos stated it will be a non-profit that will represent six counties. She is glad they want to locate here in Midland.

No one spoke against or in favor of the petition.

The public hearing was closed.

- b. Zoning Petition No. 565 initiated by Consolidated Graphics Property 2**, for property located at 1321 East Wackerly Road from Lincoln Township zoning to the City of Midland Industrial A zoning classification.

The petitioner has asked that the Planning Commission take action on this petition at the meeting tonight.

Mr. Baker presented Zoning Petition #565, initiated by Consolidated Graphics, located at 1321 E. Wackerly Road. It is approximately 18.4 acres in size. It is currently zoned B-2 in Lincoln Township. It is the current site of the Hangtime Sports Facility. The site in question is located on the north side of E. Wackerly Road, adjacent to the south side of US-10 right-of-way. It is just west of Stark Road. There is a MidMichigan Medical Center Home Care Center to the south, commercial storage units to the east and a

concrete contractor further to the east. The properties to the east, west and north are still a part of Lincoln Township. This property was allowed to annex into the city as the property to the north, across US-10 is also in the city.

The property was annexed by the Midland City Council on February 22, 2010. The petition was initiated to facilitate the relocation of the McKay Press facility to this site. The Planning Commission shall review this petition in accordance with Section 30.03 of the city's Zoning Ordinance.

The site in question is zoned B-2 in Lincoln Township's zoning. It is surrounded by Light Industrial in Lincoln Township. The Lincoln Township Future Land Use Map shows this property and the adjoining property being appropriate for heavy industrial. The city's Future Land Use map was designed to coordinate with the surrounding township land use plans. Staff feels the proposed amendment is consistent with the city's Master Plan. It is in accordance with the intent and purpose of the Zoning Ordinance. The proposed use can be conducted on this site. Conditions have changed since the Zoning Ordinance was adopted in 2005 that justifies the amendment that indicates this area would be appropriate for light industrial uses. The amendment will not merely grant special privileges. It will not result in unlawful exclusionary zoning. Any use permitted in this zoning district would be allowed on this site.

This zoning district is consistent with the surrounding township zoning. The city's GIS system shows there is Regional Commercial at the corner of Stark and Wackerly. You have single family residential east of Stark Road. The Future Land Use Map shows commercial at the interchange, residential extending toward N. Saginaw Road and the entire area surrounding this property and to the north has been designated as light industrial. This area is consistent with the Future Land Use Map both of the city and of Lincoln Township. The site will meet setbacks, use requirements, and parking. The amendment will not set an inappropriate precedent. The proposed zoning is consistent with the zoning classification of the surrounding land. This rezoning request is consistent with the Future Land Use map which identifies the area as appropriate for "Light Industrial" development. It is also consistent with Lincoln Township's zoning map. Staff recommends approval of this petition.

The petitioner has requested action by the Planning Commission at tonight's meeting.

Mrs. Hanna asked Mr. Baker about a corner of the property that is quite dark on the photograph in the Commission's packet. Mr. Baker stated this is a storm water detention area. The city's Engineering Department is looking at this area. Mr. Baker stated the petition before the Commission tonight is for the rezoning of the property, not a site plan review. The current site, as it is, would not trigger a site plan review by the Planning Commission unless they change some of the physical characteristics of the site. It is staff's understanding that they will just be adding a loading dock on the site.

Kevin Strand, President of McKay Press and Robbie Ferguson, Vice President of Consolidated Graphics of Houston, 5858 Westheimer, Suite 200, Houston, TX 77063 represented the petitioner. Mr. Strand stated McKay Press has been in this community for quite some time and they would like to remain in this community. They would like to

remove their facility from the residential and downtown districts to a newer facility and have the opportunity to grow their business. They have many new devices coming in and they look forward to growing their employment over the years. Many of their opportunities are coming outside of the State of Michigan and they would like to employ people from this area. They have annexed into the city so they could have city water, sewer and fire support from the city. Mr. Ferguson stated they have been working on what to do with McKay Press in an essentially obsolete building. They need to expand or move, one or the other. They have looked at every option imaginable and this seems like it would be the best opportunity for them in this area. They would like to be in the new facility in June or July. They anticipate submitting for permits from the city around the first of April, although this is still in the planning stages. They are using the same engineer and architect that designed the existing facility. The detention pond was an existing pond that was already there. They plan to reduce the size of the parking lot which will help with storm water runoff. There are currently 409 parking stalls. They will not be using anywhere near that number of parking spaces. Mrs. Hanna asked about noise. Mr. Strand stated that all the noise will be self-contained in the building. They have very light truck traffic so that should not be disturbing to the neighbors. They currently exist in the downtown area of the City of Midland today. They have never had any complaints from the residents downtown that live only a block and a half away from their existing facility.

Today they employ 75 employees plus about 50 contract employees from Kelly Services. They would like to get that number up to about 200 employees. Mr. Mead asked about city services and landscaping, that would be covered in a site plan review. Mr. Baker stated that they will have to comply with engineering standards for the site. However, they are not adding parking, or changing the site. Given the nature of the site and location of this property, if this property were already in the city, it would also not generate site plan review.

Scott Walker, Executive Director of Midland Tomorrow, stated they have been working with McKay Press for the past year and a half in order to keep them in the region. They have looked as far south as Flint and also north of here. They are committed to this community and to this region. However, their current building is over 100 years old and they need to make some sort of decision. They would like to expedite this project so they can get moved into their new facility and expand their business. There are a number of things that have to happen in order for this company to move. There are also things that have to happen to the new facility before the move can happen. There are utilities to take into consideration as well as planning and building issues. This is why they are asking for the expedited review.

Robbie Ferguson, Houston, Texas, stated there are no other 90,000 sq. ft. facilities available in this area. However, they have been looking at other available facilities and also looking at closing this facility. The Hangtime Sports facility has only recently become available with the closing of their business. They have a deadline with their existing lease on their current facility. Their goal is to keep the business here. Their lease is up this summer so they have limited time to make a decision.

Kurt Partow, 566 Chippewa Court, Sanford, is currently on the Board of Directors for Hangtime Sports. Their Board is totally in support of this change and they are pleased that the facility will be used and that jobs will remain in this community. The approval has been requested to be expedited as their initial closing date for Hangtime Sports was February 20<sup>th</sup>. Hangtime Sports has to remove the floor. There is more than 60,000 sq. ft. of floor that has to be removed and can be sold. They do not want to begin this process until this deal is closed. They have some cement work that has to be done for the new facility. Hangtime Sports has announced that they will be open sporadically during the month of March. They would like to expedite the closing as soon as possible. There is about 100 tons of hardwood floors that has to be removed and they would like to get started on this as quickly as possible.

Robbie Ferguson stated they would not close on the deal until the zoning is approved. Hangtime Sports will not begin removing the floor until the deal is closed.

No one else spoke against or in favor of the petition. The public hearing was closed.

Motion by Pnacek, seconded by King to expedite this petition and take action on it tonight. Mr. Pnacek stated he is not a fan of expediting requests. We have a process and we need to follow it. However, if all the components fit the petition, the city Engineering Department has reviewed it and other departments of the city will be reviewing the process, it complies with the Future Land Use Plan; he does not see any reason to hold this up. His only concern was for the residential property in the general area. Mr. Mead stated he is generally opposed to expediting petitions. However, he does not think the Planning Commission will have any additional information two weeks from now. He is concerned, however, about the building plans, storm water management plans, or minor site adjustments. Mr. Baker stated these items would be reviewed by staff. The only way it would come back to the Planning Commission is if they made any changes to the site that triggered "official" site plan review. The issue before the Planning Commission tonight is whether or not this site is appropriate for Light Industrial use. Ms. Brown stated she agrees with Mr. Mead in that she does not believe there will be any additional information regarding this petition in two weeks. Mr. King stated he is more than 75 percent sure that he can support the rezoning because there have been no negative comments from the surrounding property owners. He is also swayed by the fact that Mr. Walker is here and he supports this project. Mrs. Hanna stated she is also in favor of this because McKay Press has a long history in this town and she would like to keep the jobs here, too.

Vote:

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

NAYS: None

VACANCY: One

ABSENT: Eyre and Senesac

**c. 2010 Annual Zoning Ordinance Text Amendment Update**

Ms. Winland presented the 2010 annual Zoning Ordinance proposed text changes. The recommendation is to add a definition for "Agent" – already written by the City

Attorney. These are all on the city's website, as well. Another recommendation is to amend the definition of "front lot line" to clarify that the orientation of a structure does not impact the definition of the front lot line. This recommendation is based on a Zoning Board of Appeals case. The orientation of the structure on the lot does not determine which is the front lot line. A third recommendation is to amend the definition of "yard, front" to clarify that orientation of the structure does not impact the definition of a front yard.

This recommendation is to delete the definitions of "Animal, Farm" and "Animal, Domestic". Revise the definition of "pet" to refer to "animal, domestic". Add definitions of "Animal: to include domestic, exotic, farm and service animals.

Staff is proposing to delete the definition of "sign" in the definitions section as it is defined under the "sign" section.

We are getting a lot of interest from residents regarding "small wind facilities". The cutoff for a "small wind energy conversion system is the capacity of not more than 25 kW and which is intended to primarily reduce on-site consumption of utility power." Staff has recommended amending all districts to permit wind generation structures as accessory structures.

Recommended, is to amend the site plan review provisions to require provisions for bike racks. These would provide for parking spaces and locking facilities for bicycles.

In the "Signs" section, staff would revise the sign regulations for RC, IA, IB and LCMR to permit two ground signs if one is a monument sign.

A definition has been proposed for outdoor wood burners. The change would define outdoor wood burners and amend the list of accessory structure to prohibit in all districts. Outdoor wood burners would be prohibited in all districts. This would prohibit these in an exterior yard. The smoke is a nuisance issue in an urban area.

A proposed definition of solar facilities would be added and include the use of solar power generating facilities as a use by right to the RC, IA, IB and LCMR districts.

It is proposed to remove "Group Day Care Homes" from the uses permitted as a conditional land use in all residential districts and permit them by administrative review. There have been at least four cases within the past 18 months that have come before the Planning Commission. This has been recommended by state agencies that regulate these facilities.

There are a few housekeeping items that need to be changed including a 15 day notice for Zoning Board of Appeals cases, the fact that there is no more city and township zoning law – it is all the same under the Michigan Zoning Enabling Act.

No one spoke either in favor of or in opposition to any of these zoning ordinance changes. The public hearing was closed.

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

None

5. **Old Business**

**Zoning Petition No. 565 initiated by Consolidated Graphics Property 2**, for property located at 1321 East Wackerly Road from Lincoln Township zoning to the City for Midland Industrial A zoning classification.

Motion by Mead, seconded by King, to recommend to City Council amending the zoning of the property located at 1321 E. Wackerly Rd. from Lincoln Twp. B-2 to City of Midland Industrial "A" zoning classification.

Vote:

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

NAYS: None

VACANCY: One

ABSENT: Eyre and Senesac

Motion carried 6-0.

6. **New Business** None

7. **Communications**

Commissioners received the February 2010 issue of Planning and Zoning News in their packets.

8. **Report of the Chairperson** None

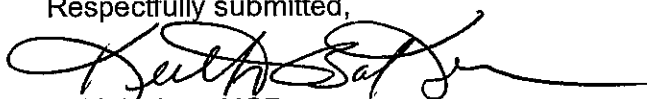
9. **Report of the Planning Director**

Staff received many favorable responses to the work session held before the last Planning Commission meeting. Mr. Baker proposed another work session prior to the Planning Commission meeting of March 23<sup>rd</sup>. Issues to be discussed include mini-pigs, a petition to re-open the discussion of the Future Land Use map of the Jefferson Road/Commerce Drive transition area and zoning for homeless shelters and soup kitchens. The meeting would begin at 5:00 p.m.

10. **Adjourn**

Adjournment at 8:53 p.m. was unanimously approved.

Respectfully submitted,



Keith Baker, AICP

Director of Planning & Community Development

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