

**MINUTES OF THE MEETING OF THE MIDLAND CITY PLANNING
COMMISSION
WHICH TOOK PLACE ON TUESDAY,
SEPTEMBER 28, 2010, 7:00 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN**

1. Roll Call

PRESENT: Ballard, Brown, Hanna, Mead, Pnacek, Senesac, Stewart and Young

ABSENT: King

OTHERS PRESENT: Keith Baker, Planning Director, Cheri King, Community Development Specialist, and 9 others.

2. Approval of Minutes

Moved by Senesac, seconded by Ballard, to approve the minutes of the regular meeting of September 14, 2010 as written. Motion passed unanimously.

3. Public Hearings

None

4. Old Business

- a. Site Plan No. 296 from Glorified Homes on behalf of Dr. McLaren** for site plan review and approval for a 2,331 square foot expansion of an existing dentist office located at 308 Northgate Drive on .7 acres.

Mr. Baker showed an aerial photograph of the subject property. It is located on the north side of Northgate, between W. Wackerly Street and Jefferson. It is adjoining office and commercial development to the North and single and two-family development to the south. Both lots being reviewed this evening are zoned Office Service. There is commercial zoning at the corner of Jefferson and W. Wackerly.

The request tonight is for a 2,331 square foot office addition. At the last meeting, staff reviewed the 20 site plan review criteria. The biggest concern was the location of the drive approaches. The petitioner is seeking a second drive approach. One of the criteria is that one is an entrance and the other is an exit. The question from the last meeting was what the fire department felt about this configuration. In the staff memorandum, it was noted that they would support this design of the two drive approaches. This would benefit them more than a single access. Parking, landscaping, lighting, screening, storm water and utilities meet the requirements of the ordinance. Staff recommends approval of this site plan.

The public hearing was held two weeks ago. Tonight, the Planning Commission will make their recommendation to City Council. Representatives of the petitioner were

present to answer any questions. Mrs. Hanna asked about bike racks. She stated she did not see any of them shown on the site plan. Mr. Baker stated that is now a requirement in the Zoning Ordinance as a part of a site plan.

Mr. Senesac stated that, if every parking space was full and a car pulled into the parking lot, there is no turn-around. The car would have to back out of the parking area. Mr. Baker stated they exceed the minimum number of parking spaces by one.

Jim Kline, Axiom Consulting, 4552 Vail Court, Auburn, Michigan. Mr. Kline stated they would be happy to install the bike racks. If they had started with a clean slate, they would have configured the parking differently. With the size of the building requested, that was the only configuration to fit the office space requested by their client. They did not reconfigure the office space to try to change the location of the parking lot. They wanted to keep as much of the existing façade as possible. It did not work for them to place the expansion on the other side of the existing building. There is also some room by the dumpster if someone really had to turn around in a tight space. Ms. Brown asked if there has ever been a time that the parking lot was completely full. Dr. McLaren, of 2515 Hearthstone Circle, stated that yes, there have been times that the parking lot was completely full. If they need to hatch one of the parking spaces for a turn-around space that is something they are willing to do.

There were no new public comments in favor of or in opposition to this petition.

Motion by Pnacek, seconded by Hanna, to recommend to City Council the approval of Site Plan No. 296 from Glorified Homes on behalf of Dr. McLaren for site plan review and approval for a 2,331 square foot expansion of an existing dentist office located at 308 Northgate Drive on .7 acres contingent on the following:

1. The storm water detention system is designed and constructed in accordance with the City of Midland Engineering Department specifications.
2. All landscaping shall comply with Article 6 of the Zoning Ordinance.
3. All exterior lighting shall comply with Section 3.12 of the Zoning Ordinance.
4. All exterior signage shall comply with Article 8 of the Zoning Ordinance.
5. All parking spaces shall comply with Section 5.01D of the Zoning Ordinance and be delineated by the "box" style striping.
6. All irrigation systems will comply with the City of Midland Water Department specifications.
7. That they would stripe one parking space to be used as a turn-around.
8. That they include bike racks on their plan.
9. That the parking lot be expanded to the north to include additional room for the turn-around on the east parking lot.

Mrs. Hanna stated she thinks this is a great plan. Mr. Pnacek stated he agreed with Mr. Senesac, in that the last parking space could be striped for a turn-around. Mr. Mead stated he thinks it is a great plan. Mr. Kline showed a drawing of the proposed addition. Ms. Brown asked Mr. Baker about signage. Mr. Baker stated that is one of the contingencies. Mr. Mead stated that the building looked serviceable both inside and outside. Mr. Pnacek asked if they could expand the parking lot a little bit further to

the north to give a little more room for a turn-around. Mr. Kline stated he did not see a problem with that. Ms. Brown stated she also thinks it is a good plan.

Vote:

YEAS: Ballard, Brown, Hanna, Mead, Pnacek, Senesac, Stewart and Young

NAYS: None

ABSENT: King

Motion was approved 8-0. This will go to the October 11th City Council meeting.

- b. Zoning Petition No. 572, initiated by Schauman Development on behalf of Timothy Pomranky, to rezone property at 4517 and 4521 Dublin Avenue from Industrial A zoning to Residential B zoning.**

Mr. Baker gave a geographic overview of the site. It encompasses approximately 13 acres on the west side of Dublin Avenue. The subject property was previously used as an auto parts junk yard. It has since been cleaned up. The existing zoning in this area includes RC Regional Commercial on both sides of Saginaw Road. There is Community zoning where the Northwood property is and there is Office Service and some Regional Commercial to the northeast. The properties in question, according to the Master Plan show the property being used as medium density residential.

The Planning Commission conducted a public hearing on September 14th, at which time there were no public comments. The ten criteria in the Zoning Ordinance were reviewed by staff at that time. Based upon those criteria, staff recommends the rezoning of this property to the City Council. This would make it consistent with the city's master plan and future land use map.

Ron Schauman, Schauman Development, stated they own the buildings that are already there. The buildings proposed will be from 1,300 square feet to 2,000 square feet. There will be attached garages for everyone.

There were no new public comments either in favor of or in opposition to this request.

Motion by Hanna, seconded by Pnacek, to recommend to City Council the approval of Zoning Petition No. 572, initiated by Schauman Development on behalf of Timothy Pomranky to rezone property at 4517 and 4521 Dublin Avenue from Industrial A zoning to Residential B zoning.

Mr. Pnacek stated he did not have any problems with this rezoning. Mr. Mead stated this looks like a good location for the buildings. Ms. Brown stated she also thinks this will be a good addition to this area.

Vote:

YEAS: Ballard, Brown, Hanna, Mead, Pnacek, Senesac, Stewart and Young

NAYS: None

ABSENT: King

Motion was approved 8-0. The public hearing with City Council will be set at the October 11th meeting and will be held at the November 8th meeting.

c. Zoning Text Amendment No. 152, initiated by the City of Midland, to address medical marijuana in the City of Midland Zoning Ordinance.

Mr. Baker made a presentation on medical marijuana zoning. The Planning Department has not received any additional public comments since the last Planning Commission meeting. The medical marijuana statute was voted into law in November 2008. The Michigan Medical Marijuana Act does not address dispensaries within the Act. This has caused municipalities around the state to address the issue. Most have issued a moratorium while 11 communities have banned dispensaries. The law citation is MCL 333.26426(4)(b). The law states that each registered patient may have only one primary care giver. Each primary caregiver may have no more than five registered patients. Current conditions include 56,513 applications for patient cards have been received since authorized in April 2009. 32,270 persons have been issued cards. There are approximately 13,686 caregivers licensed. Approvals are supposed to be issued within 15 days but the Department of Community Health is significantly behind in the review of applications.

The law in Michigan does not address dispensaries or offer any regulatory system for them. The Michigan Department of Community Health interprets the law as saying that it is illegal to operate a marijuana dispensary. The Midland Police Department recognizes State Law as it pertains to registered patients and registered caregivers. Use of Medical Marijuana is permitted under State Law for specific reasons. It will be in the best interest of the City of Midland to enact an amendment to the Zoning Ordinance to prohibit uses otherwise illegal as defined by local, state or federal law. A public hearing was conducted on September 14, 2010. Deliberation and action are requested this evening. The request is to recommend adoption of Zoning Text Amendment No. 152. No public comments have been received since the last Planning Commission meeting.

Mr. Baker showed the proposed ordinance changes, beginning with the addition of two definitions in the "Definitions" chapter, Chapter 2, Section 2.02. There is also proposed to amend Article 3 to add reference to the prohibition of uses which are illegal under local, state or federal law within the city limits of Midland.

Eric Gunnels is a registered caregiver for three members of his family. He lives at 1211 E. Lake Road, Clio, Michigan. He travels around the state speaking on behalf of caregivers and on behalf of those who would use his services. He feels their primary goal is to provide safe access for the patients. That is the primary goal and that is what the Michigan voters voted for.

Mr. Stewart stated that when people voted for this law, he thinks they primarily thought a doctor would write a prescription for the marijuana and they would go to a pharmacy and get the prescription filled. Mr. Gunnels stated that marijuana is still classified as a class I narcotic at the federal level. The U. S. government has a patent on the THC

and another compound on marihuana so this would indicate that, eventually, the U. S. government intends to regulate these substances at a federal level. At this time, there may be some debate that pharmacies may or may not be allowed to distribute those substances. Since the state has adopted this medical marihuana law, it allows for people at the "grass roots level" to acquire their medication until it is legalized by the federal government. Mr. Gunnels stated he can only sell his product to his patients. The law specifically states that "the patient legally has the right to acquire."

Mrs. Hanna asked how Mr. Gunnels protects his plants from being used by people other than his patients. Mr. Gunnels states the law states that he is required to grow his plants in an "enclosed" area. This would be a locked room or a fenced-in area. That is considered a closed, locked facility.

Mr. Gunnels stated that the law states that the patient and the caregiver have the legal right to acquire. If they do not have some legal means for patients to acquire their medication, then the patient is left not knowing how to acquire their medication. There are a significantly larger number of patients than caregivers. If you do not allow some legal avenue for these patients to acquire their medicine, they have to go seek their medication in some illegal fashion. By not allowing a legal avenue to obtain for these patients to legally acquire their medicine, we are allowing the "black market" to take care of them. The legal avenues that we see happening across the state help to reduce crime by allowing these patients to obtain their medication in a legal fashion.

Rob LaPien, 7373 N. Seymour Road, Flushing, stated that he is also a licensed caregiver. You do not have to have any special requirements to become a caregiver. The federal government has already patented the medicinal benefits of this drug. He would like to see everyone investigate the drug itself, and the medicinal benefits of the drug. It actually cures glaucoma. It has no side effects whatsoever. It is completely harmless, no matter how much you take. He does think we need to consider something like a research center where the caregivers and the patients could reside, along with doctors. He dispenses his marihuana in a paste or a candy. His patients do not smoke the marihuana. They either take the paste or eat the candy which contains the medicinal properties of the marihuana. You do not want to over-medicate someone. If it is not grown properly, it can actually be dangerous to your health. One of his patients did not have a caregiver and he did not have the ability to access his medication.

Mr. Baker stated that anyone over 21 years of age, who has never been convicted of a felony, can become a caregiver. A patient is anyone who has been diagnosed by a physician to have a debilitating condition, as defined in the Act.

Mr. Senesac stated that the Police Chief has done a great deal of work on this issue and he wants to support his efforts. Mrs. Hanna agrees. Mr. Ballard stated we have to go along with the law that was passed by the state. He is against any dispensaries that might want to establish themselves in the city. Mr. Stewart stated that the law was written that it does not permit dispensaries. It seems like it is pretty much wide open out there. He supports the language that clearly draws a line on its distribution.

Motion by Senesac, seconded by Hanna, to recommend to City Council the approval of Zoning Text Amendment No. 152, initiated by the City of Midland, to address medical marijuana in the City of Midland Zoning Ordinance.

Vote:

YEAS: Ballard, Brown, Hanna, Mead, Pnacek, Senesac, Stewart and Young

NAYS: None

ABSENT: King

Motion was approved 8-0. A public hearing will be introduced at the October 11th City Council meeting. The public hearing will be held on November 8th.

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

None

6. **New Business**

None

7. **Communications**

None

8. **Report of the Chairperson**

The meeting of October 12th has been cancelled due to lack of business.


9. **Report of the Planning Director**

None

10. **Adjourn**

Adjournment at 8:17 p.m. was unanimously approved.

Respectfully submitted,



Keith Baker, AICP, CFM
Director of Planning & Community Development

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