

**SUMMARY REPORT TO CITY MANAGER
for City Council Meeting of 10-23-06**

SUBJECT: Zoning Petition No. 531 – property at 300 Joseph Drive.

PETITIONER: F/A Pnacek LTD

PLANNING COMMISSION PUBLIC HEARING: September 26, 2006.

PLANNING COMMISSION ACTION: Recommendation of denial.

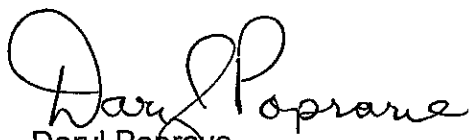
SUMMARY: ACTION TO SET A PUBLIC HEARING TO AMEND THE ZONING MAP BY REZONING PROPERTY AT 300 JOSEPH DRIVE FROM RESIDENTIAL A-4 ZONING TO OFFICE SERVICE ZONING.

ITEMS ATTACHED:

1. Letter to City Council setting forth Planning Commission action.
2. Resolution for City Council Action.
3. Staff Report to Planning Commission dated September 17, 2006.
4. Memo to Planning Commission dated October 3, 2006.
5. Planning Commission minutes of October 10, 2006.
6. Map showing location of property.

CITY COUNCIL ACTION:

1. Public hearing is required. Date: November 20, 2006.
2. Advertising date: November 4, 2006.
Public Hearing notification to area residents mail date: November 3, 2006.
3. 3/5 vote required to approve rezoning.



Daryl Poprawe

Acting Director of Planning & Community Development

DP/djm

10-18-06



City Hall • 333 West Ellsworth Street • Midland, Michigan 48640-5132 • 989.837.3300 • 989.835.2717 Fax • www.midland-mi.org

October 18, 2006

Honorable Mayor and City Council
City Hall - 333 West Ellsworth Street
Midland, Michigan

Dear Councilmen:

At its meeting on Tuesday, October 10, 2006, the Planning Commission considered Zoning Petition No. 531, the request of F/A Pnacek LTD to rezone property located at 300 Joseph Drive from Residential A-4 zoning to Office Service zoning. Attached is a resolution reflecting the request.

The following action was taken:

It was moved and seconded that the Planning Commission recommend to City Council approval of Zoning Petition No. 531.

Vote on the motion:

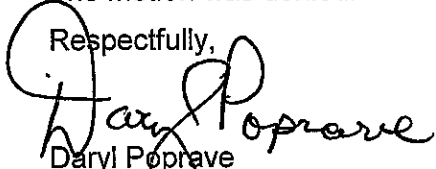
YEAS: Eyre and Mead

NAYS: Brown, Gaynor, Hanna, Jocks, Kozakiewicz, and Senesac

ABSENT: Svenson

The motion was denied.

Respectfully,


Daryl Poprave
Acting Director of Planning & Community Development

DP/djm

LETTER OF TRANSMITTAL – ZP #531 Set PH



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BY COUNCILMAN

WHEREAS, a public hearing was held by the Planning Commission on Tuesday, October 10, 2006 for property located at 300 Joseph Drive for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, the Zoning Ordinance of the City of Midland; now therefore

RESOLVED, that notice is hereby given that a public hearing will be held by the City Council on Monday, November 20, 2006, at 7:00 p.m. in the Council Chambers, City Hall, for the purpose of considering the advisability of amending the Zoning Map of Ordinance No. 1585, the Zoning Ordinance of the City of Midland, as set forth in the following proposed Ordinance, which is hereby introduced and given first reading; and

RESOLVED FURTHER, that the City Clerk is hereby directed to notify property owners within three hundred (300) feet of the area proposed to be rezoned by transmitting notice on November 3, 2006 and to publish said notice on November 4, 2006.

ORDINANCE NO. _____

AN ORDINANCE TO AMEND ORDINANCE NO. 1585, BEING AN ORDINANCE TO REGULATE AND RESTRICT THE LOCATION OF TRADES AND INDUSTRIES AND THE LOCATION OF BUILDINGS DESIGNED FOR SPECIFIC USES, TO REGULATE AND LIMIT THE HEIGHT AND BULK OF BUILDINGS HEREAFTER ERECTED OR ALTERED, TO REGULATE AND DETERMINE THE AREA OF YARDS, COURTS, AND OTHER OPEN SPACES SURROUNDING BUILDINGS, TO REGULATE AND LIMIT THE DENSITY OF POPULATION, AND FOR SAID PURPOSES, TO DIVIDE THE CITY INTO DISTRICTS AND PRESCRIBE PENALTIES FOR THE VIOLATION OF ITS PROVISIONS BY AMENDING THE ZONING MAP TO PROVIDE AN OFFICE SERVICE ZONING WHERE A RESIDENTIAL A-4 ZONING DISTRICT PRESENTLY EXISTS.

The City of Midland Ordains:

Section 1. That the Zoning Map of Ordinance No. 1585, being the Zoning Ordinance of the City of Midland, is hereby amended as follows:

COMMENCING 1318 FEET NORTH OF THE SOUTHEAST CORNER OF THE SOUTHWEST ¼ OF SECTION 34, T15N R2E, THENCE EAST 1265.93 FEET, THENCE NORTH 391.29 FEET TO THE SOUTH RIGHT OF WAY OF JOSEPH DRIVE, THENCE WESTERLY ALONG THE SOUTH RIGHT OF WAY OF JOSEPH DRIVE TO THE WEST RIGHT OF WAY LINE OF JEFFERSON AVENUE, THENCE SOUTH TO THE POINT OF BEGINNING. EXCEPT FOR THE FOLLOWING: PART OF THE SOUTH ½ OF THE NORTH ½ OF THE SOUTHWEST ¼ OF SECTION 34, T15N-R2E, LARKIN TOWNSHIP, MIDLAND COUNTY, MICHIGAN, DESCRIBED AS BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 34, WHICH IS N 00D 30M 49S W ALONG SAID WEST LINE, 1318.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 34; THENCE CONTINUING N 00D 30M 49S W ALONG SAID WEST LINE, 329.56 FEET TO A POINT ON THE CENTERLINE OF JOSEPH DRIVE, THENCE N 89D 54M 40 S E, ALONG SAID CENTERLINE OF JOSEPH DRIVE 300 FEET: THENCE S 00D 30M 49S E, PARALLEL WITH SAID WEST LINE OF SECTION 34, 329.56 FEET: THENCE S 89D 54M 40S W PARALLEL WITH THE CENTERLINE OF JOSEPH DRIVE, 300 FEET TO THE POINT OF BEGINNING. CONTAINING 2.70 ACRES OF LAND, SUBJECT TO THE USE OF THE NORTHERLY AND WESTERLY PORTIONS THEREOF AS JOSEPH DRIVE AND JEFFERSON ROAD RESPECTIVELY AND ALSO SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS OR RIGHTS OF WAY OF RECORD.

be, and the same is hereby changed to Office Service.

Section 2. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed only to the extent necessary to give this Ordinance full force and effect.

Section 3. This Ordinance shall take effect upon publication.

YEAS:

NAYS:

ABSENT:

I, Selina Tisdale, City Clerk, City of Midland, Counties of Bay and Midland, State of Michigan, do hereby certify that the foregoing is a true and correct copy of a resolution adopted by a yeas vote of all the Councilmen present at a regular meeting of the City Council held Monday, October 23, 2006.

Selina Tisdale, City Clerk



Date: September 17, 2006

STAFF REPORT TO THE PLANNING COMMISSION

SUBJECT: ZONING AMENDMENT ZP #531 F/A PNACEK

APPLICANT: F/A Pnacek LTD

LOCATION: 300 Joseph Drive

PROPOSED: OS – Office Service

AREA: 8.56 Acres

ZONING: RA-4 Residential

ADJACENT ZONING: North: RA-3
East: RA-4
South: Community
West: OS

ADJACENT DEVELOPMENT: North: Senior assisted living/vacant
East: Apartment complex
South: Soccer fields
West: Vacant

REPORT

Consideration of a petition initiated by Mike Pnacek to rezone approximately 8.56 acres located at 300 Joseph Drive from RA-4 Residential to OS Office Service zoning.

BACKGROUND

The property included in this petition was originally annexed into the City of Midland from Larkin Township in April of 2000. At that time the property was zoned Larkin Township Residential A (low density residential).

The Pnacek's then proposed rezoning the property to a combination of Office Service 2 and RB Residential zoning. Because, the City's Future Land Use map did not identify these areas as being compatible with the type of zoning proposed, the City was petitioned to amend its Future Land Use map in May 2000 to allow the northeast and southeast corners of Jefferson Avenue and Joseph Drive to be considered for Office Service uses and the property east of this intersection and south of Joseph to be considered for High Density Residential. The property north of Joseph Drive and east of Jefferson Avenue would be considered for Medium Density Residential.

Subsequent to these petitions, the City's Future Land Use map was amended on May 23, 2000 to allow Office Service uses in the general vicinity of the Jefferson Avenue and Joseph Drive intersection (see pink circle on Attachment #1) and the property on the south side of Joseph Drive was amended to allow Medium Density Residential uses (identified in brown oval on Attachment #1).

On May 23, 2000 the Planning Commission considered Zoning Petition No. 456 which consisted of the following requests:

1. 6.1 acres on the southeast corner of Joseph and Jefferson to OS-2
2. 4.55 acres on the northeast corner of Joseph and Jefferson to OS-2
3. 17.84 acres on the south side of Joseph, east of Jefferson to RB
4. 11.71 acres on the north side of Joseph, east of Jefferson to RA-4

At this public hearing, the Planning Commission recommended to City Council to deny all of the requested rezoning petitions with the requested modification of zoning from RB to RA-4 on the north side of Joseph, east of Jefferson the petitioners received a recommendation to approve request # 4.

At the July 17, 2000 City Council Meeting the requested rezoning petition was approved with the following modifications:

1. The northeast and southeast corners of Jefferson Avenue and Joseph Drive were rezoned to OS-2 (first 300 feet of parcels as shown by Attachment #2)
2. The remaining acreage on the north side of Joseph Drive, east of Jefferson was rezoned to RA-3.
3. The remaining acreage on the south side of Joseph Drive, east of Jefferson was rezoned to RA-4.

As a result of the approval, with modifications of Zoning Petition No. 456, the property owners of the Oakbrook Subdivision (located directly to the north of petitioner's property) filed suit against the City of Midland in Midland County Circuit Court in September 2000. This lawsuit was concluded in January 2003 with the result that the above stated zoning map amendments (rezonings) were upheld.

Zoning Petition No. 531 seeks to have the balance of the remaining acreage, which was not developed for apartment housing, rezoned from RA-4 to OS.

ASSESSMENT

In accord with Section 30.03(D) of the Zoning Ordinance, the Planning Commission and City Council shall at minimum, consider the following before taking action on any proposed zoning map amendment:

1. Is the proposed amendment consistent with the City's Master Plan?

Yes. Policy 3 of Goal 1 of the Master Plan states; *"Rezoning land for urban development should only occur when it is contiguous with or near existing urban development. Development of land already served by public facilities should occur before development of land for which extension of public facilities is required."*

In addition Policy 2 of Goal 1 state in part; *"The land use pattern in the City should provide for contiguity between future growth and existing development . . ."*

2. Will the proposed amendment be in accordance with the intent and purpose of the Zoning Ordinance?

Yes. The intent of OS – Office service is to accommodate administrative and professional offices, personal service businesses, and support retail uses, in an environment that reflects high standards of site planning and landscape design, recognizing that the Office Service District uses may serve as transitional uses between single family residential development and more intensive development. Intensive retail commercial uses that generate large traffic volumes and high parking demand are not considered appropriate uses in the Office Service District.

3. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment?

No. Conditions in this area of the community have not changed since January 1, 2005.

4. Will the amendment merely grant special privileges?

No. This property already abuts land zoned OS. However, a parcel of this size (8.56 acres) could support RA-4 Residential uses without difficulty.

5. Will the amendment result in unlawful exclusionary zoning?

No. The requested zoning change, to OS, would result in a substantial area of the City remaining in the RA-4 zoning category.

6. Will the amendment set an inappropriate precedent?

No. Amending the zoning ordinance in a manner that promotes office type

establishments in close proximity to medium density housing is appropriate as these zoning classifications support similar uses. It is important to note that the Planning Commission should follow the development of this site to ensure that proper landscape buffering and site design are implemented to lessen the impact of any negative effects.

7. Is the proposed zoning consistent with the zoning classification of surrounding land?

Yes. The OS zone is compatible with the OS zoned land to the northeast and east of this site. It is also compatible with the RC zoned land located west of Jefferson Avenue. It is less compatible with the RA-3 zoned land to the north but as OS already is adjacent to this land is not introducing any new land uses. It is also compatible with the Community zoned land to the south as it serves as a buffer between a large recreational facility and the single family zoned land to the north (in Larkin Township).

8. Is the proposed zoning consistent with the future land use designation of the surrounding land in the City Master Plan?

Yes and No. The future land use map identifies the eastern portion of this property as being compatible with office service uses (see pink circle on Attachment #1). This circle has an undefined boundary but would seem to support at least one half of this parcel being rezoned to OS (approximately 480 linear feet on Joseph Drive). The Planning Commission will need to interpret where this zoning boundary should be placed or if the entire parcel should be zoned OS. It is also apparent that the western portion of this property should remain medium density residential.

9. Could all requirements in the proposed zoning classification be complied with on the subject parcel?

Yes. The dimensional requirements of the OS Zone could be complied with on the subject property.

10. Is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?

Yes. There is OS zoned land directly adjacent to this property and an assisted living development was recently constructed on OS land located on the northeast corner of Jefferson Avenue and Joseph Drive in 2006.

STAFF RECOMMENDATION

- Upon careful review of the requested zoning change staff recommends approval of the rezoning based on the following determinations:

1. The requested zoning classification, OS – Office Service is consistent with the goals and future land use plan as outlined in the Master Plan.
2. Expansion of OS in this location would not be incompatible with the low density residential uses to the north, as they are buffered by medium density residential on the north side of Joseph Drive.
3. The Planning Commission needs to determine if the entire parcel should be rezoned to OS or if a portion should be retained as RA-4.

PLANNING COMMISSION ACTION

Staff currently anticipates that the Planning Commission will take action on this request, formulating a recommendation to the City Council, during its regular meeting of October 10th. We further anticipate that on October 23rd the City Council will set a public hearing on this matter. Given statutory notification and publication requirements, the City Council hearing will likely be scheduled for November 20th. Please note that these dates are merely preliminary and may be adjusted due to Planning Commission action and City Council agenda scheduling.

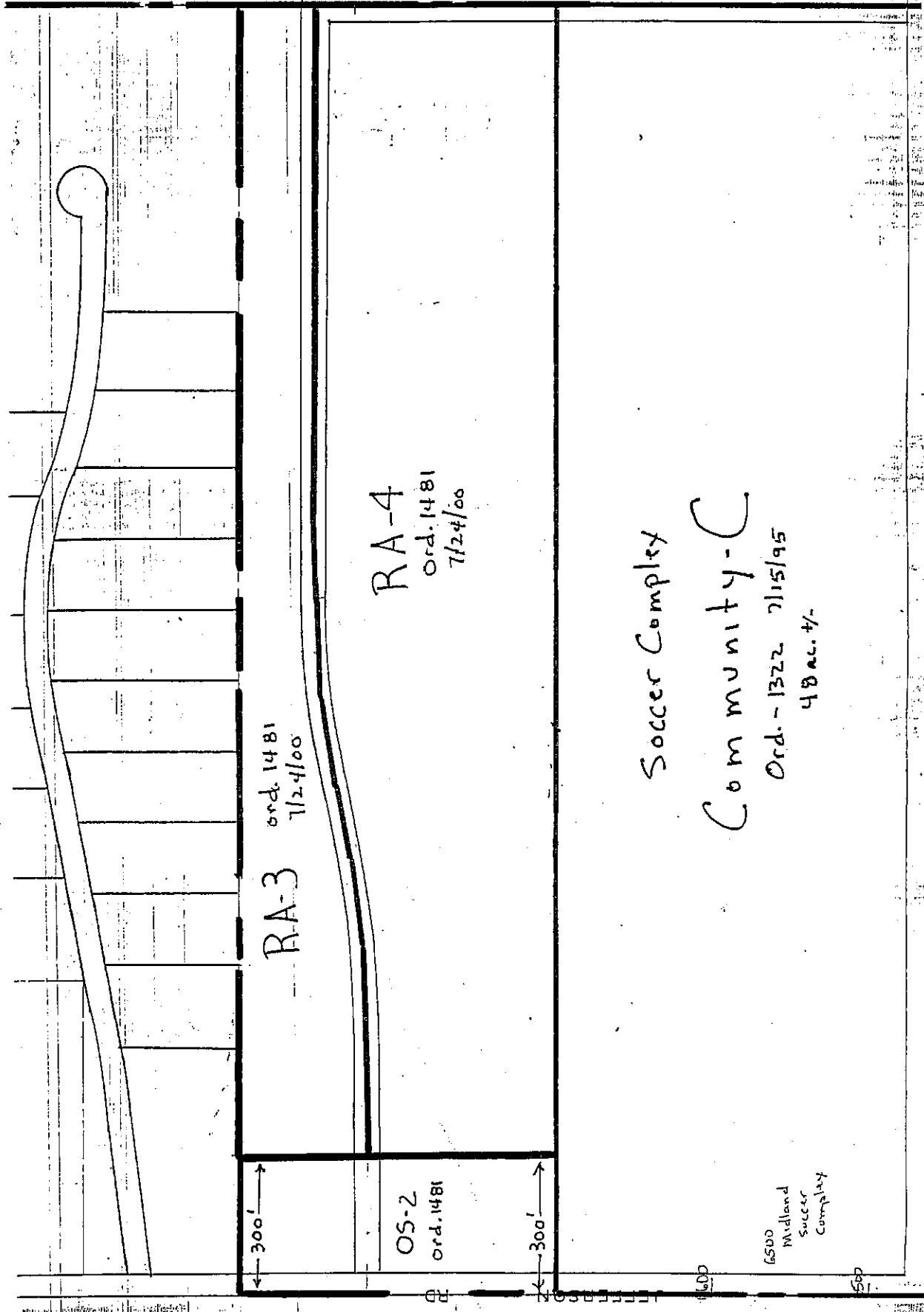
Respectfully Submitted,



Daryl Poprave

Acting Director of Planning & Community Development

/dp



RA-3
Ord. 1481
7/24/00

RA-4
Ord. 1481
7/24/00

OS-2
Ord. 1481

Soccer Complex
Community-C

Ord. - 1322 7/15/95
48 ac. +/-

6500
Midland
Soccer
Complex

300'

300'

600

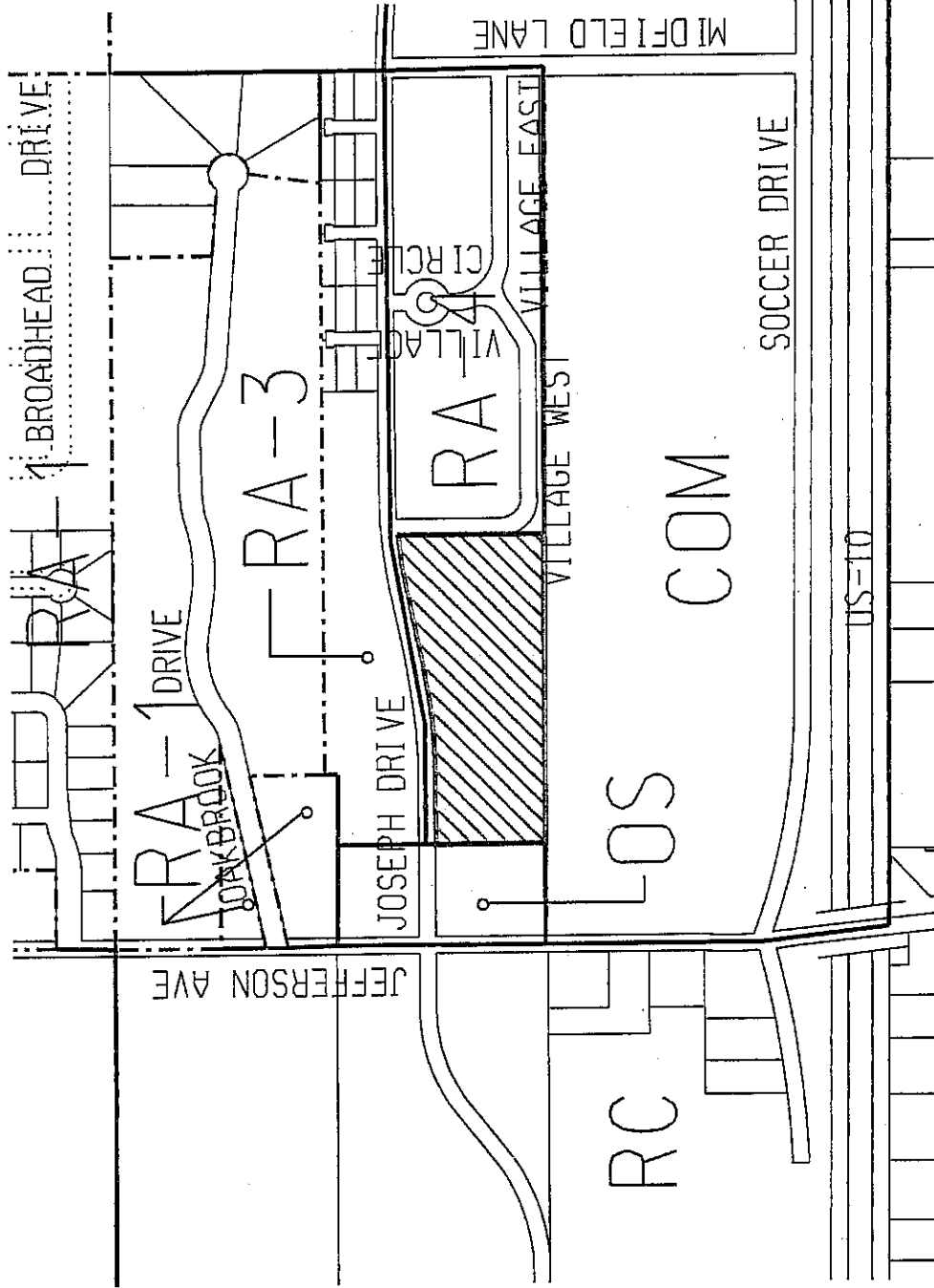
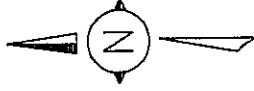
500

ZONING PETITION NO. 531

CITY OF MIDLAND ZONING MAP

LEGEND UPDATE: 5/11/2006

- RA-1 RESIDENTIAL
- RA-2 RESIDENTIAL
- RA-3 RESIDENTIAL
- RA-4 RESIDENTIAL
- RB RESIDENTIAL
- RD MOBILE HOME PARK
- OS OFFICE SERVICE
- COM COMMUNITY
- AG AGRICULTURAL
- NC NEIGHBORHOOD COMMERCIAL
- C CIRCLE DISTRICT
- D DOWNTOWN DISTRICT
- CC COMMUNITY COMMERCIAL
- RC REGIONAL COMMERCIAL
- LCMR LIMITED COMMERCIAL
- MANUFACTURING, RESEARCH
- IA INDUSTRIAL
- IB INDUSTRIAL
- D-O DOWNTOWN OVERLAY
- HP HISTORIC PRESERVATION OVERLAY DISTRICT
- * ZONING IN PROCESS





City of Midland
Petition for Zoning Map Amendment (Rezoning)

PETITIONER

Name: F/A PRACEK LTD (MIKE PRACEK)

Mailing Address: 7007 EASTMAN AVE

Phone number: (989) 839-9655 Cell phone: (989) 205-4424

Email address: midexec1@aol.com Fax: (989) 839-8388

PROPERTY OWNER

Name: F/A PRACEK LTD

Mailing Address: 7007 EASTMAN AVE

Phone number: (989) 839-9655 Cell phone: (989) 205-4424

Email address: midexec1@aol.com Fax: ()

Applicant's Signature (if not owner): Mike Pracek

PETITIONER'S INTEREST IN PROPERTY (if not owner)

PRESENT ZONING CLASSIFICATION: RA-4

REQUESTED ZONING CLASSIFICATION: OFFICE SERVICE

PRESENT USE: VACANT

LEGAL DESCRIPTION OF PROPERTY (If more than one zoning classification is requested, include separate description for each).

See ATTACHED

Address of property: 300 JOSEPH DRIVE

Tax ID Number (parcel code): 11-34-60-500 869 x 424

8.65A

ITEMS TO BE SUBMITTED WITH THIS PETITION:

1. Rezoning fee - \$325.00 payable to the City of Midland.
2. A plot plan or survey, which shall contain the following information:
 - a. Applicant's name, address and telephone number.
 - b. Scale, northpoint and dates of submittal and revisions.
 - c. A legal description.
 - d. Existing lot lines, building lines, structures, parking areas, driveways and other improvements on the site and within fifty (50) feet of the site.
 - e. Evidence of agreement of owner of land to be included in the rezoning.
 - f. For Zoning Map Amendments, the following information shall also be provided:
 - i. Proposed lot lines and lot dimensions.
 - ii. Dimensions, centerlines and right-of-way widths of abutting streets and alleys.
 - iii. The general location of existing drainage courses and wetlands.
 - iv. All existing and proposed easements.

Zoning Map Amendment Review Considerations

The Planning Commission and City Council shall at minimum, consider the following before taking action on any proposed zoning map amendment:

1. Is the proposed amendment consistent with the City's Master Plan?
2. Will the proposed amendment be in accordance with the intent and purpose of the Zoning Ordinance?
3. Have conditions changed since the Zoning Ordinance was adopted that justifies the amendment?
4. Will the amendment merely grant special privileges?
5. Will the amendment result in unlawful exclusionary zoning?
6. Will the amendment set an inappropriate precedent?
7. Is the proposed zoning consistent with the zoning classification of surrounding land?
8. Is the proposed zoning consistent with the future land use designation of the surrounding land in the City Master Plan?
9. Could all requirements in the proposed zoning classification be complied with on the subject parcel?
10. Is the proposed zoning consistent with the trends in land development in the general vicinity of the property in question?

SIGNATURE: _____

DATE: _____

Michael F/A Pwcek LTD

7-31-06

Commencing 1318 feet North of the Southeast corner of the Southwest 1/4 of Section 34, T15N, R2E, thence East 1265.93 feet, thence North 391.29 feet to the South Right of Way of Joseph Drive, thence Westerly along the South Right of Way of Joseph Drive to the West Right of Way line of Jefferson Avenue, thence South to the point of beginning. EXCEPT for the following:

PART OF THE SOUTH 1/2 OF THE NORTH 1/2 OF THE SOUTHWEST 1/4 OF SECTION 34, T15N-R2E, LARKIN TOWNSHIP, MIDLAND COUNTY, MICHIGAN. DESCRIBED AS BEGINNING AT A POINT ON THE WEST LINE OF SAID SECTION 34, WHICH IS N00°30'49"W, ALONG SAID WEST LINE, 1318.01 FEET FROM THE SOUTHWEST CORNER OF SAID SECTION 34; THENCE CONTINUING N00°30'49"W, ALONG SAID WEST LINE, 329.56 FEET TO A POINT ON THE CENTERLINE OF JOSEPH DRIVE; THENCE N89°54'40"E, ALONG SAID CENTERLINE OF JOSEPH DRIVE, 300.00 FEET; THENCE S00°30'49"E, PARALLEL WITH SAID WEST LINE OF SECTION 34, 329.56 FEET; THENCE S89°54'40"W, PARALLEL WITH THE CENTERLINE OF JOSEPH DRIVE, 300.00 FEET TO THE POINT OF BEGINNING. CONTAINING 2.70 ACRES OF LAND, SUBJECT TO THE USE OF THE NORTHERLY AND WESTERLY PORTIONS THEREOF AS JOSEPH DRIVE AND JEFFERSON ROAD, RESPECTIVELY, AND ALSO SUBJECT TO ANY OTHER EASEMENTS, RESTRICTIONS OR RIGHTS OF WAY OF RECORD.

h *z*



Report No. ZP #528

Date: October 3, 2006

MEMORANDUM

SUBJECT: Zoning Petition #531

APPLICANT: F/A Pnacek LTD

PROPOSED: OS – Office Service

LOCATION: 300 Joseph Drive

AREA: 8.56 Acres

ZONING: RA-4 Residential

ADJACENT ZONING: North – RA-3
East – RA-4
South – Community
West – OS

ADJACENT DEVELOPMENT: North – Senior assisted living/vacant
East – Apartment complex
South – Soccer fields
West – Vacant

Following is a summary of comments received during the public hearing conducted on September 26, 2006 with respect to this petition:

Mike Pnacek spoke on behalf of the corporation representing 11 brothers and sisters. The family does feel that the entire parcel on the south should be office service. If some of it were to be used as RA-4, and they could still have office service in a portion of the area.

No one spoke in favor of this petition.

Fred Schuchman lives on Oakbrook Drive, near this property. He claims he did not receive, nor did his neighbor receive any notice of these public hearings. He purchased his property in about 1998. At this time, they reviewed the master plan and were told this area would be zoned RA-1 for a

long time to come. This has slowly been eroded away over the past several years. From where he lives, he feels there is an effort to change the character of this area. This is really what he has objection to.

Mr. Kozakiewicz stated that the ordinance requires anyone within 300 feet of this parcel must receive notice. He is not within the 300 feet of this parcel.

John Rapanos, Midland, Michigan, stated the city has so much office service that is vacant. There is a lot of office service buildings already built that are currently vacant. He is not terribly concerned about whether the line is drawn to the east or west, however, there are expensive properties to the north along Oakbrook Drive. The north side of Joseph Drive must remain as it is so there is a buffer between the houses on Oakbrook Drive and the property to the south of Joseph Drive.

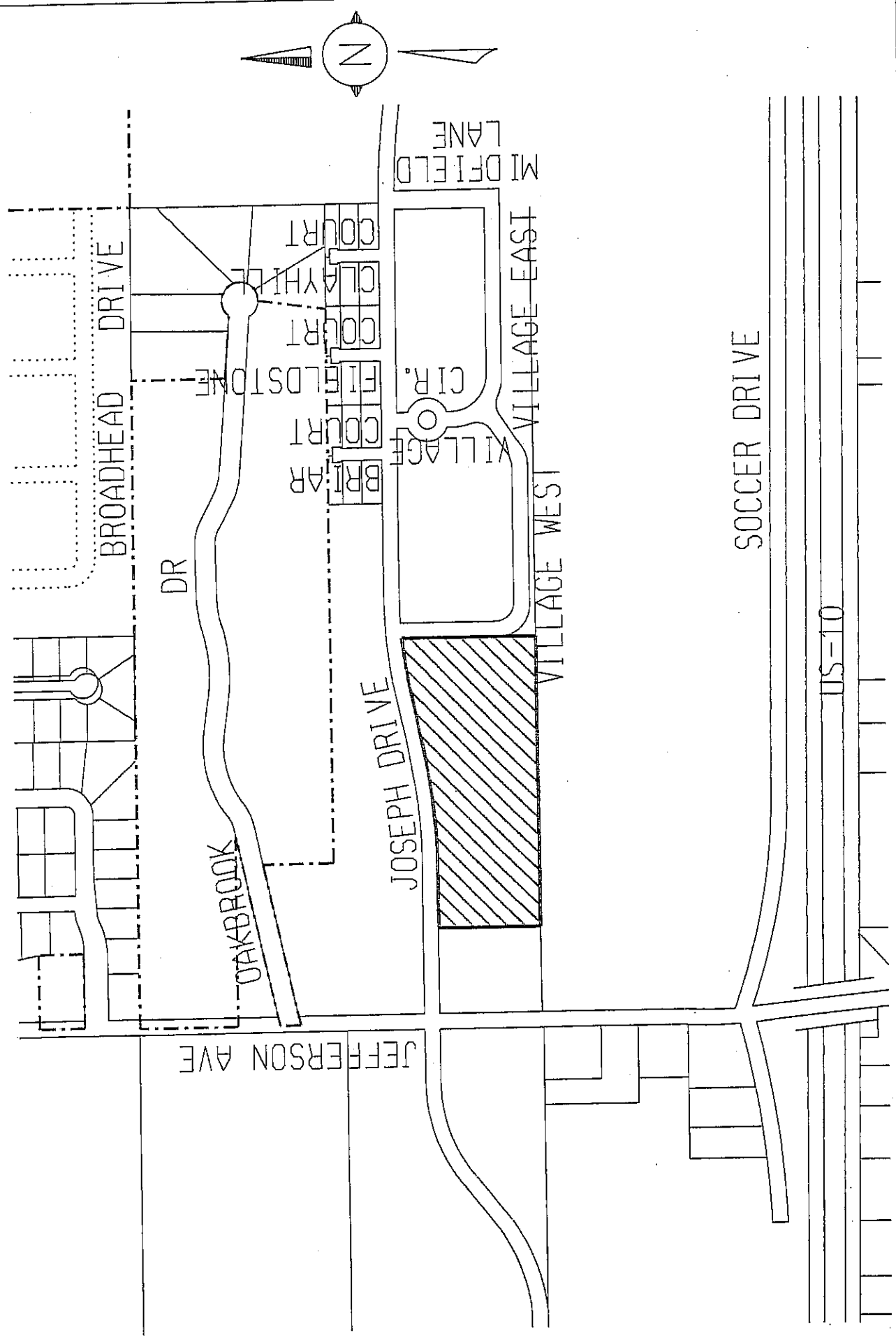
Michael Laursen, 3653 Oakbrook Ct., stated he is also concerned about the north side of Joseph Drive. The houses on Oakbrook Drive are all deeded Residential A-1. There are deed restrictions already in place and it is recorded as a public record. We have debated before regarding the land use on the north side of Joseph Drive. There is nobody on Oakbrook Court that is interested in changing the deed restrictions at this time. Those restrictions do run with the land. The document was put together in 1989 and is valid for 30 years.

Mr. Kozakiewicz stated the parcel up for rezoning does not contain these deed restrictions. Mr. Laursen stated their concern is that the office service use keeps encroaching to the north.

Thayer Brown, of 3619 Oakbrook Ct. stated there is lots of office service just on the other side of the expressway. When the home was built on the corner, it somehow crept over to the east and the north. He does not see why these uses cannot stay on the south side of Joseph Drive and Jefferson. He does not see the need for additional office service zoning.

Mr. Pnacek stated that there is no other office service available north of the expressway, as Mr. Poprave stated. People are not going to give up their commercial property for office service.

ZONING PETITION NO. 531



MINUTES OF THE MEETING OF THE MIDLAND CITY
PLANNING COMMISSION,
WHICH TOOK PLACE ON TUESDAY,
OCTOBER 10, 2006,
7:00 P.M.,
COUNCIL CHAMBERS, CITY HALL, MIDLAND, MICHIGAN

1. Roll Call

PRESENT: Brown, Eyre, Gaynor, Hanna, Jocks, Kozakiewicz, Mead, and Senesac

ABSENT: Svenson

OTHERS PRESENT: Daryl Poprave, Acting Director of Planning & Community Development; Cheri Standfest, Community Development Specialist and 3 others.

2. Approval of Minutes

Regular Meeting of August 26, 2006.

It was moved by Hanna and supported by Senesac to approve the minutes of August 8th. The minutes were unanimously approved.

3. Public Hearing

None

4. Public Comments (not related to agenda items)

None

5. Old Business

Zoning Petition 531 – Consideration of a petition initiated by Mike Pnacek to rezone 8.56 acres of land located at 300 Joseph Drive from RA-4 to OS.

Mr. Poprave reviewed the aerial photo of the area, located on the south side of Joseph Drive, east of Jefferson, north of the US-10 expressway. It is currently a vacant parcel. Right now, the property is zoned RA-4. It is adjacent to property that is already zoned Office Service, which is located to the east of the subject property. The soccer club is located to the south. This property is approximately 8.56 acres. This was part of several parcels of land that were annexed into the city in 2000 and it was rezoned to its current classification at that time. The city was involved in a court case in 2003 that reaffirmed the current zoning of RA-4.

The current future land use map shows a circle on the corner as being used as an office service use. There is an oval next to it that identifies the property as being medium density residential. These are "fuzzy" boundaries, however, and it is up to the Planning Commission where those boundaries will actually lie. Office Service zoning is generally used as a buffer between full blown commercial and residential uses. There is approximately 960 feet of frontage on Joseph Drive.

Mr. Mike Pnacek, 2661 Blackhurst, showed an aerial photo of the area. There are a few fields in the soccer complex that are lighted fields. There are also lights at the east side of the Village of Joseph's Run. Single family homes would not fit well into this environment with all this lighting. That is why they are asking for the entire parcel to be zoned office service. He also pulled an article from the Midland Daily News on September 21st, that stated some of the lights will be on at the soccer fields all night long as there will be games going on there. If you look at the criteria for office service zoning, it states residential can be built in this zone with a conditional use permit. Therefore, if someone wanted to develop this area as residential, it could be done with a conditional use permit if this property were zoned office service. Mr. Pnacek stated he has never been out to see how late the lights were on at the soccer fields.

No one spoke in favor of or in opposition to this request.

Mr. Senesac explained how the circles were placed on the existing master plan. The circles are all the same size, but they mean office service was recommended to go on the east side of Jefferson, on Joe Mann Drive somewhere in that area. He thinks that extending the office service all the way to the east, the property on the north side of the street would have a higher chance of going office service further to the east, also.

Mr. Mead stated that looking at this piece all by itself, the office service is the right zoning for that piece. To the east is the apartment complex and he sees there being a continuity of offices up to the apartment complex. He feels office is right for this property as we see it tonight.

Mr. Eyre stated he struggles with this, as 960 feet of frontage could yield 6-10 curb cuts. He thinks it could be good zoning for this location but we do not need a whole line of curb cuts down this street. He realizes that if 5-6 duplexes were built here, there would be 5-6 curb cuts. However, he does not think this would be appropriate for this parcel of property.

Mr. Gaynor agrees with what Mr. Senesac said. Right now it may be O.K. If you go in further with the office service zoning on the south side of Joe Mann, what about the other side of the street?

Ms. Brown agrees with Mr. Senesac and Mr. Gaynor. She thinks this would be too much office service in that area.

Mr. Jocks stated that there may be too much lighting there for residential uses. He asked if the lighting could be contained in parking lots in office service districts. Mr. Poprave stated that there are certain illumination standards in the zoning ordinance that prevent casting lighting off site. We also provide for fully shielded lighting that only casts light down and not out to the sides.

Ms. Hanna agrees with leaving the property as it is. She feels it is inevitable that the property across the street would also want office service if we zone this property that way.

Mr. Mead reminded the Commission that it is not appropriate to look at the property across the street. This property should be considered on its own merit. He also feels that office service zoning across the street would not be appropriate as it backs up to the lots on Oakbrook Drive. This would not provide a buffer between adjoining properties. However, this property in question tonight, he does feel is appropriate for office service.

Mr. Kozakiewicz stated he would not support the office service and feels that the office service that is already on the corners of Joe Mann and Jefferson is sufficient to fulfill the requirements of the master plan.

It was moved by Eyre and supported by Senesac to recommend approving Zoning Petition No. 531 by Mike Pnacek to rezone 8.56 acres of land located at 300 Joseph Drive from RA-4 to OS.

YEA: Eyre and Mead

NAY: Brown, Gaynor, Hanna, Jocks, Kozakiewicz and Senesac

ABSENT: Svenson

6. New Business

Zoning of Recently Annexed Property – Preliminary Assessment

- a. 7304 Jefferson Avenue
- b. 6715 and 6719 Herbert Street
- c. 6500 and 6501 Airport Road
- d. Airport Road Extension
- e. 730 Oakbrook Drive

Mr. Poprave stated these are properties that were annexed into the city in 2005 and 2006. We are not holding a public hearing tonight or making a recommendation to council. We are just looking for guidance prior to setting a public hearing to take any action. Following tonight's meeting, staff will send a letter to the property owner and ask for their input regarding the proposed zoning classification.

The city is taking these actions. People have annexed their property into the city and the city must apply appropriate zoning to these parcels.

- a) 7304 Jefferson – This property is at the corner of Julie Ann and Jefferson, annexed from Larkin Township. It is an undeveloped lot on Jefferson Avenue. The surrounding property is Residential B, currently the site of the Midland Evangelical Free Church. Behind this property is a subdivision that is in Larkin Township. South of this property is a lot that is in Larkin Township, but to the east is a subdivision in the city of Midland that zoned RA-1. This lot is part of a platted subdivision. It is currently zoned Zone1, Residential A, which permits single family dwellings. Lot sizes are very different between the township and the city, mainly due to there being water and sewer service in the city and the need for septic tanks in the county. Per the Health Department, you have to have at least an acre of land to have a septic tank. This property had water and sewer lines run all the way up to this property last year when the water department extended the lines up Jefferson. Staff recommends that 7304 Jefferson be assigned RA-1 residential.

Ms. Hanna drove by this today and she sees no reason why it should not be Residential A-1. Mr. Mead agrees. The Planning Commission had consensus that this would be the appropriate zoning with which to proceed.

- b) 6715 and 6719 Herbert Street – These lots are north of Saginaw and east of Stark Road. This property owner has annexed strictly to obtain water and sewer. Mr. Poprave showed a map depicting what is in the city in this area and what is still in the township. This is a residential neighborhood. Northern Square, off Saginaw Road, is directly behind this property. Currently, in Homer Township, this property is zoned CSC, which is general commercial. If the house were to burn down, it could not be built under the township zoning. Staff recommends that this should remain medium-density residential as the area behind it is all developed residential. The commercial property on Saginaw Road will probably not be developed back that far. It is currently a strip mall. It should not be the city's job to create non-conforming uses. This area is all developed residential. The property owner does not wish this area to be zoned commercial. There are a lot of smaller lots in this area that would easily fit into our Residential A-3 zoning classification. The Planning Commission agreed that this would be the correct zoning classification.
- c) 6500 and 6501 Airport Road – This property is north of the US-10 freeway and east of Stark Road and is bisected by the new Airport Road. It former resided in Lincoln Township. Lincoln Township has a unique zoning ordinance that identifies most of the property in Lincoln Township as RA-2 – medium density family residential. They have very little commercial. RA-2 would allow single family homes, duplexes, home occupations and general farming. If you drove by these lots, you would see they are being farmed right now. This is a wooded area, with the exception of the fields. The intent is to build an industrial park.

They want water and sewer for this park. It is adjacent to single-family residential. There are some houses as you go east along Airport Road. The city's future land use map shows this whole area being used in the future as light industrial. The city of Midland and Lincoln Township's master plans coincide with the proposed uses for this land. Even though Lincoln Township has an RA-2 zoning classification, our land use map already identifies it as light industrial. Staff recommends the IA, light industrial zoning classification for this property. The Planning Commission concurs.

- d) Airport Road Extension – There might be unzoned park property if the road is not zoned so the land is all recommended to be zoned industrial.
- e) 730 Oakbrook Drive – This parcel was petitioned for water for an already existing house. This property is currently zoned zone 1, Residential A. This is the single family residential zoning district in Larkin Township. They have much larger lot sizes in the township. This Planning Commission had consensus regarding zoning this RA-1.

7. Communications

None

8. Report of the Chairman

Everyone received the September/October 2006 issue of the Michigan Planner.

9. Report of the Planning Director

CITY COUNCIL

September 25th

PUBLIC HEARINGS

None

ACTION ITEMS

Minor entry drive revision approved for the Dow Diamond (SP 250)

October 9th

PUBLIC HEARINGS

None

ACTION ITEMS

License agreement approved for use of Main St. right of way for Ashman Court Hotel renovation project.

PLANNING COMMISSION

October 10th

PUBLIC HEARINGS

None

ACTION ITEMS

ZP 531

ZP 536, 537, 538, 539

Proposed zoning for previously annexed property – 7 new city parcels
Set up public hearings for November 14th

October 24th

PUBLIC HEARINGS

Site Plan #254 – A 12,775 sq. ft. medical office building on the
MidMichigan Medical Center campus located at 4500 Campus Ridge Dr.

ACTION ITEMS

None

November 14th

PUBLIC HEARINGS

ZP 535, 536, 537, 538, 539, 540

ACTION ITEMS

Site Plan 254

ZONING BOARD OF APPEALS

October 17, 2006

No. 06-14 – MidMichigan Innovation Center for an area/dimension variance to allow an additional 160 sq. ft. ground sign at 4520 E. Ashman Road.

No. 06-15 – Midland King's Daughters Home for an area/dimension variance to allow a rear yard setback encroachment for a 13,600 building addition.

PENDING ADMINISTRATIVE SITE PLAN REVIEWS

1. The rebuilding of an approximately 4,000 sq. ft. self-service and automatic car wash at 3001 Bay City Road

DIRECTOR'S NOTES

The next special meeting on the Master Plan is scheduled for Thursday, October 19, 2006 at 5:00 PM. Following this meeting the next Master Plan meetings will be: Thursday, November 2, 2006 and Thursday, December 7, 2006.

The public can view the Master Plan Update by accessing the City's website at www.midland-mi.org and going to the Master Plan Update link on the homepage.

10. Adjourn

Adjournment at 8:38 p.m. was unanimously approved.

Respectfully submitted,

Daryl Poprave
Acting Director of Planning and Community Development

MINUTES ARE NOT FINAL UNTIL APPROVED BY THE PLANNING
COMMISSION

ZONING PETITION NO. 531

