

Acting-Chair Rutledge called the Regular Meeting of the Planning Commission to order at 7:35 p.m.

ROLL CALL

Present: Boyles, Dailey, Demick, Dupray, Koneczny, McEachin, Rutledge, Wojciechowski.

Absent: Plachinski, Hayman, Burkhardt (Excused through year end due to work requirements).

Also present: Thomas A. Goldenbogen, Mayor, City of New Baltimore
Greg Nikkel, City of New Baltimore Building Official
Judy Sproat, New Baltimore Director of Planning & Economic Development
Brian Wilson, Community Planning & Management

Motion by Boyles, second by Wojciechowski, to excuse the absent members. No additional discussion by the commission. Voice vote. All ayes, motion carried.

APPROVAL OF MINUTES:

Motion by Demick, second by Boyles, to approve the Work Study Minutes of 12-1-08 as presented. No additional discussion by the commission. Voice vote. All ayes, motion carried.

PUBLIC DISCUSSION: None.

APPROVAL OF AGENDA:

Motion by Koneczny, second by Boyles, to approve the agenda as presented. No additional discussion by the commission. Voice vote. All ayes, motion carried.

SITE PLAN ITEMS:

1. SALU #253-10-02-08, BURGER KING, 35600 MAIN STREET, Revised 11-18-08

Acting Chair Rutledge explained the public hearing was held 11-18-08. This meeting is for the commission to evaluate the eight special approval land use standards and make their recommendation to City Council. Brief comments will be allowed from the audience.

Gary Gendernalik representing Burger King, briefly presented the proposal. He had provided a narrative statement regarding the eight special approval land use standards (copy attached). He discussed the distance between the drive thru pick up area and the property line to the east being 91 feet. The screening wall was discussed. The masonry wall along the east property line will be reduced to 6 feet. A vinyl fence matching the existing one will be installed on the rear of the property to control blowing trash. He distributed an old survey of the property. He had previously provided a traffic control study from Jonathan Crane, who was present to answer questions.

Our planner reviewed his concerns. Item 3, the planning commission needs to determine if the split faced block veneer for the primary façade treatment is acceptable. Item 4, the screen wall details indicate a poured concrete exterior. We try to promote brick particularly abutting residential. If concrete is approved, at a minimum it should be stained. Item 5, the trash enclosure materials should match the building and clarified on the plan. Item 8, a portion of the wall being removed should be reflected on the plan. The planning commission needs to review the standards for the special land use for the drive thru to determine if this is an appropriate location for the proposal.

Questions from the audience were solicited and there were none.

Commissioner Dailey discussed the site plan review committees concerns. The traffic engineer, Jonathan Crane, indicated the proposal was informally presented to MDOT. His recommendations are right turn in and right turn out of the site. No left turns from West bound 23 Mile into the site. No left turns out of the site onto 23 Mile. He was also asked about the number of cars turning left onto Main Street, from West bound 23 and turning right into the site. He reviewed the model and discussed it with MDOT in Sterling Heights, and it looks like a maximum of 15 in a peak hour. He didn't think the use would change the capacity or levels of service of the intersection.

Commissioner Dailey asked about the signs to be posted and who has control over the traffic movements on 23 Mile. 23 Mile is MDOT's jurisdiction and responsibility. They have final site plan driveway approach approval. The Main Street exit was also discussed and determined to be adequate. Mr. Crane indicated he was at the site a month ago from 7:00 A.M. to 9:30 A.M., 4:00 P.M. to 6:00 P.M. on a Friday night, and again tonight.

Commissioner Dupray asked Mr. Crane if the Main Street exit was suitable for a left turn. He responded definitely, no question. Commissioner Rutledge asked about the no left turn signage and Mr. Crane indicated a Traffic Control Order would be required to allow the City Police to write tickets.

Mr. Dailey asked about the drive thru speaker sound level. Mr. Gendernalik indicated the decibel level may be controlled from the inside. Mr. Moretz's letter had stated the maximum speaker level would be 45 decibels at 65 feet. Our planner was asked to demonstrate 45 decibels. He indicated it would be a whisper or a cricket. General room conversation is about 65 decibels. The planner did not think the speaker would have a negative impact. What the planning commission should be looking at is the noise generated by people ordering or their vehicles. The Dairy Queen speaker level was discussed. It is significantly louder than 45 decibels. Mr. Dailey explained he had gone to McDonalds and sat with his car windows down in the parking lot. He sat there while at least 15 cars went through and he never could hear the speaker. He knew people were talking because he was looking at them. They have improved this system.

Commissioner Dailey also discussed the concern raised by the neighbors at the public hearing regarding the odor from the broilers. The commission has been sent information, and he has done research on the internet regarding the catalytic control device being proposed. This device has been required in the State of California for fast food restaurants since 1997. The device proposed is the exact type required in California. Mr. Dailey indicated from what he researched, the device does eliminate odors, up to 80%. This system is going to be required in New York, Minnesota and North Carolina. The website is www.aqmd.gov. They also are not trading less odor for more noise. The maintenance and cleaning schedules were also discussed.

Commissioner Rutledge explained the procedures regarding Special Approval Land Use. The proposal must meet and satisfy each of the standards in order for the Planning Commission to recommend approval to City Council.

Our planner reviewed the 8 standards of Special Approval Land Use.

1. The proposed Special Land Use will be of such location, size and character that it will be in harmony with the appropriate and orderly development of the surrounding neighborhood and/or vicinity and applicable regulations of the zoning district in which it is to be located.

Comments from the commission included Commissioner Dailey explaining the development pattern of M-29 is commercial. There are similar uses within a ¼ mile of the site. His opinion is that this request meets the standard. No additional comments from the commission on standard number one.

Roll call indicating the proposal meets this standard. Voting yes: Dailey, Demick, Dupray, Koneczny, McEachin, Rutledge, Wojciechowski, Boyles. Voting no: None.

2. The use will be of a nature that will make vehicular and pedestrian traffic no more hazardous than is normal for the district involved, taking into consideration vehicular turning movements, routes of traffic flow and parking lot circulation, proximity and relationship to intersections, adequacy of sight distances, location and access to off-street parking and provisions for pedestrian traffic, with particular attention to minimizing pedestrian vehicle conflicts.

Comments from the commission included Commissioner Daily explaining that the commission requested and received a traffic impact statement from a qualified traffic consultant. This was also reviewed by our city engineer. Because questions from the commission were addressed and no additional issues were raised by our city engineer he believes the proposal meets this standard. Commissioner Dupray explained that the State has reviewed this proposal. Mr. Crane indicated MDOT is aware of the proposal and informally have reviewed it. They have not made a final opinion. Commissioner Rutledge explained the State has not made any decisions yet. Commissioner Koneczny explained that the site was previously used as commercial. He agreed the intersection is itself troublesome. Commissioner Wojciechowski asked about future adjustments to that intersection if necessary. Mr. Crane indicated there are cameras at the intersection, it's dynamic, and simple to change. Commissioner Rutledge added there is a difference in the commercial use it was compared to what is being proposed. No additional comments from the commission on standard number two.

Roll call indicating the proposal meets this standard. Voting yes: Demick, Dupray, Koneczny, McEachin, Wojciechowski, Boyles, Dailey. Voting no: Rutledge.

3. The proposed use will be designed so that the location, size, intensity, site layout and periods of operation of the proposed use eliminate any possible nuisance emanating there from which might be objectionable to the occupants of any other nearby uses.

Commissioner Dailey asked the hours of operation. Mr. Moretz explained Burger King Corporate mandates that all of their restaurants be open from 6:00 A.M. to 1:00 A.M. The individual franchise could operate past that. Typically they are open later at the drive thru. Commissioner Boyles asked about McDonald's hours of operation. No additional comments from the commission on standard number three.

Roll call indicating the proposal meets this standard. Voting yes: Dupray, McEachin, Wojciechowski, Boyles, Dailey, Demick. Voting no: Koneczny, Rutledge. Commissioner Dailey added the stipulation that they are never open past 2:00 A.M. This is commercial property. This could have been a bar restaurant open until 2:00 A.M. There has to be a standard. Commissioner Koneczny stated a bar or drive thru operating after 2:00 A.M. would be objectionable. Commissioner Demick agreed.

4. The proposed use will be designed so that the proposed location and height of buildings or structures and location, nature and height of walls, fences and landscaping will not interfere with or discourage the appropriate development and use of adjacent land and buildings or unreasonably affect their value.

Commissioner Dailey explained the applicant has tried to screen the residential area from the less desirable parts of this restaurant. The trash enclosure area, the sound from the speaker and most of the entry to the building have been positioned away from the residences. The landscape plan is well designed and he feels it meets this standard. No additional comments from the commission on standard number four.

Roll call indicating the proposal meets this standard. Voting yes: Rutledge, Wojciechowski, Boyles, Dailey, Demick, Dupray, McEachin. Voting no: Koneczny because of his comments on standard three.

5. The proposed use will relate harmoniously with the physical and economic aspects of adjacent land uses as regards prevailing shopping habits, convenience of access by prospective patrons, continuity of development, and need for particular services and facilities in specific areas of the City.

Commissioner Dailey explained the drive thru makes this particular use a Special Approval Land Use. Because of the screening provided, and the commitment made to reducing the sound levels he believes it meets this standard. No additional comments from the commission on standard number five.

Roll call indicating the proposal meets this standard. Voting yes: Koneczny, McEachin, Rutledge, Wojciechowski, Boyles, Dailey, Demick, Dupray. Voting no: None.

6. The proposed use has been designed to relate harmoniously with existing environmental, aesthetic, cityscape and surrounding neighborhood amenities.

Commissioner Dailey explained he felt the whole site adapts to the parcel as best it can, respecting the residential properties in the area, and he believes it meets this standard. No additional comments from the commission on standard number six.

Roll call indicating the proposal meets this standard. Voting yes: Wojciechowski, Boyles, Dailey, Demick, Dupray, Koneczny, McEachin, Rutledge. Voting no: None.

7. The proposed use is so designed, located and proposed to be operated that the public health, safety and welfare will be protected.

Commissioner Dailey again indicated the issue is primarily traffic safety. The applicant has retained the expert services of a professional traffic engineer and submitted documentation attesting to the safety of the movements on the site. They will hold themselves to requirements we place on them regarding turning movements, sound, and odors. He believes it meets this standard. No additional comments from the commission on standard number seven.

Roll call indicating the proposal meets this standard. Voting yes: Boyles, Dailey, Demick, Dupray, Koneczny, McEachin, Wojciechowski. Voting no: Rutledge, because we are relying on the state regarding the signage.

8. The proposed use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located and will not be detrimental to existing and/or other permitted land uses in the zoning district.

Commissioner Dailey explained the issue is the drive thru. He believes they have addressed this issue in their site plan relating to the sound, and stack up spaces. There will be no back up onto 23 Mile Road. The traffic engineer stated it will not cause problems on Main Street or 23 Mile Road. He believes it meets standard number eight. No additional comments from the commission on standard number eight.

Roll call indicating the proposal meets this standard. Voting yes: Dailey, Demick, Dupray, McEachin, Rutledge, Wojciechowski, Boyles. Voting no: Koneczny.

There were none of the eight standards which did not pass a majority vote.

Motion by Dailey second by Boyles to recommend approval of Special Approval Land Use #253-10-02-08, Burger King, to City Council because we found it to meet the SALU standards of our Zoning Ordinance. Additional discussion from the commission included tying the Special Land Use approval to conditions of operation of the site because the site is unique.

1. The hours of operation are no later than 2:00 A.M. Those hours are consistent with a permitted use in that district, which is a restaurant with a liquor license which could be operated until 2:00 A.M.

2. The decibel rating 65 feet from the speaker box shall not exceed 45 decibels.

3. The catalytic unit proposed, Duke Model #175480, be installed permanently in the restaurant, or nothing less than that standard.

4. The signage prohibiting left turns must be posted in accordance with MDOT standards for location and height and certified at engineering.
5. The trash enclosure be built of split faced block, and the sheet number ST4 detail be revised to indicate it will match the building. Additionally a sliding gate will replace the swing out gate.
6. The wall along the East property line adjoining the closest house, be poured concrete, brick embossed and stained to match the building. The height should be 6 feet on the high side, or lower if determined by City Council after discussions with the neighbor.
7. The City attorney review and approve the cross access agreement.
8. The planner and engineers comments be followed.
9. The traffic study be sent to the State of Michigan for review.

No additional discussion by the commission. Roll call vote. Voting Yes: Demick, Dupray, McEachin, Wojciechowski, Boyles, Dailey. Voting no: Koneczny, Rutledge. Motion Carried.

City Council will address this at their January 12th, 2009 meeting.

COMMITTEE REPORTS:

Commissioner Demick reported the Historic District commission did not have a quorum. It was the same night as the Town Hall Meeting.

Commissioner Rutledge reported that the DDA met and reviewed the Hyatt Palma Blueprints program. The DDA, City, and Director of Planning and Economic Development will be forming committees to develop action plans.

MISCELLANEOUS COMMUNICATIONS:

Correspondence received from Gary Gendernalik and Paul Moretz regarding the Burger King were received and filed.

The Mayor explained that he has been notified by SEMCOG that the lame duck legislature is trying to pass a traffic bill. It would recalculate the gas tax to a percentage of the gas. The current 9 cents per gallon tax is going to be short in revenue by over a billion dollars, which must be sent to the Federal Government. In order to keep our roads up this proposal is recommended.

PLANNING COMMISSION WORK STUDY AGENDA DISCUSISON:

Motion by Dailey, second by Boyles to cancel the January 5th Work Study meeting. No additional discussion by the commission. Voice vote. All ayes, motion carried.

Commissioner Boyles explained the Cub Scouts are planning on attending the February work study meeting.

The Mayor suggested the site plan review procedure be reviewed at the February work study meeting. He will invite community members to participate. Commissioner Rutledge explained the review process should be about qualifications, not quantity.

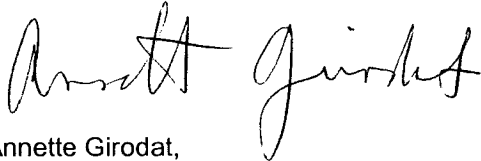
The election of Planning Commission officers will be at the regular meeting in February.

Judy Sproat discussed the City Council's request regarding our sign ordinance. The recommendation sent to council was not to change the A-Frame sign ordinance. At the last council meeting, a council member asked that we discuss it further. Greg Nikkel explained they were looking for alternatives for businesses who are not allowed A-Frame signs.

ADJOURNMENT:

Motion made by Boyles, second by Wojciechowski, to adjourn. No additional discussion by the commission. Voice vote, all ayes. Motion carried. Meeting adjourned at 8:53 P.M.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Annette Girodat".

Annette Girodat,
Recording Secretary