

PLANNING COMMISSION MINUTES
Special Meeting
September 21, 2017

CALL TO ORDER: The September 5, 2017, Planning Commission meeting was called to order by Vice Chairman Rosier at 7:00 p.m.

PRESENT: Vice Chairman Rosier, Commissioners Bly, Snyder, Harag, Hoy, Clarke, Brummette, Leaser and Council member Bahmer.

ABSENT: None.

ALSO PRESENT: City Manager Guetschow and Community Development Director Myrkle.

PUBLIC COMMENT: The following comments were made concerning the proposed Dairy Queen site plan:

Sandy Osborn, 414 S. Cochran described limits on land divisions. She stated the site plan does not comply with the zoning ordinance and advocated a smaller addition that might be in compliance. She was opposed to the drive-through and noted the number of vehicles in the drive-through at McDonalds. She said the plan does not contain enough stacking space for vehicles.

Floyd Burley, 421 S. Cochran said Dairy Queen should have no drive-through, no retention pond, a limit on the building size, vinyl fence around the entire property, a traffic study, and should address lighting, water run-off onto Cochran Avenue. They should be required to pick up trash, have buildings treated by an exterminator prior to demolition and they should power wash houses to remove dust from construction.

Kathleen Miyasato, 417 S. Cochran indicated there is a 4-5 year wait for a traffic impact study. She said the proposed fencing is not adequate and it is necessary to eliminate the current elevation of parking lots above the grade of surrounding properties.

Lyndsey Shroeder, 425 S. Cochran said the property should be fully fenced as the wooded area is not adequate. She said a soil study should be done in the area of the retention pond. She expressed concern about the drive-through and called for shielded lighting, bat houses and control of other pests. She was also concerned about dust from construction.

Lee Howser, 210 E. Henry, spoke regarding driveway spacing. He said the overhead lighting in the parking lot could not be adequately shielded to prevent light pollution and they should be turned off after 10:00 p.m. He was concerned about mosquito breeding in the retention pond. He said the Planning Commission has a duty to consider the interests of neighbors.

Brett Roberts, 3494 Sherman Road, owner of Dairy Queen, stated he was there to answer questions from the Planning Commission. He described the retention pond as 4 feet deep and gently sloped for mowing and that it will not hold water. There will be no run-off onto adjacent properties. He said the nature of the business is not changing so not traffic study is required. The exterior lighting will be minimal and will be turned off after the business closes. He said he is willing to install fencing around the entire property.

Chris Laverty, 403 S. Cochran, said the current and proposed drives are illegal.

Michelle Shumaker, LSG Engineers, 3135 Pinetree Road, Lansing, engineer for Dairy Queen, noted that there is one entrance and one

exit proposed which is in compliance with the ordinance.

**DISCUSSION – DAIRY QUEEN, 407/415 S. COCHRAN AVE.
CONDITIONAL USE PERMIT:**

Commissioner Clarke asked whether Mr. Roberts would be willing to put the fence around the entire property. Mr. Roberts said he would. There was discussion about site grading; the run-off from the front of the property will flow to the storm sewer.

Commissioner Synder asked whether the proposed fence would be 6 feet in height. Mr. Roberts said it would. She asked about the visibility of the site from the upper stories of houses. Mr. Roberts said the fence could be taller but it would not be attractive when built. Commissioner Snyder asked about conditional uses. Mr. Myrkle explained about conditional use permits and described the required conditions. He said that if the conditions can be met, the permit should be granted. Commissioner Snyder asked whether the hours of business would stay the same. Mr. Roberts said yes, generally but hours have changed at times. Commissioner Snyder suggested a concrete wall instead of a fence. Mr. Roberts asked what additional benefit that would provide. Commissioner Snyder asked whether all traffic would exit to the right and was advised it would not. She asked about lighting and was advised that as little lighting as possible is being installed and that it would be turned off at night. She asked about insects breeding attracted to the retention pond. Mr. Roberts said he does not expect the pond to hold water more than a couple of days each year after heavy rains and that he would be keeping it mowed.

Commissioner Leaser suggested using an underground drainage structure instead of a retention pond to eliminate mosquito breeding.

Commissioner Harag asked if the entrances were large enough. Mr.

Roberts said that they were in compliance with code requirements.

Mr. Myrkle address the access management standards in the zoning ordinance. He noted that these had been developed to control traffic on Lansing Street and that these standards were moved to the wrong part of the zoning ordinance and, per the city attorney, and not now applicable to this project. He said that MDOT has advised that the project does not meet its threshold for requiring a traffic study. He said that fencing could be located on the property line and storm water managed on site. He said that the garage on the property is not in compliance with setback requirements of the ordinance but is grandfathered in. He also noted that the landscaping requirements are to be applied in so far as is practical.

Commissioner Harag noted that the site seems tight for someone pulling in with a trailer. Mr. Roberts said the current site is tighter than the proposed plan and the back parking lot was designed to accommodate trailers.

Commissioner Hoy asked about volume controls on the speakers used for ordering and was told they would have them. He asked about the possibility of adding onto the existing building. Mr. Roberts said that because the building needs to be both wider and longer a new roof would be required; with that much construction it made more sense to have a new building and that the building must meet Dairy Queen standards.

Commissioner Snyder asked if the building will look like other Dairy Queens. Mr. Roberts said no, it will have a more modern look. It will be a smaller building that those that have a grill as that is not included in his plan. There will be no fryers or vent hoods.

Commissioner Brummette asked for how long this new building will be considered adequate, whether Dairy Queen would require the

owner install a grill. Mr. Roberts indicated that this would not occur because his contract will not allow for Dairy Queen to require him to put in a grill or fryers. Dairy Queen is only able to require him to comply with things associated with serving ice cream. Mr. Roberts confirmed that there will be one ingress and one egress.

Commissioner Brummette noted that there will be just 15 feet of space behind parked vehicles, that people backing up will interrupt traffic flow on the site. He noted concerns with crankcase oil in the run-off. He was advised the retention pond will be capable of holding 9725 cubic feet. He suggested the use of crushed asphalt but was told that ordinance does not permit it. He also suggested curbing to direct exiting cars to turn right. Mr. Roberts said that MDOT will decide about directional turns.

Vice Chairman Rosier addressed a controversial power plant project and the community's response. He asked whether Dairy Queen would be open 12 months and was told the plan was to be open 9 months but there are no set opening and closing dates. Mr. Rosier asked if there would be gates on the driveways when the Dairy Queen was closed and was told there would not be and that this had not be a problem in the past. Mr. Rosier mentioned the problem of cruising and a restaurant being a turn-around place. He said the retention pond was a problem and questioned how the project would affect property values. He said kids would be in the rear parking lot.

Commissioner Burmnette noted that the customer based dictates hours and wondered whether indoor seating would affect dates the Dairy Queen was open. Mr. Roberts said it is possible Dairy Queen would be open longer but did not foresee being open 12 months.

Commissioner Bly asked how much seating was planned. Mr. Roberts said the capacity was 36 patrons which is smaller than a conventional restaurant.

Commissioner Snyder asked how many residents would be affected by the project. Mr. Roberts said he did not know. Ms. Snyder commented on large mosquitos called gallinippers. Mr. Roberts said he uses a pest control service. Ms. Snyder noted the curb cuts and trucks speeding.

Chris Laverty said a meeting between residents and Mr. Roberts had been scheduled with the assistance of the City but was cancelled when a lawsuit was mentioned. He questioned whether Dairy Queen was a restaurant since it was not serving food. Several commissioners called attention to the food items Dairy Queen serves. Mr. Laverty said the City Council had violated the law.

Michelle Shumaker said the retention pond will not remain wet long enough to permit mosquitos to breed but the issue can be addressed if it occurs.

Lee Howser noted the problems associated with teenagers and parking lots and problems with drug dealers and mosquitos.

Sandy Osborn noted the Taco Bell restaurant was required to comply with access management standards.

Floyd Burley related an incident involving a semi-tractor trailer rig that jackknifed in the vicinity of Dairy Queen.

DISCUSSION – DAIRY QUEEN, 407/415 S. COCHRAN AVE. SITE PLAN REVIEW:

Commissioner Brummette said that everything in the site plan conforms with ordinances and rules and the Commission's hands are tied as long as the building can be built per the law. He said he wants to see business thrive.

Commissioner Harag said the site plan should be approved as long as it meets the requirements.

Commissioner Hoy commented on the ingress and egress and the retention pond. He asked about closing off the rear parking lot. Mr. Roberts said this is currently done and the parking lots are not plowed during most of the winter.

Commissioner Snyder said she would like to see what the restaurant looks like and would like it to look more like the neighborhood. She asked if a freestanding sign was planned was told it was.

Commissioner Bly asked if an underground stormwater retention system was feasible and was told it was not economically feasible. He asked about making the fencing higher.

Kathleen Miyasato said the fence needs to be 8 or 10 feet high. Mr. Roberts said he could make the fence 8 feet high.

Commissioner Brummette spoke concerning aesthetics and fit and finish to make the development fit with the neighborhood.

Vice Chairman Rosier said environmental people will want to take a look at this. He said the commission needs to know what MDOT thinks.

Sandy Osborn spoke concerning variances from the setback provisions of the zoning ordinance.

Commissioner Burmmette asked about getting input from the City Attorney.

City Manager Guetschow addressed the Commission regarding the City Attorney's conclusions that the access management standards

could not be enforced. He also spoke concerning setbacks and answered questions regarding stormwater management.

Commissioner Snyder asked if the Planning Commission can ask for a reduction in curb cuts. Mr. Myrkle said that in the absence of standards in the ordinance the commission could rely on the Department of Transportation.

Chris Lavery asked when demolition would commence. He said he does not like the idea of a white vinyl fence and would like a field stone wall instead.

Lee Howser said that he felt sorry for the Planning Commission having to work without clear standards.

Sandy Osborn and Brett Roberts engaged in a discussion about the number of parcels. Mr. Roberts said there would be no alterations to the existing garage and that the front building will comply with setback provisions.

Commissioner Brummette asked about the continuance of nonconforming structures and was advised that the zoning ordinance permits them to remain.

There being no further business, Commissioner Hoy, supported by Commissioner Brummette, moved to adjourn at 9:25 p.m.

Gregg Guetschow, Recording Secretary