

**CITY OF LAPEER
MINUTES OF A REGULAR
PLANNING COMMISSION MEETING
APRIL 10, 2014**

A regular meeting of the City of Lapeer Planning Commission was held in the Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Thursday, April 10, 2014 at 6:30 p.m.

Members Present: Chairman Joe Black, Vice Chairman Bill Sprague, Commissioner Dale Kerbyson, Commissioner Dave Sommerville, Commissioner Anne Shenck, Commissioner Jennell RaCosta, Commissioner Mike Robinet and Commissioner Jennifer Hubbell.

Members Absent: Commissioner Ed Jamison.

Also Present: Ms. Linda Jackman, Planning Director, Mr. Brent Bajdek, Planning Administrator, Mr. Darryl Oliver, Building Official, and Ms. Pam Reid, Director of Public Works.

Chairman Black called the meeting to order at 6:30 p.m.

MINUTES

It was moved by Commissioner Sprague and supported by Commissioner Robinet to approve the minutes of the regular meeting held on March 13, 2014 as presented. **MOTION CARRIED.**

Correction to October 10, 2013 Meeting Minutes

It was moved by Commissioner Kerbyson and supported by Commissioner Robinet to correct the minutes of the regular meeting held on October 10, 2013 to list Commissioner Jennifer Hubbell as absent in the motion denying the Special Land Use request from Medstar Ambulance to operate a 24-hour station at 1239 Barry Drive. **MOTION CARRIED.**

PUBLIC COMMENTS

There were no public comments at this time.

PUBLIC HEARINGS TO BE SCHEDULED

There were no public hearings to be scheduled.

PUBLIC HEARINGS SCHEDULED

Medstar Ambulance – 1239 Barry Drive – Special Land Use – 24-Hour Station

Ms. Jackman reviewed the request from Medstar Ambulance to operate a 24-hour ambulance station at the existing single family residence located at 1239 Barry Drive. Ms. Jackman reviewed the site location, the zoning map of the area, an aerial photo of the area, a site sketch provided by the applicant and stated the applicant proposes to utilize the property for sleeping quarters for crews and onsite parking of ambulances. Ms. Jackman reported the property is zoned OS-1 Office Service, is owned by McLaren Lapeer Region Hospital and that ambulance stations are not listed as a principal permitted use or a use permitted by Special Land Use approval in any of the City zoning districts.

Ms. Jackman stated that if the station were located on the McLaren Lapeer Region Hospital parcel the use would be considered permitted as an accessory use to the hospital operation, that the Medstar operation is on a separate parcel from the hospital and can be considered a other use similar to health and human care uses that are allowable pursuant to Article 7.06 of the zoning ordinance. Ms. Jackman reviewed other uses permitted in the OS-1 Office Service District including principal uses permitted and uses permitted by Special Land Use. Ms. Jackman stated it was the Planning Department's position that the proposed use would be able to meet the requirements of other similar uses permitted pursuant to 7.13.11.

Ms. Jackman reviewed the description of the operation provided in the Special Land Use application stating dispatching and fleet maintenance would occur at the Clinton Township location, that crews consist of two individuals, that two ambulances would be on site, that the crew's personal vehicles would be parked in the hospital lot, that ambulance engines would remain off while parked at the station, that no flashing lights or sirens would be used on Barry Drive and back-up alarms would be manually disabled when backing into the driveway. Ms. Jackman reported the operation was originally set up without the proper approvals and that after the applicant was contacted the process to bring the operation into compliance began.

Ms. Jackman stated the request from Medstar for a Special Land Use was considered and denied by the Planning Commission on October 10, 2013 and that the Zoning Board of Appeals made a determination on October 28, 2013 to permit 24-hour ambulance stations, including sleeping quarters, as a use permitted by right in the B-2 and B-3 districts and allowed by Special Land Use in the I-1 district. Ms. Jackman reported legal action was initiated by Medstar Ambulance and McLaren Lapeer Region Hospital against the Planning Commission and Zoning Board of Appeals decisions, that the court allowed Medstar to continue operating at the site while the matter was in litigation and that on February 25, 2014 a Court Order was issued requiring the matter be sent back to the Planning Commission for a "de novo hearing and determination" which requires the process to start over from the beginning and that the City Attorney has advised the Zoning Board of Appeals decision is therefore invalid.

Ms. Jackman stated the Planning Department has determined the Medstar operation will be able to meet the other similar uses requirements of Article 7.13.11 and recommends approval of the request with conditions.

Discussion was held regarding ownership of the Medstar Ambulance operation, other uses allowed in the OS-1 district and the 24-hour operation of the ambulance station.

Chairman Black opened the public hearing at 6:44 p.m.

Ms. Maureen Murray, 1217 Barry Drive, was present and stated she thought the request was not approved because it was a 24-hour business, asked if this means Medstar gets a do over, that she doesn't understand, that the request went through the proper protocols and that she wishes she got a do over every time she didn't like what she heard.

Mr. Robert Murray, 1217 Barry Drive, was present and stated that McLaren owns 50% of the Medstar operation, that he was told on the 22nd day after they were ordered to leave that they didn't have anywhere to go, that Medstar has a station at M-21 and Saginaw Street, that he doesn't understand why Medstar needs to be located at the Barry Drive site, that it is a

residential area, that he lives there, that it is a neighborhood he has raised his children in and plans to retire in and stay in for the rest of his life. Mr. Murray stated he doesn't feel everyone he has dealt with has been completely honest, that the City told him to contact the City Attorney for information, that the City Attorney would not give him any information, that he has not been able to get any information about this and that he doesn't understand why the issue is here when it has already been denied twice.

Mr. Russ Ethridge, lawyer for Medstar, was present and stated he understands the transition is difficult for everyone and reviewed the position of Medstar and the reasons the litigation was initiated stating the OS-1 district permits off street parking, that helicopters and ambulances are going to the hospital site 24 hours a day, that other 24-hour operations such as nursing homes are allowed in OS-1 districts, that the site is a contiguous piece of property to the hospital site since the property boundary goes to the middle of the street, that to deny the request is arbitrary and capricious and the courts have said it is not a proper decision to deny the request. Mr. Ethridge stated the patient interest in having the Medstar operation in close proximity to the hospital is paramount, that it is a very low key operation, that due to the contiguous zoning a special land use is not required, that Medstar is sensitive to the communities in which they operate and want to accommodate the Murray's concerns.

Mr. John Lengemann, lawyer for McLaren Lapeer Region Hospital, was present and reviewed other 24-hour uses permitted in the OS-1 district that could have ambulances going in and out and stated Medstar and the hospital have done everything they can do to accommodate the concerns of the neighborhood so there are no sirens, flashing lights or running engines. Mr. Lengemann stated the operation is really two people sitting in a house which should not be a disturbance to the lifestyle of the people in the neighborhood.

Mr. Nathan Muir, 4427 Longview Drive, stated he is the son in law to the Murray's and father to the grandkids that play in the yard at 1217 Barry Drive, that Medstar has not respected the decisions that have been made, they have not respected the process to be followed, that they pushed their way in and that they are a huge business which has allowed them to get the issue back on the floor again. Mr. Muir asked at what point are they stopped and the neighborhood feel maintained and if should they be allowed to continue down to M-24. Mr. Muir stated that the ambulances sit in the yard and are an eyesore, that if someone tries to sell their home buyers will see the ambulances and it will not help the neighborhood feel. Mr. Muir stated it is sad and frustrating and asked at what point are we old Lapeer, a neighborhood of friends and family that supports local businesses and respects and upholds the decisions of the Planning Commission and Zoning Board of Appeals.

Mr. Larry Muir, 1193 Hadley Road, was present and stated he owns a funeral home on S. Main Street, he respects zoning, that his father fought for 10 years to build the funeral home in the City of Lapeer and was not able to, that it was all political, that zoning should work, that the hospital owns more than 50% of the property in the area and controls the value of the homes that are being sold in the area. Mr. Muir stated the comparison to nursing homes is irrelevant since ambulances coming into nursing homes are very quiet.

There being no further comments, the public hearing was closed at 6:55 p.m.

Discussion was held regarding site restrictions to be met during the site plan review process, buffering requirements, requiring approval of the request be contingent upon compliance with all site plan review requirements, special land use conditions required for specific uses listed in the OS-1 district and ownership of the Medstar operation and the subject property. Discussion was also held regarding previous discussions on expanding the OS-1 area around the hospital for uses ancillary to the hospital during the new Master Plan development process, the fact 3.6% of the City is dedicated to office uses, that the hospital was built before the homes, that persons buying a home near a hospital should expect to see activity and hear ambulances and helicopters and whether or not the restrictions on the parcel would change if it was attached to the main hospital parcel.

Further discussion was held regarding whether or not dispatching services will be conducted at the site, the existing large buffer zones around the hospital and Cancer Center, the lack of buffer area at the subject site, guidelines in the Master Plan to protect neighborhoods while attracting business and keeping the neighborhood feel, the fact some residents have been in the area a very long time and that the issue is the expansion of the hospital's operations. Discussion was held regarding buffering requirements for the subject site and the ability of the Planning Commission to require additional buffering in order to approve the Special Land Use.

Discussion was also held on the fact the ambulance service is a new issue to the neighborhood, that the neighborhood needs to be taken into consideration, the affect to property values of the hospital and homes in the area and the need for the hospital and neighbors to be friendly with each other. Discussion was held regarding the fact it behooves the City to keep control of the operation by approving the Special Land Use rather than denying the request and losing control through future litigation, the ability of the Planning Commission to reserve the right to make the buffering requirements more stringent, the fact having property zoned OS-1 generally gives property owners more options for growing their property values and what the patient benefit is by having Medstar located so close to the hospital.

The following correspondence was received regarding the request:

April 10, 2014

Lapeer City Hall
William J. Sprague, Mayor
Mike Robinet
Elaine Gates
Catherine Bostick-Tullius
John Lyons
A. Wayne Bennett

Mayor Sprague/City Commissioners:

My family has an interest in the situation with the ambulance base opened in a residential house on Barry Drive. We own a house on Barry Drive and also on Ru Lane Drive.

Reading through the happenings, it appears that both the City Planning and Zoning commissions issued cease and desist orders for Medstar to cease the ambulance service operations. Medstar & McClaren appeared to have ignored both orders, and found a judge who issued an order allowing Medstar to continue operating, until a hearing that took place in February 2014.

At that time it was decided to restart the process again.

What process is what we would like to know. The ambulance service seems to have been set up and ran without permits in a residential zoned area. Does that require a process?

If the ambulance service is told to stop, is it okay that they ignore this order?

All of we residents that live in the area all purchased property in a residential zoned district. We did, and had no reason to believe that this would change? Why is there even a process going on?

Do all residential owned properties in Lapeer have to worry that this same thing might occur at anytime a big business wants to move it?

This ambulance service will definitely cause a decrease in the value of our property.

I cannot see how this is fair to anyone involved. I would love for it to be explained to us.

I appeal to you to do the right thing, the fair thing and require Medstar to stop, as you told them once.

If an ambulance service is needed, there are plenty of spots zoned correctly that would work.

Thank you-
Tim Peterson

3-30-2014

To members of the Lapeer Planning Commission:

I am writing to strongly object to having an ambulance station set up at 1239 Barry Drive.

I believe that this station would significantly reduce the value of my house at 1211 Barry Drive, by thousands of dollars. This station proposal is unfair to all of the citizens and property owners on Barry Drive and Adams Street.

When this proposal was turned down before, ambulances still continued to be parked in the driveway.

I am wondering why this station could not be built on the cancer hospital site?

They have a very large parking lot, and rarely do they seem to have more than five cars in this lot.

Again, I am against this proposal and I encourage the Planning Commission to not allow this to go forward.

Thank you.

David A. Peterson

After discussion it was moved by Commissioner Kerbyson and supported by Commissioner Sprague to approve the request from Medstar Ambulance for approval of a Special Land Use in order for the existing building located at 1239 Barry Drive to be used as a 24-hour station to house ambulance crews and for parking of ambulances contingent upon Medstar adhering to the information presented in their original application as follows:

- No more than 2 ambulances parked in the driveway;
- Crew's personal vehicles to be parked in hospital parking lot only;
- Ambulance engines will remain off while parked at the station;
- No flashing lights or sirens to be used on Barry Drive;
- Backup alarms to be manually disabled when backing into driveway; and
- To increase the buffering requirements for the site to protect the neighborhood feel of the area.

ON A ROLL CALL VOTE:

Yeas: Commissioners Hubbell, Robinet, Kerbyson, Sprague and Sommerville.

Nays: Commissioners RaCosta, Black and Shenck.

Abstain: None.

Absent: Commissioner Jamison.

MOTION CARRIED.

Kathryn Smith / K's Auto & Truck Service – Special Land Use – 350/352 County Center

Ms. Jackman reviewed the request received from Kathryn Smith of K's Auto & Truck Service for approval of a Special Land Use to allow a minor auto repair business to temporarily operate at the existing building located at 350/352 County Center. Ms. Jackman reviewed the site location, I-1 Industrial zoning designation, site diagram and zoning map of the area. Ms. Jackman reported minor auto repair shops are not permitted by right in the I-1 district, are allowed in the B-2 district and that major auto repair shops are allowed in I-1 district when completely enclosed.

Ms. Jackman stated the use is proposed as temporary until K's Auto & Truck Service's other site in Mayfield Township recently destroyed by fire is rebuilt, that the use falls within the other similar uses category of Section 7.13.11 and that the zoning permit process has been waived due to the temporary nature of the requested use. Ms. Jackman stated a time limit on the temporary use should be set and the Building Department requirements will also need to be met.

Chairman Black opened the public hearing at 7:34 p.m.

Ms. Kathryn Smith of K's Auto & Truck Service, 2234 Scott Rd., North Branch, was present and stated cars will not be parked in the lot, that all cars will be kept inside the building and that 6 months is the longest time that should be needed to rebuild at her other location.

There being no further comments, the public hearing was closed at 7:35 p.m.

It was moved by Commissioner Kerbyson and supported by Commissioner Sommerville to approve the request from Kathryn Smith of Kay's Auto & Truck Service for approval of a Special Land Use in order to temporarily operate a minor auto repair business at the existing building located at 350/352 County Center contingent upon:

- A one (1) year time limit on the approval; and
- Verification by City Building Department of compliance with any applicable Building Code requirements.

MOTION CARRIED.

Richardson – Special Land Use – Pet Crematorium – 357 Howard Street

Ms. Jackman reviewed the request from Julie Richardson for a Special Land Use approval in order to allow a pet crematorium (cremation/incineration) at 357 Howard Street. Ms. Jackman reviewed the site location, the I-1 zoning of the site which is located in the Mixed Use Overlay District, the site diagram and stated the pet crematorium will occupy 1,000 sq. ft. of the 6,000 sq. ft. existing building with a pre-fabricated cremation chamber. Ms. Jackman stated an upholstery business currently operates in the other area of the building which includes outdoor vehicle storage, that the crematorium use is not listed in the zoning ordinance as a use permitted by right or by special land use and that the proposed use can be considered as a other use similar to the incineration of garbage or refuse when within an approved and enclosed incinerator plant permitted in the I-1 district.

Ms. Jackman reported the applicant has indicated there will be no set hours of operation, that the facility will be used on an as-needed basis, that there will be no drop-offs, that they will work with area veterinarian offices, that the cremation chamber is already on-site and some operation may have occurred. Ms. Jackman stated the applicant will be required to meet all Building Code requirements, complete the City Zoning Permit process and obtain an Air Emissions Permit through the Michigan Department of Environmental Quality – Air Quality Division.

Chairman Black opened the public hearing at 7:42 p.m.

Discussion was held regarding the emissions information provided by the applicant which does not include concentrations, concerns with various chemicals to be emitted including Sulfur Dioxide and Nitrogen Oxide, the process to be followed by the Michigan Department of Environmental Quality when considering the Air Emissions Permit, potential odors, ownership of the crematorium and whether or not the crematorium chamber has been in operation.

Mr. David Richardson stated the cremation chamber has been in use, that they interpreted the violation as related to construction issues and no construction has proceeded.

There being no further comments, the public hearing was closed at 7:48 p.m.

It was moved by Commissioner Robinet and supported by Commissioner Sommerville to approve the request from Julie Richardson for approval of a Special Land Use in order to allow a pet crematorium (cremation/incineration) to operate in a portion of the existing building located at 357 Howard Street contingent upon:

- Obtainment of an Air Emissions Permit from the Michigan Department of Environmental Quality – Air Quality Division with a copy of said permit provided to the City;
- Completion of required building related improvements; and
- Approval of a Planning Department Zoning Permit.

Yeas: Commissioners Robinet, Sommerville, RaCosta, Hubbell, Black and Sprague.

Nays: Commissioners Kerbyson and Shenck.

Abstain: None.

Absent: Commissioner Jamison.

MOTION CARRIED.

City Master Plan – 5 Year Update – Resolution of Adoption

Ms. Jackman reviewed the status of the required distribution process and comment period for the updated City Master Plan, highlighted various changes and updates made to the Plan and stated that the Master Plan is required to be reviewed in five years, however, can be revisited at anytime if needed.

Commissioner Black opened the public hearing at 7:52 p.m.

There being no comments, the public hearing was closed.

It was moved by Commissioner Sprague and supported by Commissioner Sommerville to approve the Resolution of Adoption of the 2014 update to the 2008 City of Lapeer Master Plan including all maps and documents included in the document so titled. **MOTION CARRIED.**

Special CIP Meeting

After discussion, it was moved by Commissioner Sommerville and supported by Commissioner RaCosta to schedule a special meeting for 6:30 p.m. on April 24, 2014 to consider the 2014-2020 City of Lapeer Capital Improvement Program. **MOTION CARRIED.**

ADJOURNMENT

There being no further business, it was moved by Commissioner Kerbyson and supported by Commissioner Sommerville to adjourn the meeting at 7.55 p.m.

Mr. Dale Kerbyson
Secretary