CITY OF MASON

201 West Ash St.
Mason, MI 48854-0370

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PLANNING COMMISSION MEETING - COUNCIL CHAMBER
Tuesday, December 10, 2013

6:30 p.m.

Agenda

1. Call to Order
2. Roll Call
3. Approval of Minutes: November 12, 2013
4. People from the Floor
5. Announcements
   - Planning Commission Special Meeting – December 19, 2013
6. Regular Business
   A. Discussion – Used Vehicle Sales at Auto Body Repair Shops Throughout the Community
7. Unfinished Business
8. New Business
9. Correspondence
   - Planning & Zoning News, October 2013
   - Jettie Feintuch email, November 12, 2013
   - Zoning Administrator's response letter to Jettie Feintuch, December 6, 2013
10. Liaison Reports
11. Director Report
12. Administrator Report
13. Adjournment

CITY OF MASON
PLANNING COMMISSION MEETING
MINUTES OF NOVEMBER 12, 2013

Reeser called the meeting to order at 6:30 p.m. in the Council Chambers at 201 W. Ash Street, Mason, Michigan.

Present: Commissioners: Barna, Green, Naeyaert, Reeser, Sabbadin, Trotter, Waxman, Waltz
Absent: Commissioner: King (excused)
Also present: Martin A. Colburn, City Administrator
David Haywood, Zoning & Development Director
Deborah J. Cwiertniewicz, City Clerk

APPROVAL OF MINUTES: Regular Meeting Minutes of October 15, 2013
The Regular Meeting Minutes of October 15, 2013, were approved as presented.

PEOPLE FROM THE FLOOR
None.

ANNOUNCEMENTS
- Light Parade and Fireworks – November 29, 2013

PUBLIC HEARING
Amendment of Section 94-151 of Chapter 94 – Zoning – of the Code of the City of Mason to Amend Subsection (D) to Add a New Subsection (4) to Permit the Sale of Repaired, Used Vehicles, by Special Use Permit as an Accessory Use to a Body and Paint Shop for Automobiles and Other Vehicles
Reeser opened the public hearing at 6:32 p.m.

Stan Jordan of 310 East Sycamore Street stated support for amending Mason Code, Chapter 94 – Zoning, Section 94-151.

Being there were no further comments, Reeser closed the public hearing at 6:33 p.m.

Resolution No. 2013-11 – A Resolution Recommending that the City Council Adopt Ordinance No. 195 – An Ordinance to Amend Section 94-151 of Chapter 94 – Zoning – of the Code of the City of Mason to Amend Subsection (D) to Add a New Subsection (4) to Permit the Sale of Repaired, Used Vehicles, by Special Use Permit as an Accessory Use to a Body and Paint Shop for Automobiles and Other Vehicles

MOTION by Waltz, second by Naeyaert,
to consider Resolution No. 2013-11 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-11 was introduced by Waltz and seconded by Naeyaert.

Discussion ensued regarding annual fees for special use permits, whether the privacy fence requirement should be included, and to eliminate the language that would prohibit "off-premises" advertising.

Mr. Lee Klein, President of JME Consultants Inc., stated he was representing the applicant, Darrell Benedict, who was also present to answer questions, if needed. He spoke regarding the amendment Mr. Benedict is proposing for the M-1 District.

MOTION by Waltz, second by Naeyaert,
to amend Resolution No. 2013-11 to accept the city attorney's edited version by striking the language requiring an annual Special Use Permit renewal fee, striking the requirement for a privacy fence, and, strike the advertising language.
Yes (7) Green, Naeyaert, Reeser, Sabbadin, Trotter, Waxman, Waltz
No (1) Barna
Absent (1) King
MOTION APPROVED

CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2013-11
A RESOLUTION RECOMMENDING THAT THE CITY COUNCIL ADOPT ORDINANCE NO. 195 – AN ORDINANCE TO AMEND SECTION 94-151 OF CHAPTER 94 – ZONING – OF THE CODE OF THE CITY OF MASON TO AMEND SUBSECTION (d) TO ADD A NEW SUBSECTION (4) TO PERMIT THE SALE OF REPAIRED, USED VEHICLES, BY SPECIAL USE PERMIT AS AN ACCESSORY USE TO A BODY AND PAINT SHOP FOR AUTOMOBILES AND OTHER VEHICLES
November 12, 2013

WHEREAS, Darrel Benedict of Benedict Auto Body has submitted a petition to amend the Mason Zoning Ordinance to amend the M-1 (Light Manufacturing) zoning district to permit the sale of used vehicles by special use permit as an accessory use to a body shop; and

WHEREAS, the Planning Commission recommends that the City Council amend Ordinance No. 195 to include the recommendations from the City Attorney described in his memorandum of September 16, 2013 as shown in his edited ordinance attached thereto; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by striking subsection 94-151(d)(4)f; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by accepting the City Attorney's edits as shown in his memorandum dated September 16, 2013; and

WHEREAS, the Planning Commission further recommends that the City Council amend Ordinance No. 195 by recommendation of the City Attorney by striking subsections 94-151(d)(4)l and m; and

WHEREAS, the Planning Commission finds that proposed Ordinance No. 195, including the amendments recommended herein, is consistent with the Section 94-396(a) and offers the following as findings of fact:

1. Compliance with the Master Plan of the city. The proposed amendment supports Objectives #2, 3, 4, 5, and 7 of the Industrial Development Goals of listed in Chapter Two, Planning Issues, Goals and Objectives, of the Mason Master Plan.

The proposed amendment does not significantly strengthen the position of industrial in the vicinity of the Elevator Site listed in the Industrial Areas component of the Future Land Use strategy of Chapter Three, Future Land Use Strategy, to the extent that it undermines or adversely affects the adjacent commercial center and adjacent residential neighborhoods.

The proposed amendment supports strategy #1 of the Industrial Development Implementation Strategy component of Chapter Four, Implementation Strategy, of the Mason Master Plan, in that it provides a new opportunity for local industrial business expansion.

2. What, if any, identifiable conditions related to the proposed amendment have changed which justify the proposed amendment? There does not appear to be any changes in the vicinity.

3. What, if any, error in judgment, procedure or administration was made in the original chapter which justifies the petitioner's change in zoning? There is no known error of this sort.

4. What are the precedents and the possible effects of such precedent which might result from the approval or denial of the petition? The precedents and possible effects might be additional vehicles, limited to 18 per year, on site in various states of repair. However, the proposed amendment proposes to shield any visual affect via fencing from casual view. The effect will be negligible compared to the current activity related to auto repair facilities.

5. What is the impact of the amendment on the ability of the city and other governmental agencies to provide adequate public services and facilities, and/or programs that might reasonably be required in the future if the petition is approved? There appears to be no impact of this type. The site is currently served with the necessary public utilities.

6. Does the proposed amendment adversely affect the value of the surrounding property? The proposed amendment will not adversely affect the value of the surrounding property.

7. Are there any significant environmental impacts which would reasonably occur if the petitioned zoning change and resulting allowed structures were built? There are no known environmental impacts associated with the proposed amendment.

8. The ability of the property in question to be put to a reasonable economic use in the zoning district in which it is presently located. There is no proposed change in zoning district. The only proposed change is a limited expanded use; and

WHEREAS, the Planning Commission did properly notice and conduct a public hearing on the proposed amendment at its regular meeting held November 12, 2013.

NOW THEREFORE BE IT RESOLVED, that the city of mason planning commission does hereby recommend that the city council adopt ordinance no. 195 – an ordinance to amend section 94-151 of chapter 94 – zoning – of the code of the city of mason to amend subsection (d) to add a new subsection (4) to permit the sale of repaired, used vehicles, by special use permit as an accessory use to a body and paint shop for automobiles and other vehicles

RESOLUTION APPROVED UNANIMOUSLY

REGULAR BUSINESS

Resolution No. 2013-12 – A Resolution Approving a Final Site Plan to Permit the Operation of a Bed and Breakfast at 604 South Barnes Street

MOTION by Naeyaert, second by Waxman,
to consider Resolution No. 2013-12 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-12 was introduced by Naeyaert and seconded by Waltz.

CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2013-12
A RESOLUTION APPROVING A FINAL SITE PLAN TO PERMIT THE OPERATION OF A BED AND BREAKFAST AT 604 SOUTH BARNES STREET
November 12, 2013

WHEREAS, a request has been received from Jettie Feintuch, for final site plan and approval to be allowed to operate a bed and breakfast at 604 South Barnes Street; and

WHEREAS, the subject property is further described as: Lots 5 & 6, Block 25, Sec 9 T2N R1W, City of Mason, Ingham Co; and

WHEREAS, upon compliance with the conditions listed herein, the plans will comply with the site plan review standards listed in Section 94-227 of the Mason Code; and

THEREFORE BE IT RESOLVED, that the Mason Planning Commission does hereby approve a final site plan for a bed and breakfast on property located at 604 South Barnes Street based on the site plan dated August 21, 2013.

RESOLUTION APPROVED UNANIMOUSLY

Resolution No. 2013-13 – A Resolution Approving a Preliminary and Final Site Plan for the Expansion of a Commercial Structure at 309 North Street

MOTION by Naeyaert, second by Waxman,
to consider Resolution No. 2013-13 read.
MOTION APPROVED UNANIMOUSLY

Resolution No. 2013-13 was introduced by Waltz and seconded by Naeyaert.

CITY OF MASON
PLANNING COMMISSION RESOLUTION NO. 2013-13

A RESOLUTION APPROVING A PRELIMINARY AND FINAL SITE PLAN FOR THE EXPANSION OF A COMMERCIAL STRUCTURE AT 309 NORTH STREET

November 12, 2013

WHEREAS, a request has been received from Jeff Taylor for a concurrent preliminary and final site plan approval to be allowed to construct an addition to the existing commercial building at 309 North Street for the purpose of providing rental service and storage of rental equipment; and

WHEREAS, upon compliance with the conditions listed herein, the plans will comply with the site plan review standards listed in Section 94-227; and

WHEREAS, approval is granted with the following general conditions:

1) Future site and exterior structure lighting shall be consistent with Section 94-293(e) of the Zoning Ordinance. All light sources shall be shielded from direct view, and

2) This site plan approval does not permit the applicant to use the property adjacent to the south as a means of access to the site. Any future easements or agreements for site access from this direction shall be brought to the Zoning Administrator for review and approval, and

3) Future signage shall comply with the regulations listed for signs in Chapter 58 of the Mason Code, and

NOW THEREFORE BE IT RESOLVED, that the Mason Planning Commission does hereby approve a preliminary and final site plan to construct a new commercial structure on property located at 309 North Street based on the site plan received November 12, 2013.

RESOLUTION APPROVED UNANIMOUSLY

Discussion – Used Vehicle Sales as an Accessory Use to Auto Body Shops

Staff was requested to provide information regarding the implications of Ordinance No. 195 involving auto sales as an accessory use to auto body repair shops, to analyze the impact of allowing used vehicle sales as an accessory use to auto body shops in other zoning districts in the City

A brief discussion ensued. It was the consensus of the Commission to request Mr. Haywood to elaborate further on the memorandum he provided by evaluating the different zoning districts involved, the current uses allowed, and what the allowed uses would be under a special use permit.

UNFINISHED BUSINESS

None.

NEW BUSINESS

None.

CORRESPONDENCE
Distributed.

LIAISON REPORTS
Naeyaert informed commissioners regarding current City Council business.

DIRECTOR REPORT
Haywood informed the Commission regarding current zoning and development business.

Waltz reported on the Mason – Holt – Lansing Non-Motorized Trial Workshop he attended.

ADMINISTRATOR'S REPORT
Colburn informed the Commission regarding current City business.

ADJOURNMENT
The meeting adjourned at 7:42 p.m.

Deborah J. Cwiertniewicz, City Clerk

Jim King, Secretary

City of Mason

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MEMORANDUM

TO: Planning Commission

FROM: David E. Haywood, Zoning & Development Director

RE: Discussion - Used Vehicle Sales as an Accessory Use to Auto Body Shops

DATE: December 6, 2013

ISSUE

This discussion was introduced at the November, 2013, Planning Commission meeting as a result of the discussions around Ordinance No. 195 involving auto sales as an accessory use to an auto body repair shop. The ordinance was adopted on November 18, 2013 and becomes effective December 9, 2013. The issue is: what are the ramifications of allowances of similar uses in other zoning districts?

BACKGROUND

Staff was able to identify five known body shops within the city limits, which was reported in November. The table below shows the number of auto body shops in each respective zoning district and whether used vehicle sales are permitted in the zoning district. It has been updated from the November meeting and now accurately reflects the zoning districts in question:

Zoning District	Number of Businesses	Auto Body Shop Permitted	Vehicle Sales Permitted
C-1 (Central Business)	1	N	N
C-2 (General Commercial)	2	Y	Y (SUP)
M-1 (Light Manufacturing)	1	Y	Y (SUP)
M-2 (General Manufacturing)	1	Y	N

At the November meeting, the goal was to introduce the issue and begin to identify the key issues, which to date are the following:

- Analysis of total number of auto body shops and their respective zoning district
- The intent of each zoning district in which an auto body shop is located
- Whether vehicle sales are permitted in the respective zoning district

- Nonconforming uses – auto body shops located in zoning that does not permit them
- Which zoning districts allow auto body shops, but not vehicle sales
- Master Plan development goals for each respective land use category in question

Please refer to the Mason Zoning Map for current boundaries of the zoning districts listed above.

The following is the intent and purpose for the C-1, C-2, M-1 and M-2 zoning districts as listed in the Mason Zoning Ordinance:

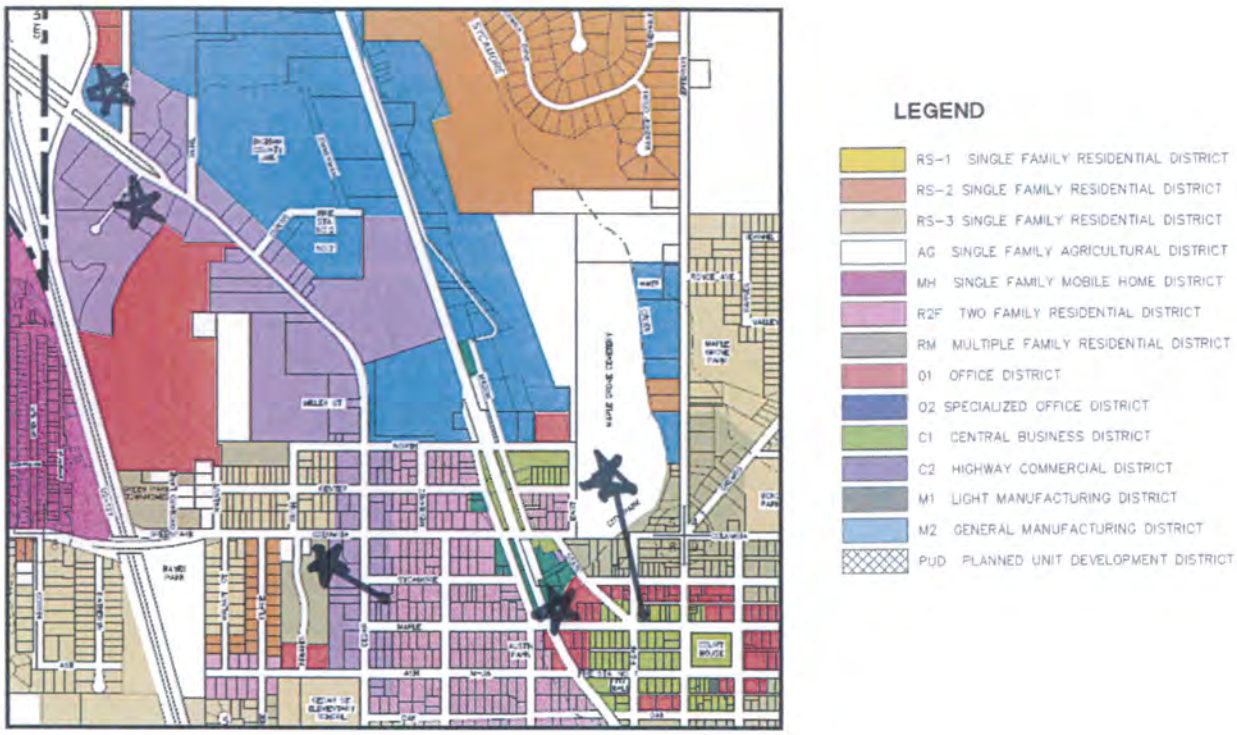
C-1 (Central Business) – "It is the primary purpose of this district to provide opportunities for business establishments in the area generally referred to as the Downtown Center in the city master plan that address the local day-to-day office, retail, and service needs of residents of, and visitors to, the city. It is the intent of this district to prohibit uses that draw from a regional population causing excessive traffic levels or that may otherwise undermine the intended function and character of the historic business area of the city."

C-2 (General Business) – "It is the primary purpose of this district to provide opportunities for business establishments that address the retail and service needs of both local and regional populations, including the highway traveler and uses that draw from a regional market or which uniquely benefit from close proximity to the US-127 interchanges."

M-1 (Light Manufacturing) – "It is the purpose of this district to provide opportunities for a variety of industrial activities that can be generally characterized as being of low intensity, including the absence of objectionable external affects such as noise, fumes, vibrations, odors and traffic patterns, and resulting in limited demands for additional public services. Manufacturing operations in this district are generally intended to utilize previously prepared materials as opposed to the use, alteration, or manipulation of raw materials."

M-2 (General Manufacturing) – "It is the primary purpose of this district to provide opportunities for a variety of industrial activities, including assembly, packaging, fabrication, processing, compounding, and manufacturing processes that rely on raw materials or previously prepared materials."

The following is an excerpt of the Mason Zoning Map showing the location of the five body shops in the City, each represented by a star:



CONSIDERATIONS

Considering that Ordinance No. 195 was adopted and the fact that vehicle sales is a permitted land use in the C-2 district and as an accessory use to a body shop in the M-1 district, there remains only two issues to explore, the appropriateness of vehicle sales in the C-1 and M-2 zoning districts. The following offers an analysis of an amendment to the two districts.

C-1 Central Business

Planning Commissioners should keep in mind that auto body repair shops are not currently a permitted land use in the C-1 district. Therefore, the body shop located in the C-1 district is considered a non-conforming use. There are several options to consider when attempting to permit vehicle sales in the C-1 district:

1. Amend zoning ordinance to permit auto body shops as a use by right or by special use permit, etc.
2. Amend zoning ordinance to permit vehicle sales as a use by right, special use, accessory use, etc.

Scenario #2 above may be a plausible way to permit an accessory use to a non-conforming use. However, this may take a legal review to determine if it's possible.

Staff has spoken with the owners of the body shop in the C-1 zoning district. They have stated that they do not intend to sell vehicles.

M-2 General Manufacturing
The M-2 district does not currently permit vehicle sales. Any easy fix to level the playing field for auto body shops is to amend the zoning ordinance to permit vehicle sales as an accessory use auto body shops, similar to Ordinance No. 195 that permitted the same in the M-1 district.

Other Issues to Consider
There are many other implications associated with such an amendment. Since the C-1 district abuts the Courthouse square, the community would need to be comfortable with, and very careful, about how this land use is permitted. The implications include, but are not limited to the following:

- Screening to adjacent residential uses
- Impact to the historic square
- Loss of opportunity for retail trade and service
- Impact on existing surrounding land values
- Compatibility with the Master Plan for the downtown planning area
- Parking space for vehicles marketed
- Signage requirements above and beyond current allowances
- Zero lot line influences on the environmental impact of space utilization in the C-1 district
- Other?

MASTER PLAN
The five existing auto body shops are located in one future land use category, commercial. Chapter Three, Future Land Use Strategy, provides a description of the desired land use patterns in the city, including commercial. The description for the Cedar Street Business Corridor found on page 3-3 supports the continued use of auto body shops.

Chapter Three of the future land use strategy also provides detailed descriptions of the intended land use pattern for subareas of each land use category, including the Downtown Center. Two of the subject auto body shops are located within the Downtown Center planning area. The description for the Downtown Center is as follows:

> "Development should be designed of such scale, architecture and amenities to preserve the Downtown Center as a historic and pedestrian-friendly commerce center. Development and redevelopment efforts should be coordinated with the desired small-town character and identity of the area, considering such features as building size and height, façade treatments, lighting, signage and related development features. **Uses should primarily address the day-to-day retail, office and entertainment needs of the local population and visitors, including restaurants.** *[emphasis added]* Opportunities for complementary institutional and civic uses compatible with

the intended character of the Downtown Center should remain. Uses that are characterized by the generation of traffic patterns that may undermine pedestrian safety should be discouraged."

RECOMMENDATION

No action is necessary at this time. The Planning Commission should be prepared to hold a discussion as to the appropriateness of permitting vehicle auto sales in the C-1 and M-2 and zoning districts.

David Haywood

From: Jettie Feintuch [masonantiques@gmail.com]
Sent: Tuesday, November 12, 2013 8:10 PM
To: David Haywood
Subject: Planning Commission Meeting 11/12/13

David,

I just left tonight's Planning Commission meeting and I am deeply troubled by the site plan approval for the addition to 309 North St. In the first application a few years ago to build the initial pole barn, the neighborhood was blanketed with meeting notices. I have received no notice of the site plan review at any of the adjacent business addresses on Mason St. nor at my primary address at 604 S. Barnes.

At the meeting itself tonight no opportunity was given to members of the public, or specifically adjacent property owners, to voice concerns about this large change to the neighborhood. There are big issues that the Commission was not made aware of and would have likely impacted their vote.

The proposed addition will occupy most of the remaining lawn at 309 North St and leave the residential house at 315 North St as the last remaining actual residence on that street and thereby destroy any value that property has as a home.

Additionally I have had SUBSTANTIAL and ONGOING problems with trespassing by the occupants and guests of 309 North St across my alleyway on the 208 Mason St land parcel since the original pole barn was erected. Police have been called several times to no avail. As indicated in the meeting, it is NOT a public right of way and as the owner of that land I guarantee there is no easement or license granting use to anyone.

More storage and thus more traffic to 309 North St. is likely to make this problem even worse. While the Commission has not specifically granted a right-of-way across my land, the effect is the same. The Commission's decision puts me at significant disadvantage and financial expense in protecting myself and the Estate from liability, from trespassers, and from potential adverse possession claims.

I object in the strongest possible terms to any change in structures or additional commercial usage of 309 North St.

Please include this letter in the official record regarding this site plan and take whatever steps are necessary to bring these issues to the next Commission meeting. Please also strongly consider an injunction letter to the 309 North St. property owner while these issues are addressed so that there is no complicating matter of construction having started before the next Planning Commission meeting.

Jeanette Feintuch
P.R. Estate of David Feintuch
Mason Antiques District

City of Mason

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December 6, 2013

Ms. Jettie Feintuch
604 South Barnes Street
Mason, MI 48854

Re: 309 North Street – Site Plan Approval

Dear Ms. Feintuch:

This letter is in response to your email of November 12, 2013 and our resulting phone conversation related to the site plan approval at 309 North Street involving the expansion of a commercial building.

As I explained to you in our phone conversation, the business was initially granted site plan approval in 2009 and a variance in early 2010. The variance triggered the neighborhood notices. Site plan reviews not involving variances do not require sending notices to the area property owners and occupants.

However, you do have standing to appeal the site plan approval for 309 North Street. Timing is critical in this case. Persons who wish to appeal must file an application (letter of appeal) to the Zoning Board of Appeals within ten days of the date the Planning Commission approves the minutes of the meeting at which the decision was made. The Planning Commission is scheduled to approve the minutes for the site plan approval at their next meeting on December 10, 2013. **Therefore, the due date for your appeal application is December 20, 2013.**

Enclosed is an application for appeal for your convenience. The same is available on our website at www.mason.mi.us.

Should you have any questions or concerns, please do not hesitate to call me.

Sincerely,

David E. Haywood
Zoning & Development Director

Enclosure