

**KENT PLANNING COMMISSION
REGULAR BUSINESS MEETING
September 2, 2008**

MEMBERS PRESENT: **Bill Anderson
Sean Kaine
John Thomas
Jenny Arthur**

EXCUSED MEMBER: **Dave Wise**

STAFF PRESENT: **Gary Locke, Director of Community Development
Jennifer Barone, Development Engineer
Eric Fink, Assistant Law Director
Sheila Uzl, Transcriptionist**

I. Call To Order

The meeting was called to order at 7:00 p.m.

Mr. Anderson reminded everyone in the audience to sign in and that if they did speak, they will be limited to three minutes to give their comments.

II. Roll Call:

Mr. Thomas, Mr. Kaine, Ms. Arthur and Mr. Anderson were present.

Motion: **Mr. Thomas moved to excuse the absence of Dave Wise
Ms. Arthur seconded the motion.
Motion passed 4 – 0.**

III. Reading of the Preamble

The Planning Commission operates in accordance with the provisions of the Kent City Charter, the Kent Zoning Code and Subdivision Regulations, all of which establish the powers and duties of the Commission. Members of the Planning commission are appointed by Kent City Council and serve without compensation. Certain cases such as Conditional Zoning Certificates, Special Zoning Permits, Overlay District Projects and Zoning Amendment require Public Hearings before the Planning Commission. During the Public Hearing, any person wishing to address their concerns to the Commission will be provided the opportunity. Once the Public Hearing is closed, it shall be the discretion of the Chair whether to allow any additional public comment. Cases such as Site Plan Reviews and Subdivision Projects do not require a Public Hearing. However, the Chair will allow public comment on each case as it is taken on the agenda. In each instance where the Commission receives public comments or conducts a Public Hearing, those persons wishing to address their concerns to the Commission will be required to do so under oath or positive affirmation. The oath or affirmation shall be administered to all who wish to speak at the beginning of the Planning Commission Meeting. Once a decision has been made by the Planning Commission on a case, the Case is closed for the Commission, as there is no provision to

reopen a case. With the exception of cases falling under the Subdivision Code, any decision of the Planning Commission may be appealed to the City's Board of Zoning Appeals in accordance with the Chapter 1115 of the Zoning Code. Anyone interested in appealing a decision of the Planning Commission is advised to seek private legal counsel.

IV. Administration of Oath

Mr. Fink instructed those members of the audience wishing to be heard on any of the cases presented at this meeting to rise and raise their right hand. Mr. Fink administered the Oath, "Do you solemnly swear or affirm that the testimony that you are about to give this evening is the truth, the whole truth, and nothing but the truth, so help you God? Please say "I do." The participants responded, "I do."

V. Correspondence

The Planning Commission received eight pieces of correspondence that include items from Councilman Rick Hawksley, Laura Mazur, Beth Schoonover, Councilman John Kuhar, Craig Lucas, Travis Miller, Jeff Farmer, and Kim Horner.

VI. Meeting Minutes: June 17, 2008 and July 1, 2008

Motion: Mr. Kaine moved that the Planning Commission approve the Meeting Minutes of June 17, 2008. Ms. Arthur seconded the motion. Motion passed 4 – 0

Motion: Mr. Thomas moved that the Planning Commission approve the Meeting Minutes of July 1, 2008. Ms. Arthur seconded the motion. Motion passed 4 – 0

VII. Old Business

**A. PC07-019 PORTAGE COUNTY COMMISSIONERS
121 West College Street
Site Plan Review**

The applicant is seeking Site Plan Review and Approval to permit the construction of additional parking on the property in place of the building that has been demolished. The subject property is zoned C-D: Commercial Downtown District.

Mr. Thomas recused himself from this case. Two years ago, he made very pointed references to this project so to be fair to the commission he will recuse himself.

Mr. Anderson told the applicants that there were only three members of the Planning Commission present and all would have to cast a positive vote for their application to be approved. He told the applicants they could present their proposal and make their decision later as to whether they wanted to go on.

Mark Ferguson, architect for the project, stated they were returning to the Planning Commission with an adjusted plan for landscaping. Commissioner Smeiles worked with Judge Plough to develop the current plan that would include the existing trees as well as four honey locust trees that would be salt tolerant. The number of parking spaces has been reduced to 34.

Mr. Anderson asked if there were any public comments.

Public Comment

Greg Jenkins, 853 Marilyn Drive, Kent, Ohio – was concerned about the locust trees because Locust trees have thorns and might be dangerous.

Judge John Plough stated that Charles Smeiles did show him the landscaping plan but did not have much time to look at it so it really was not presented to him. He envisioned it as a shady parking lot. He said one of the security deputies did not think the four trees would be enough. He said 30 spaces would be enough for jury service. He understood the courthouse would be moving some time shortly. He was not sure this would beautify the downtown area. He said fast growing maples might be better because they would provide more shade. He did not understand the adversity because the plan for more trees was to make Kent more beautiful rather than to have another asphalt parking area.

Mr. Anderson expressed a concern that there were too many people in the room. Since there were no further comments by the applicant, Mr. Anderson closed the public comment section.

Planning Commission Discussion/Action

Ms. Barone stated that Mr. Ferguson had explained the project as well as the additional landscaping in the parking lot. The zoning code sections that apply were listed in the staff report. The Planning Commission would have to decide if the plan was adequate.

Mr. Locke asked who would be responsible for the lot. He said if the applicant is responsible for maintaining it, they should do a better job

Mr. Fink stated that Kent's Code, Section 1167.08(e), requires the Planning Commission to consider what is adequate screening between off street parking and parking lots.

Mr. Kaine asked if this parking lot qualifies as an accessory use as stated in the Kent City Code. He had understood that there needs to be landscaping along the perimeter of the parking lot and that it would be more than just two or three trees. He asked if his letter regarding this matter had been passed along to the county commissioners.

Ms. Barone replied not to the commissioner but the architect received a copy.

Mr. Locke stated when the plan was returned to the Community Development Department this summer, it had not been changed at all so the staff went to the applicant to discuss the concerns of the commission about getting more landscaping. He said nothing specific was discussed.

Mr. Kaine stated the commission was trying to use some discretion because there would be more than one way to screen a parking lot. He said before this could be approved there would probably have to be a stipulation of a more defined solution to the landscaping. He said there should be a 10-foot wide landscape island for car overhang to act as a buffer and the existing parking. Another option would be fencing, shade trees and ground cover.

Ms. Arthur agreed with Mr. Kaine's recommendation about fencing and screening. She said there is a need for parking downtown and would be in favor of the project if the parking area was screened.

Mr. Anderson stated he thought trees were dangerous but would go along with whatever the commission decided. He said some shrubs would be nice. He asked the applicant if they wanted to go forward or table the project since there were only three commissioners at the meeting.

The applicant decided to table the project.

Mr. Locke suggested that the project be tabled until the October 7, 2008 Planning Commission meeting.

**B. PC08-013 SHEETZ
NW Corner of Fairchild Avenue & North Mantua Street
Site Plan Review & Conditional Zoning Certificate**

The applicant is seeking Site Plan Review and Approval and Conditional Zoning Certificate to construct a gasoline station and convenience store. The subject property is zoned C-R: Commercial-High Density Residential

Mr. Anderson asked the applicant to present the project.

Steve Funk, from Roetzel & Andress, LPA located at 222 South Main Street, Suite 400 in Akron, Ohio, stated he was the attorney for the project. He said the engineering design team was at the meeting also to answer any questions. He said this project has been definitively designed to take into account the bridge project. He said the construction would begin next year and referred to a drawing showing what the site would look. He said there will be an access off North Mantua that will be a right turn in right turn out only. He said the Fairchild access has gone through a number of revisions and will essentially utilize an existing alley, Alley #28. The entrance has been configured to prevent cross flow traffic and deter right turns down the alley to exit at Roscoe. He referred to a drawing and showed the location of the alley. He said it is located in a Commercial High Density Residential District and will be primarily a convenience store, which is a conditionally

permitted use in this district. It will have a fuel canopy that sells gasoline and this is what requires the conditional use approval. He said the code states that a place that sells gasoline should be located on a major thoroughfare or major intersection so this is why this particular location does meet this requirement. He said that the model that will be used for this Sheetz is a newer updated model so it will not look like the ones in Ravenna or Franklin Township. He said the only other store like this one in Ohio is located in Mentor. He gave pictures of the Mentor store to the commissioners to see. The building will be primarily all brick with the red minimized and the signs are smaller than the ones in Franklin Township. There will be a green awning where the outdoor sitting will be. This is a more attractive design. He said the Architectural Review Board looked at the project very closely and were pleased with it and they had no substantial comments to make. He said in response to some of the comments made at the last meeting, they have submitted a revised landscaping plan. He said they were trying to put in as much landscaping as they could; particularly in the rear. He said they would have only one corner sign to make sure that the sight distances would not be blocked. He said the staff had looked at the revised landscaping plan and had made some suggestions about using different plants. This issue would be addressed during the Technical Plan Review and those changes would be made. He said the traffic issue was addressed by staff and the traffic engineer. He said this is a convenient store that will rely on existing traffic. Future traffic patterns have been studied and found that the traffic flow plan would be adequate. He said they have also addressed the alley issue and have tried to make sure that the people who currently use it will still have access to it and they would not encourage others to use it. He said they have been careful with the lighting plan to make sure there is sufficient lighting for the site while at the same time to make sure it would not be intrusive to the adjacent properties. He said the staff has concluded that the lighting plan does meet code standards. He said another issue raised was regarding noise and this would not be an issue because it is not a drive through. There would only be a loudspeaker at the fuel canopy, which is required by the State Fire Marshall, but they would have control over the volume to make sure that it does comply with the City's ordinances. He said the main source of objection is the use itself. He said that the project does comply with the standards listed in the code. He said they believed that the convenience store is a superior use to other commercial retail stores. He said there has not been much interest in this intersection and although other companies have considered the area, nothing was followed through. Other type stores might draw more traffic. He said they believed they met all the standards in the code. He asked for the time to respond to any comments or issues raised by the public. He then turned the discussion over to David Williams.

David Williams, 11 South River Street – Kent, Ohio – stated he was the applicant's attorney. He said there has been a misconception that the Planning Commission had the authority to decide what goes on the site, but they do not. He stated that some people were opposed to the project but they did not offer any alternatives to what should be there. He said the code has taken care of that. He said the City established the permitted and conditionally permitted usages in the different districts. He said this type of project belongs at this location whereas other uses would be more suited for the downtown area.

Dave Masterstefano, 817 Brookfield Drive – Seven Hills, Pennsylvania, project engineer for Sheetz, stated that each pump had a speaker due to the Fire Marshall's code. Sheetz can control the volume of the speakers.

Mr. Anderson asked if there were any comments from the public. He reminded all speakers to give their name and address, speak into the microphone and that their comments would be limited to three minutes.

Public Comments

Frederick John Kluth, 1060 DeLeone Drive, Kent, Ohio – stated he was the owner of the Open Space Art Gallery, which will be displaced by this project. He had additional information to present to the Planning Commission. He said the Johnson Building and the other buildings in the area are pictured in the Crain Bridge renderings. He stated that the citizens of Kent are better served with the present location of the Open Space Art Gallery. He said there is no place downtown for the Open Space Art Gallery. He said that the recommendations with regards to water resources are that gas stations should have at least a 500-foot setback. He said one of the difficulties in the City of Kent has been the sensitivity of the Cuyahoga River and this project could be a contribution to the pollution of the river. He submitted an outline of steps on what gas stations had to do to deal with pollution.

Elizabeth Collotta, 338 Windward Ave, Kent, Ohio – stated she was not against Sheetz but was concerned about how it related to the bridge project. She said cars are in and out so she was concerned about bicycle safety. She was opposed to granting the variances.

Greg Jenkins, 843 Marilyn Drive, Kent, Ohio – questioned how the project fits in. He asked why there would not be parking for Brady's Leap. He asked what kind of beverages would be served. He said it looks like there is room for the historical building that is one of the only sandstone-faced buildings. He stated there is a problem with the homeless and asked if there was a homeless shelter.

Deborah Redman, 141 South Mantua Street, Kent, Ohio – stated she has been a property owner in the West River neighborhood for a number of years and has taken part in meetings discussing what was wanted in the area. She said they did not want gas stations. She said she is a bus driver for Kent City schools so is familiar with the area and her main concern is that the project will create more traffic.

Gary Hayworth, 520 ½ North Water, Kent, Ohio – stated he has lived in Kent for 41 years. He said when school is in session it will be a problem because it is hard to get through the intersection. He said this company is from Pennsylvania and gas dollars will be controlled by them.

Bob Wood, 616 North Mantua, Kent, Ohio –stated he has rented a house in the area for 25 years. He said it will be difficult for him to move and asked if Sheetz would help him move or compensate him.

Charles Redman, 141 South Mantua, Kent, Ohio – stated he liked Sheetz because they have decent gas prices and offer good breakfast food and coffee. His concern was a safety issue because it is the busiest intersection in Kent. He suggested as an alternative, that a Sheetz could be located on the corner of South Water Street and Cherry Street because that intersection was not as busy, there would be no problem with pollution, and there is a site available. It would be a much safer location.

Jeff Farmer, 503 Cuyahoga Street, Kent, Ohio – stated he and his wife were very unhappy about the project. It is a very large project and there will be traffic 24 hours a day and the noise would increase as well. He said it was an inappropriate land use for the area. He asked how this land use matches up with those listed in the Bicentennial Plan and asked where this plan was in the administrative process. He asked what the square footage would be and how many vehicles would be in and out on a daily basis.

Lloyd Atkinson, 501 Allen Drive, Kent, Ohio – stated he was in support of this project and it probably is the best thing that has happened in the north side of Kent in 20 years. He thought that the project will generate taxes and replace those that were lost because of the bridge project.

Cory Ferra, 614 North Mantua, Kent, Ohio – stated he was opposed to the project. He said it was primarily a gas station, not a convenience store.

Andrew Petrone, 614-½ North Mantua, Kent, Ohio – stated another gas station was not needed. He said the building Open Space Art Gallery is located in was built in 1906. He said the musicians living in the area had nowhere to go.

Peter Paino, 1258 Windward Lane, Kent, Ohio – stated that the project needs more landscaping and as much buffering as possible. He thought the scale of the project was too large for the area it was going in. He said it is allowed for the area but the size should be looked at. He hoped the Planning Commission had the authority to suggest more landscaping. He suggested if in fact there was an excess of parking spaces, they should be cut back so that there would be more landscaping. He thought the Planning Commission had the jurisdiction to make sure this site looks as good as it possibly can. He said the City of Kent does not have an Architectural Review Board that would talk to large corporations to tell them what they want buildings to look like in the City. He asked the Planning Commission to do whatever they could to make this building look good.

Norm Fisher, 123 Linden Street, Kent, Ohio stated that there are three issues that arise: safety, aesthetics and local authority. He said this is a dangerous intersection and probably would become even more so. He said a gasoline station is not something wanted in this area but citizens want it to be safe for bike riders and walkers. He said he does not believe that the citizens are controlled by the corporations.

Adam Fisher, 126 North Mantua Street, Kent, Ohio – stated this project would essentially be replacing the cultural center of the City of Kent. He said the citizens of Kent want to

see the revitalization of Kent but do not want Kent to look like Streetsboro and it will look like a glorified freeway exit. He would like to see a vision for Kent that would keep the small town feel.

Chris Barnett, 470 Harvey Street, Kent, Ohio – stated he just moved back to Kent. He agreed with the previous comments. He said this project did not meet the idea of a gateway for the arts and recreation center of the city.

Jake Frankhouser, 6463 Park Avenue, Kent, Ohio – stated he was a landscape architect. He showed an alternative site plan that would flip the building around. He said with this plan he was presenting, there might be only one variance required. This plan took into consideration making this a center for the west side community, the traffic pattern, landscaping and putting the gas pumps in the back. This alternate site plan would give more of a neighborhood feeling.

Shelby Black, 124 North Mantua, Kent, Ohio - stated that when she first came to Kent, the unique character of the city appealed to her. She does not like that the city has spread out on the east and west side. She said she liked Sheetz but does not want it in her neighborhood. She said Kent has a sufficient supply of gas. She stated that the impact on the river as well as the safety issues have to be considered. This project is not in line with the vision for the West River neighborhood.

Rosa Palmiero, 709 Steele Street, Kent, Ohio – stated she moved to Kent from England. She said she was a runner and that it was already difficult to cross that intersection. She said she did not want the gas station in the neighborhood because it does not connect with the community.

Craig Lucas, 439 Cuyahoga Street, Kent, Ohio – stated he liked Mr. Frankhouser's alternative plan. He thought Sheetz should consider the alternative. He was concerned about the noise. He said this was not one of the things considered in community planning.

Elizabeth Howard, 121 Columbus Street, Kent, Ohio – stated she had spoken at the last meeting and she just wanted to reiterate the points she had raised. She asked how the traffic engineer could make any kind of prediction on how the traffic would flow around this gas station with the new bridge project before it is understood how the traffic is going to flow with the new bridge. She said the project should wait until all the information is known because it cannot be predicted with the new bridge. She asked who would buy the houses when the current residents move. The impact on the community has to be considered. She said a new gas station and convenient store is not necessarily progress. Replacing three or four businesses and displacing a number of residents is not progress. She said just because something is legal does not make it required. She said the Planning Commission has to listen to the people's comments and pay attention to the Bicentennial Plan and the Crain Avenue Bridge plan. The Planning Commission should listen to the people. The project is a conditional use so it is the time to use discretion.

Josh Goren, 257 ½ North Water Street, Kent, Ohio – stated he lived above the art gallery. He said the project does not fit into the cultural center of Kent. Kent needs culture and more bicycle and pedestrian accommodations. Another gas station is not needed.

Ralph Megargel, 121 Columbus, Kent, Ohio – stated obviously the community is opposed to this. He liked the alternative plan presented. He recommended that the Planning Commission tell Sheetz to consider it as an alternative plan.

Cory Ferra, 614 North Mantua Street – referred to an article in the Record Courier about how Kent would like to reduce fuel and energy consumption. He asked how the reduction of fuel consumption fits in with this project.

Adam Petrone, 614 ½ North Mantua Street, Kent, Ohio – stated that if Sheetz comes in and takes the building he lives in, he would leave Kent.

There were no other comments. Mr. Anderson closed the public comment section. He asked the representatives from Sheetz to respond to the comments.

Steve Funk, attorney from Roetzel and Andress stated that the Johnson Building is not an historic building and that it is Mr. Crock that is selling the building to Sheetz. He said the concern about pollution was addressed at the last meeting and that it would be heavily regulated by the State of Ohio. He confirmed that the traffic issue had been studied by the traffic engineer who did an extensive traffic study including a traffic count and study of the intersection. He said this project would not add to the traffic because it would rely on the existing traffic that is there. He said this project has been designed to comply with the conditionally permitted use. He said there would be landscaping all around the site. He said additional trees and landscaping have been added since the Planning Commission saw the plan at their last meeting. He said the site is 1.8 acres and more than 25% is green space, 18% building and 57% pavement. He said they were going beyond what the code requires as far as landscaping. He said the alternative offered was not a viable one because the building could not be built right along the street because there are setbacks. He said they have complied with the requirements of the code. He said it was not the Planning Commission's responsibility to decide what the best use for the site is. He said they would be asking for a variance on the rear setback, a variance for the landscaping width in the front and a variance for the signage.

Mr. Anderson asked for comments from the staff.

Mr. Locke stated that this project does comply with the code. He said the Bicentennial Plan was adopted by Council so is an official document of the City but has not been articulated into the code yet. He said this is something that was discussed last week with regard to that and that it is time for the City to evaluate the zoning code in terms of the text of the code, what is on the map and how the areas are zoned and determine what changes are needed. This is a process that the Planning Commission is going to begin next week. The Planning Commission has invited City Council to participate in the discussion as well. This is separate from the discussion of this project. He believes that this will be a lengthy

and ongoing process. Typically, unless there is a controversy, not many people attend those meetings to give their input. He said the type of input that was given tonight would be good to have at those meetings so that there is the opportunity to discuss what is and what is not wanted. This was done in the West River neighborhood years ago, in the mid 1990s. The zoning envisioned by the neighborhood was put into place east and south of this site. This zoning did not change and has been zoned CR since the 1980s and does allow gas stations. He said the Bicentennial Plan has not been widely accepted. He said this City Council is more geared towards what is in that document but there is some disagreement to some of the elements. The City has not really embraced it because the City really needs to look at it and input from the residents is needed. He said all the neighborhoods need to be looked at. He said the alternative plan included some of the sentiments mentioned about changing the plan around and modifying the site. He said some of the measurements Mr. Frankhouser had used were actually from the curb rather than the right-of-way. In the city's zoning code, measurements are actually taken from the right-of-way, which is actually the back line of the sidewalk so his rendering is much closer to the front property line than he imagined. He stated that there were some people who just did not want the project there while others might accept another design. He said both plans would need some variances. He said the Planning Commission might ask itself if this project would be more palatable if it was laid out differently. He said it would not be beneficial if Sheetz revised their plan and came back then had the variances turned down. He said the project does meet the zoning requirements listed in Section 1171. He said there are also general standards listed in Section 1113 for Conditional Uses. He stated that if the Planning Commission does decide to turn down the project because the commissioners did not feel it met the standards listed, the commissioners have to have specific reasons why it was turned down. He said it is a difficult controversial project.

Mr. Fink stated that the Planning Commission's role was to determine if the ordinances have been met. He said the Planning Commission does have the authority to request additional studies if required to make their decision. They could also consider the alternative plan that was proposed. The Planning Commission has to determine if this complies with the standards listed in Section 1171 of the zoning code. He said the code addresses lighting, that the location is at a major thoroughfare or intersection, that the pedestrian traffic is adequately protected, that there is no more than two driveways as far from the intersection as possible, that safety curbs are installed, that the pump island is appropriate distances from streets, that landscaping will be put in and whatever is proposed is harmonious with the surrounding areas and that this is a conditionally permitted use. He said this area is zoned CR: for High Density Multi-family. The Planning Commission does not have the authority to veto a plan just because they do not like it. He said the code requires that any work on vehicles that is done must take place inside the building.

Mr. Anderson asked the commissioners if they had any comments.

Planning Commission Discussion/Action

Mr. Thomas asked when Sheetz approached the City with this project.

Mr. Locke replied four to five months ago.

Mr. Thomas stated he drove to Mentor to view the existing Sheetz on State Route 306, a four lane highway with residential areas on both sides. He asked how it differed in square footage from this project. He said there was not a large overhang and asked if there would be a small canopy at this location.

Mr. Funk replied that there would be no canopies that connect to the building and it will be like the store in Mentor. He said the building size is 4,997 square feet.

Mr. Thomas confirmed the size of the site. He said it requires a City Council action to consider the vacation of the alley #28 that runs from Fairchild to Roscoe. He stated that the Mentor site has 44 parking spaces while this site has 33 spaces, which is 10 more than what, is needed.

Mr. Funk replied they were trying to provide adequate parking.

Mr. Thomas referred to a letter presented at the last Planning Commission meeting from the owner of the property immediately to the west that raised a concern about the landscaping for shielding the alley and his property. He asked what was being done to respond to this concern.

Mr. Masterstefano stated that Mentor is a larger site with the same size building, more pumps and a carwash. The canopy is the same size though. Mentor ordinance requires more parking based on their code. They are proposing six pumps in Kent while Mentor has seven and both have the same type canopy. He said the alley is a gravel one and there is no defined car way because it is actually on private property. It is identified as a solid black line on the plan in the northern back corner of the site to the southern back corner. He said there are gas lines that run up down the alley, Mantua, and Fairchild that have easements with the City so there would be access to the gas regulations stations. He said they would put up a fence and put landscaping on the residential side of the fence to soften it. There is a gap where the gas regulation station is because it cannot be blocked. The fence and landscaping is continued on the northern side of the property. He said the screening and buffering against the residential side will establish the car way except at the turn in to the store. He said the alternative plan presented did not consider the different elevations. He said there will be landscaping trees and screening and buffering.

Mr. Thomas stated he had looked at the BPs on Fishcreek and Graham Road and Kent Road and Darrow Road and thought the landscaping was quite attractive. He stated they cannot specify the type or size of plant but as a commission they can encourage what has already taken place and ask that the applicants look at a similar nearby development on a busy road, near a school. He said he had heard a lot of good ideas tonight and he encouraged the applicants to comment on this plan, especially concerning the landscaping. He assumed that the landscaping will be maintained on a regular basis.

Mr. Masterstefano replied they will maintain the site.

Mr. Funk stated they would put in as much as landscaping as possible without interfering with the sight distance and without interfering with water retention area.

Mr. Kaine stated there were a lot of parking spaces on this site. He asked how the number of 33 parking spaces came about because it is 60% greater than what the code requires.

Mr. Masterstefano replied that the number of spaces is a function of the site layout. He said that customers have said they want to come to a site that is well lit, clean and one where they can find a parking place. He said spaces have to be provided for customers as well as for the employees because the shift overlaps.

Mr. Funk stated that they are complying with minimum requirements. They are providing parking spaces so that customers can find an onsite parking space. He said some of the parking is for employees during the shift changes.

Mr. Kaine said the paving sections are very generous. He referred to Section 1113.05(a)(2) that says that it should be harmonious with the neighborhood. He asked if the pavement in the northwest part of the property was 80 feet wide.

Mr. Masterstefano replied Sheetz feels that there should be a good distance for delivery trucks and tanker trucks to have room to maneuver and should not block customers or employees. This is to provide adequate maneuverability and as well as a safe way for vehicular and pedestrian movement.

Mr. Kaine asked which right of way in particular would the landscaping variance affect.

Mr. Funk replied it would essentially be the width of the setback on Mantua and is in relationship to insuring that there is safe and adequate flow while still providing 25% landscaping on the overall acreage.

Mr. Kaine expressed a concern about pedestrian safety and encouraged the City to move the sidewalk out of the right of way when they are reworking the sidewalks in that area so that a buffer could be put in between the edge of the road so the sidewalk would not be necessarily in the right of way.

Mr. Funk stated that there is a 20 foot landscape setback in the rear so they might need a minor variance for that because they are at 18.5 feet but overall a lot of landscaping is provided.

Mr. Masterstefano stated they will work with the city on the landscaping. They have agreed to do the right in right out on Mantua. If the City wants to push the sidewalk closer into the development, they would agree to make changes to their landscaping plan to develop green space between the sidewalk and the curb. They will make changes to their landscaping along Mantua to facilitate that and it will narrow down that strip between their curbing and the sidewalk.

Mr. Thomas asked if something could be done for the sidewalk on the Mantua and Fairchild frontage like what Kent State University has done on the East Main Street.

Mr. Locke stated that an easement or right of way would be needed where as Kent State University owned all that land and could pretty do much what they wanted.

Ms. Arthur stated that the idea of swapping the pumps and store seemed a good idea but it was not a viable choice. She asked the applicants to discuss this again.

Mr. Masterstefano stated more variances would be needed. He said they have studied the site for five or six months. There are different elevations. There are pros and cons about vacating the alley and there are gas regulation stations and gas lines in the area. He said the back of their building is actually acting partially as a retaining wall because of the elevation differences. It would not be viable to switch the pumps and store.

Ms. Arthur thanked the applicants for addressing the concerns and for compromising.

Mr. Anderson stated that there were 24 people who had spoken this evening. There were a lot of good comments. He said he understood that people want a place for art work but things cannot be kept as it was in the past and things have to progress. He said the City needs revenue. He said the City has to think like a business. He said this is a viable project and he was in favor of the project. There were no other comments so he asked for a motion.

Motion: Mr. Thomas moved in Case PC08-013, SHEETS, that the Planning Commission approve the Site Plan and Conditional Zoning Certificate to construct a gasoline station and convenience store with the following stipulations:

- 1) Consolidation of the lots**
- 2) Approval of a wider curb cut variance by the Service Director**
- 3) Approval of the zoning variances by the Board of Zoning Appeals**
- 4) Technical Plan Review and Approval**
- 5) Move the sidewalk on the North Mantua Street side into the development as far as possible to be farther from the street and vehicular traffic and to add whatever landscaping may be possible by increasing the foliage quantity, type, and size.**

Ms. Arthur seconded the motion.

Mr. Anderson asked if there were any comments.

Mr. Kaine said there he was uncomfortable with qualifying the nature of the landscaping. He would like the applicants to return to show the Planning Commission what landscaping would be done.

Mr. Locke stated that some of the issues raised might be a Council decision.

There were no other comments so Mr. Anderson asked for a vote.

Mr. Thomas asked when the tentative construction would be.

Mr. Funk replied that construction will start in the Spring of 2009 and it would open in late 2009 or early 2010.

The motion passed 4 – 0.

Motion: Ms. Arthur moved that in Case PC08-013, Sheets, property located on the Northwest corner of Fairchild Avenue and North Mantua Street, that the Planning Commission recommend approval of the variances to the Board of Zoning Appeals for the signs, the landscaping requirement, and the building setback requirement. Mr. Anderson seconded the motion.

Mr. Thomas said the Board of Zoning Appeals can consider all the testimony and documentations that the Planning Commission has and let them deliberate and come to their own conclusion.

There were no other comments. Mr. Anderson asked for a vote.

The motion failed 2 – 2.

VIII. NEW BUSINESS

None

IX. OTHER BUSINESS

None

X. ADJOURNMENT

Motion: Mr. Kaine moved to adjourn. Ms. Arthur seconded the motion

The meeting adjourned at 10:10 p.m.