

Chair Krent called the Regular meeting of the Troy City Planning Commission to order at 7:01 p.m. on October 26, 2021, in the Council Chamber of the Troy City Hall. Chair Krent presented opening remarks relative to the role of the Planning Commission and procedure of tonight's meeting.

1. ROLL CALL

Present:

Carlton M. Faison
Michael W. Hutson
Tom Krent
David Lambert
Lakshmi Malalahalli
Marianna Perakis
Sadek Rahman
Jerry Rauch
John J. Tagle

Also Present:

R. Brent Savidant, Community Development Director
Ben Carlisle, Carlisle Wortman Associates
Allan Motzny, Assistant City Attorney
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

Resolution # PC-2021-10-074

Moved by: Faison

Support by: Rauch

RESOLVED, To approve the Agenda as prepared.

Yes: All present (9)

MOTION CARRIED

3. APPROVAL OF MINUTES

Resolution # PC-2021-10-075

Moved by: Lambert

Support by: Tagle

RESOLVED, To approve the minutes of the October 12, 2021, Regular meeting as submitted with one typographical error that has been corrected.

Yes: All present (9)

MOTION CARRIED

4. PUBLIC COMMENT – For Items Not on the Agenda

There was no one present who wished to speak.

ZONING ORDINANCE TEXT AMENDMENT

5. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 256)
– Residential Uses in BB Zoning District

Mr. Savidant said the intent of the proposed Zoning Ordinance Text Amendment is to provide flexibility for developers when renovating existing multi-story buildings and constructing new multi-story buildings in the Big Beaver zoning district. He said the amendment would permit some residential use in appropriate locations on the first floor for sites located on Big Beaver and arterials, which presently residential uses are permitted only on upper floors.

PUBLIC HEARING OPENED

There was no one present to speak.

PUBLIC HEARING CLOSED

Ms. Perakis expressed opposition to the proposed text amendment. She said it is clearly a contradiction to the Master Plan, that she sees no unique circumstances that would warrant a rezoning, that we are not permitted to rezone property simply to make a more valuable use, and we are not permitted to rezone property to reassure a developer is able to maximize their profits. Ms. Perakis said she had hoped the developer who initiated the email message was present to address the Board.

Mr. Rauch said he supports the proposed text amendment with a Special Use requirement. He does not think one solution fits all. Mr. Rauch asked what would happen to parking lots if residential is developed. He addressed office vacancy, walkability in downtown area and potential opportunity for developers.

Mr. Savidant said it would be a simple change to the proposed text amendment to change the first floor lodging to a Special Use requirement. He said a Special Use application would add an additional layer to the application process and Special Use standards would apply. He said it could be a better step in direction for the developer. Mr. Savidant said approval of a Special Use by the Planning Commission would be subjective.

There was discussion on:

- Potential of residential development attracting more commercial development.
- Viable walkability throughout City.
- Existing buildings with residential on first floor; relationship to Big Beaver.
- Consensus to revise amendment to require Special Use application.

Resolution # PC-2021-10-076

Moved by: Lambert

Support by: Hutson

RESOLVED, To recommend that Chapter 39 of the Code of the City of Troy be amended to revise Table 5.04.C-1, Line 2 for Residential Lodging, to amend that “P” be changed to “S” for the items that are listed on the line and the footnote to be revised as well.

Yes: All present (9)

MOTION CARRIED**PRELIMINARY SITE PLAN REVIEWS**

6. PRELIMINARY SITE PLAN REVIEW - (SP JPLN2021-019) – Proposed Motor City Church, East side of Livernois, North of Big Beaver (3668 Livernois), Section 22, Currently Zoned R-1C (One Family Residential) District

Mr. Tagle asked to recuse himself from this item because his architectural firm is involved in the project.

(Mr. Tagle exited meeting at 7:25 p.m.)

Mr. Carlisle gave a review of the Preliminary Site Plan application for Motor City Church. He identified the “dome” area and “school” area, noting the school would turn into the church. He identified the site and building changes proposed, noting there are no significant changes to the site and building arrangement. Mr. Carlisle addressed the proposed demolition of the “dome” church and Special Use that applies to the entire site. He said the landscaping is compliant apart from the required number of interior trees within the parking lot. He reported the applicant is asking the Planning Commission to consider a parking lot landscaping deviation. Mr. Carlisle recommended approval of the application with the condition to provide required bicycle parking.

Discussion among Board and administration:

- Proposed split of properties as relates to parking.
- Condition approval on property split.
- Current use of “dome” church.
- Explanation of Special Use as relates to proposed and future development.
- Condition approval on existing “dome” church does not function as church.
- Height and width of Livernois elevation.

Present were Rachel Pisani, representative of Motor City Church, and Project Architect Michele Sargeant of John Tagle Associates.

Ms. Pisani said the property was acquired from Zion Christian Church in October 2019. She gave a brief history of the Motor City Church since its launch on March 15, 2020. She addressed its online services through the pandemic, its involvement in community projects and its commitment to the community. Ms. Pisani said Motor City Church wants to update the building to make it more attractive and inviting. She addressed the use of the chapel, growth in congregation, offering of multiple services and parking sufficiency. Ms. Pisani said their intent is to sell the property to the north for future development. She said Motor City Church would open other campuses should the congregation grow beyond its current capacity to keep the small community church feel. Ms. Pisani addressed present uses of the buildings, the new playground and demolition of the “dome” church building.

There was discussion on:

- Ownership of property.
- Size of congregation; growth potential.
- Vision of property to north for future development.
- Current and future uses of buildings.
- Parking lot improvements.
- Size of property; 22 acres total, 8 acres for proposed development.
- Potential change of use in future; review by Planning Commission.

Mr. Carlisle explained how the underlining zoning and Special Use for a place of worship relates to the entire property, the proposed development before the Board and future development or redevelopment of the remaining property.

Mr. Savidant stated the sanctuary area of the “dome” cannot be used as a church, but a classroom can be used as an ancillary use.

Ms. Sargeant clarified Motor City Church is currently using the “dome” building until the proposed new building is built out. She gave dimensions of the proposed entry addition as 24 feet in height and an estimated 30 feet in width, and confirmed the rendering is a view from Livernois. Ms. Sargeant addressed landscaping of the existing parking lot. She said the intent is for a tree-lined entrance, a landscaped area in the front and in the center with sidewalks and walkways throughout an improved parking lot.

After a lengthy discussion on landscaping the parking lot, there was consensus by the Planning Commission and the applicant to break up the parking lot into six islands and provide 12 additional trees within the parking lot.

Resolution # PC-2021-10-077

Moved by: Rauch
Support by: Lambert

RESOLVED, The Planning Commission recommends that Preliminary Site Plan Approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Motor City Church, East side of Livernois, North of Big Beaver (3668 Livernois), Section

22, Currently Zoned R-1C (One Family Residential) District, be **GRANTED**, subject to the following conditions:

1. Provide two (2) bicycle racks.
2. Six islands with 12 trees be provided in the parking lot.
3. That the present use of the sanctuary be discontinued at the time of completion of the new building and the new building takes over that use as a sanctuary.

Discussion on the motion on the floor.

Mr. Lambert acknowledged that adding trees in the interior parking lot not only improves safety but also helps to dissipate heat from the asphalt.

Vote on the motion on the floor.

Yes: Faison, Hutson, Krent, Lambert, Malalahalli, Perakis, Rahman, Rauch
(Tagle recused)

MOTION CARRIED

(Mr. Tagle returned to meeting at 8:15 p.m.)

7. PRELIMINARY SITE PLAN REVIEW (JPLN 2021-0013) – Proposed Center Court at Butterfield 48-unit Townhome Development, North side of Butterfield, South of Big Beaver, West of Crooks (Parcels 88-20-29-226-021, -022, -023), Section 29, Currently Zoned MF (Multiple Family Residential) District

Mr. Carlisle reviewed the changes to the Preliminary Site Plan application for Center Court at Butterfield since last reviewed by the Planning Commission at their October 12, 2021 meeting. He indicated the changes relate to an overall net loss of four (4) units, a larger recreational area in the center of the site, an increase in recreation space and decrease in building coverage. Mr. Carlisle said the applicant added windows to both the side elevation and the front door entrance based on Planning Commission comments. He indicated no changes were made to the guest parking spaces initially addressed in his report. Mr. Carlisle said the application meets all requirements of the multiple family residential district and recommended approval with conditions to revise guest parking spaces and to address elevations and materials as directed by the Planning Commission.

Discussion among Board and administration:

- Pedestrian crosswalk at entrance; layout in angle and termination.
- Non-symmetry of buildings to accommodate fire apparatus.
- Open space / recreation space.
 - Definitions.
 - Interpretation / intent of Zoning Ordinance.
- Various municipality calculations on open space, occupancy, price points.
- Sidewalks; location, conflict with seating areas and material.

Mr. Carlisle read the definition of open space noting that sidewalks would be counted as open space. He said the proposed sidewalk/pathway constitutes recreation space but there is no definition of recreation space.

Erion Nikolla of Eureka Building Company addressed reducing the units by four (4) to provide for more recreation space, a bigger playground and additional family activities. Mr. Nikolla indicated he is open to making a sidewalk track on the perimeter of the property and of a different material such as black tar or pavers. He said glass was added to the center door of the entrances and windows to the side elevations.

There was discussion on:

- Side elevations; prominence of windows.
- Landscaping; push back landscaping in middle.
- Location of sidewalks.
 - Jogging/walking path around property perimeter.
 - Material of path.
- Guest parking.
 - No requirement to provide.
 - Elimination of some spaces to ease reversing out.
 - Adding landscaping along side of building.
- Widening sidewalk to seven (7) feet.
- Entrance doors; provide overhang for protection from inclement weather.

Resolution # PC-2021-10-078

Moved by: Lambert
Support by: Faison

RESOLVED, The Planning Commission recommends that Preliminary Site Plan approval, pursuant to Article 8 of the Zoning Ordinance, as requested for the proposed Center Court at Butterfield 48-unit Townhome Development, North side of Butterfield, South of Big Beaver, West of Crooks (Parcels 88-20-29-226-021, -022, -023), Section 29, Currently Zoned MF (Multiple Family Residential) District, be **GRANTED**, subject to the following:

1. Revise the guest parking spaces to reduce the number of spaces to allow landscape buffers between the vehicles and those guest parking spaces.
2. Revise the perimeter walkway so that it would be extended out farther to avoid the seating areas around the corners of the site and to use enhanced concrete.
3. Widen the sidewalk to seven (7) feet.
4. Push back landscaping to expand the open space.
5. Revise pedestrian crosswalk layout at the front of the building to make it more logical and safer.

Yes: All present (9)

MOTION CARRIED

CONDITIONAL REZONING

8. **CONDITIONAL REZONING - (CR JPLN2021-001)** – Proposed Pine View Condominiums, West side of Dequindre, North of Long Lake (88-20-12-476-070), Section 12, From NN (Neighborhood Node “J”) and EP (Environmental Protection) to NN (Neighborhood Node “J”)

Chair Krent announced the applicant has requested to give a statement prior to the presentation of the application by staff.

Applicant Gary Abitheira asked that Commissioner Rauch recuse himself from this item due to a conflict of interest. Mr. Abitheira acknowledged a letter from his attorney that Commissioner Rauch has entered into a lawsuit against developer Sam Stafa relating to a Neighborhood Node development near the home of Commissioner Rauch. Mr. Abitheira believes that Commissioner Rauch has a conflict of interest with all Neighborhood Node developments.

Mr. Rauch said he does not understand how he could have a conflict of interest on the application before the Board this evening. He said the lawsuit to which the applicant is referring relates to potential flooding on his property as a result of a Neighborhood Node development near his home.

Mr. Motzny referenced material he researched on conflicts of interest from the Troy Board and Committee Appointee Code of Ethics, State Law with regard to Public Officers, Planning Commission Bylaws, Parliamentary Procedure and the Michigan Planning Enabling Act.

Mr. Motzny concluded that a Board member himself/herself must disclose a potential conflict of interest. If the member does not believe there is a conflict, the Board cannot compel that member not to vote. If the member discloses a potential conflict of interest, the remaining members can conduct a vote whether the member should be disqualified.

Mr. Rauch said the lawsuit to which the applicant refers relates to the Neighborhood Node located at Crooks and Wattles and the potential flooding onto his property. Mr. Rauch said any decision on the application before the Commission this evening would have no impact on his property. He declared no conflict of interest on the application before the Board this evening.

After a brief discussion, it was the consensus of the Board to move forward because there was no conflict of interest disclosed by Mr. Rauch.

Mr. Savidant reported there are no changes to the Conditional Rezoning application since it was last reviewed by the Planning Commission at its August 24, 2021 meeting, with exception of clarification on the height of the 3-story building at 35 feet, 4 inches. Mr. Savidant reminded the Board of the two failed Resolutions with a 4-4 vote, one for approval and one for denial. He said the application and public hearing was scheduled at the September 27, 2021 City Council meeting but the applicant pulled the item prior

to City Council consideration and asked to come back to the Planning Commission for reconsideration.

Mr. Tagle asked the Planning Consultant to give a brief review of the application because he was absent from the August meeting.

Mr. Carlisle addressed the 40-foot wide strip of EP zoning and referenced the action taken by the Planning Commission at their November 19, 2020 meeting to postpone the item to allow the applicant to submit a conditional rezoning application to rezone the EP portion so it could be used for guest parking.

Mr. Carlisle said the southern portion of the property is a by-right development. He noted of significant importance are the applicant's voluntary conditions numbered 1, 4, 7 and 8. Mr. Carlisle addressed the landscaping, required screening at the southern edge of the property, the engineering department pedestrian connection improvements, shared access to the site with Taco Bell, maximum height not to exceed 35 feet, and design and site plan standards.

Mr. Carlisle referenced the failed Resolutions at the August 24, 2021 Planning Commission meeting and the applicant's request to be considered again by Planning Commission.

Mr. Carlisle recommended that the Planning Commission recommend to the City Council to grant the Conditional Rezoning and Preliminary Site Plan application with the conditions as identified in his most recent report dated October 19, 2021. He asked the Planning Commission to consider the applicant's request to use a fence in lieu of the required landscape screening.

There was discussion on:

- Crash data provided in the agenda packet.
- Anticipated traffic impact, as relates to office and residential.
- Traffic backup mentioned during public comment.
 - No information to support.
 - Queuing for drive through resulting in backup; no issues reported to police.
- Building orientation as relates to design standards.
 - Memorandum prepared and provided by Zoning Administrator relating to building orientation.
 - Role of Zoning Administrator to interpret the Zoning Ordinance.
 - Site Type B, Building Form C, permitted use.
- Confirmation that application meets open space requirement (15%).
- Master Plan survey results with respect to desirable residential.
- Transition and compatibility of development.
- Ownership of access (easement).

Mr. Abitheira addressed previous actions taken by Planning Commission on the shared entrance with Taco Bell. He addressed Taco Bell hours of operation, timing of accidents, curb cuts, queuing of drive-through traffic, housing that attracts young professionals and the initial request by a former Planning Commission member to eliminate the EP zoning district. Mr. Abitheira distributed to the Board a map/site plan of the Taco Bell property and his property in 2007, at which time the subject property was zoned O-1. He addressed ingress/egress of the properties and traffic.

Mr. Savidant addressed his memorandum and interpretation of the Zoning Ordinance on building orientation.

Chair Krent opened the floor for public comment.

There was no one present who wished to speak.

Chair Krent closed the floor for public comment.

An email message from Laura and Mike Lipinski, 4233 Carson, Troy, in opposition of the proposed application was provided to the Board prior to the beginning of tonight's meeting.

Mr. Tagle brought it to the attention of the Board and audience that the Lipinski's do not live near the proposed application and the development would have no impact on their property.

Mr. Carlisle said clearly there is a disagreement with the interpretation of the Zoning Ordinance by the Zoning Administrator and him on the issue of building entrance frontage. He addressed transition, urban characteristics and compatibility on the subject site and its surrounding properties, noting it could be determined more urban than not. Mr. Carlisle said townhomes or lower-scaled density multi-family residential has been traditionally an appropriate transition buffer from single family to commercial, one story or multi-story commercial.

Mr. Carlisle said the proposed use is an appropriate transitional use from adjacent single family and commercial that fronts on Dequindre and Long Lake. He said based on the intent of the Neighborhood Node, this Neighborhood Node might not be the vision the City wants to achieve there so it is difficult to compare with what is there now. The intent was for multi-family and other mixed use types of products.

Mr. Carlisle said results from the Master Plan survey indicated residents do not want more townhomes but he would like to make it clear to the Planning Commission that townhomes are a permitted and by-right building form in this district; and the application meets the standards of a Neighborhood Node for a by-right development. He said discussion this evening is whether to conditionally rezone the EP part of the site plan to Neighborhood Node. He said if the applicant removed the EP request from the application and came in with a by-right development where there is no proposed development on the EP portion, the recommendation would be for approval because it

is a transitional land use and product supported by the Zoning Ordinance for that particular site.

Mr. Rauch said he does not think townhomes in this instance are transitional versus single family. He says when the Planning Consultant states that a development is a by-right development, it feels like he is being bullied to do whatever the recommendation is from the Planning Consultant.

Mr. Savidant again addressed traffic data provided and the approval in 2006 of the relationship between the subject property and Taco Bell. He said office would be another transitional use and stated office would generate more traffic than multiple family residential. Mr. Savidant addressed the development rights of the property owner and said he does not think it is fair or proper to deny an application based on traffic or existing conditions that have been in place for the past 15 years.

Mr. Savidant stated there is a wide range of different uses that are permitted by right in Neighborhood Nodes, including townhomes and other forms of residential, office and commercial.

Mr. Abitheira requested to construct a 6-foot high decorative fence on the south side of the property in lieu of the required landscaping. He shared that the property is very tight and it would be somewhat of a challenge to landscape.

Mr. Abitheira said he owns the cross access easement property at the Taco Bell entrance up to Dequindre Road and the title work process will verify that.

Resolution # PC-2021-10-079

Moved by: Tagle
Support by: Faison

RESOLVED, That the Planning Commission hereby recommends to the City Council that the NN “J” and EP to NN “J” Conditional Rezoning request, as per Section 16.04 of the City of Troy Zoning Ordinance, located on the west side of Dequindre, north of Long Lake, within Section 12, being approximately 2.389 acres in size, be **GRANTED**, for the following reasons:

1. The request complies with the Master Plan.
2. The EP district does not include any significant natural features.
3. The rezoning would permit greater flexibility in use and development of the property.
4. The conditions offered by the applicant reasonably protect the adjacent properties.
5. The rezoning would be compatible with surrounding zoning and land use.
6. The site can be adequately served with municipal water and sewer.

BE IT FURTHER RESOLVED, That the Planning Commission recommends the following site plan design considerations:

1. Submit photometric plans and fixture details prior to Final approval.
2. Address Engineering Department comments related to pedestrian connection prior to Final approval.
3. Provide site landscaping calculation.
4. Indicate siding material.
5. Provide conditional rezoning agreement prior to City Council consideration.
6. That the barrier on the south property line be a fence in lieu of landscaping.

Yes: Faison, Hutson, Krent, Lambert, Malalahalli, Rahman, Tagle

No: Perakis, Rauch

MOTION CARRIED

OTHER ITEMS

9. **PUBLIC COMMENTS** – For Items on the Agenda

There was no one present who wished to speak.

10. **PLANNING COMMISSION COMMENT**

Mr. Tagle stated for the record in all his years on the Commission he has never felt bullied by the Planning Consultant, and he thought the comment inappropriate.

Mr. Faison said the conversation about transition was interesting. He said he accepted both the applicant's comments about the ranch being able to redevelop into something taller and Mr. Carlisle's comments about the projects on the corner not necessarily being what the Board would like the node to be and what the node could be. He said he thinks it might be more appropriate to look at what could be there.

Mr. Faison addressed the issue of the entrances on the street. He said he has read the language several times and the memorandum prepared by staff. He said he sees the logic of the approach taken in the interpretation of the Zoning Ordinance by the administration. Mr. Faison questioned if the matter should be discussed during a meeting or if each member individually should decide.

Mr. Lambert informed the Board that at last evening's meeting, City Council voted to name the park next to the skate park the *Jeanne Stine Community Park*.

Ms. Perakis said she appreciated Mr. Faison's comments on transition. Ms. Perakis shared favorable comments on the Citizens Planner course she is taking and looks forward to getting her certification in a week.

Mr. Rauch formally requested his communication on the Zoning Ordinance interpretation for primary building entrances in Neighborhood Nodes and the proposed text amendment be placed on an agenda for discussion.

Mr. Rauch addressed his comment on bullying. He said it appears that if there are objections to an application, the members often hear from the staff or the consultant that the application is a by-right development. He wished that Ms. Dufrane were in attendance this evening to provide an explanation on the subjectivity of the Zoning Ordinance relating to transition, compatibility, open space and recreation space. He considers those items to be subjective. Mr. Rauch said some of the answers to questions have been along the lines that an application is allowed within the form based district and the Board should approve. He said it completely takes the subjectivity out of a determination. Mr. Rauch addressed changes in the density of residential developments within the last five years, noting the survey shows that residents are not happy.

Ms. Malalahalli asked that the Board be provided a clear understanding of the open space requirements and how open space is defined.

Chair Krent asked that the Board be advised of a better definition of recreation space.

Mr. Savidant asked that there be a formal resolution to place Mr. Rauch's communication on an agenda. Mr. Savidant said he does not think it is appropriate that the Zoning Administrator, which he serves as and as a representative of the City Manager, is put in a position to debate or defend an interpretation of the Zoning Ordinance. He said he is not sure if that was the intent of Mr. Rauch but that he hesitates to go down that path. Mr. Savidant asked to confer with the City Attorney prior to placing the item on an agenda for discussion.

Chair Krent stated he never felt bullied by Mr. Carlisle, he appreciates Mr. Carlisle's excellent perspective on the Zoning Ordinance and Master Plan and that he conducts himself in a professional manner to get things done. Chair Krent addressed the upcoming Michigan Association of Planners Conference that again is a virtual event this year. He encouraged Board members to participate.

Mr. Savidant said the beauty of remote sessions at the Michigan Association of Planners Conference is that one can view all the sessions offered.

Mr. Rauch said he would hold off on a formal resolution so that the administration can confer with the City Attorney.

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11. ADJOURN

The Regular meeting of the Planning Commission adjourned at 10:45 p.m.

Respectfully submitted,



Tom Krent, Chair



Kathy L. Czarnecki, Recording Secretary