



500 West Big Beaver
Troy, MI 48084
troymi.gov

FROM THE OFFICE OF THE CITY MANAGER

September 27, 2021

To: Mayor and City Council Members

From: Mark F. Miller, City Manager
Robert J. Bruner, Assistant City Manager
Sarah Ames, Assistant to the City Manager

Subject: City Council Agenda Questions & Answers – 9.27.21

The following are communications that City Administration would like Council to be made aware of. In order to ensure that all questions are received and answered, all City Council Questions should be sent to the CITY MANAGER DISTRIBUTION GROUP e-mail address.

Comment from City Manager's Office

On Friday, September 24, 2021, Mike Lipinski (4233 Carson) shared his concerns regarding the Pine View Condominiums conditional rezoning with City Council via email. His comments include statements about the City's planning consultant incorrectly identifying the proposed building height as two and a half stories rather than three stories. City Council will hold public hearing tonight so City Management wants to clarify the discrepancy.

The memo in question was dated June 8, 2021 and pertained to the original Conditional Rezoning application. That application included a Preliminary Site Plan application, but did not include architectural drawings. The applicant indicated he needed more time to prepare architectural drawings and would submit them prior to the Planning Commission public hearing. The only document in the application that addressed building height was a letter prepared by the applicant's civil engineer. This letter voluntarily offered a maximum building height of two and a half stories or 30 feet. Accordingly, the memo was correct at the time it was written.

The applicant submitted architectural drawings on the day of the Planning Commission public hearing (August 24, 2021) and they were emailed to the Planning Commission before the meeting. The architectural drawings did not include building height dimensions. However, the applicant stated at the meeting that the proposed building height was three stories and approximately 34 feet.

On September 22, 2021 the applicant's engineer submitted a revised statement dated July 13, 2021 limiting the maximum building height to 3 stories. The applicant also submitted revised architectural drawings including a building height of three stories and 35 feet and four inches. These documents were included in the City Council agenda packet for tonight's meeting.

These types of revisions are typical with many development applications. Applicants for Conditional Rezoning may submit or revise voluntarily offered conditions in writing at any time. We apologize for any confusion this may have caused.

From: Rebecca A. Chamberlain-Creangă

Sent: Sunday, September 26, 2021 7:30 PM

To: City Manager Distribution Group <CityManager@troymi.gov>; Mark F Miller <Mark.Miller@troymi.gov>; Lori G Bluhm <BluhmLG@troymi.gov>

Subject: Council agenda Q&A

Hi there,

I have a question regarding E-02. Could we make a motion to refer this back to Planning Commission because there was no definitive recommendation with both motions failing? And some of the facts laid out in each motion appear to contradict each other?

Thank you,
Rebecca

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Rebecca Chamberlain-Creanga

Troy City Council Member

RAChamberlain@troymi.gov | 248-457-5251

Answer: Brent Savidant, Community Development Director

Section 16.03.4 of the Zoning Ordinance states that "Following the public hearing, the Planning Commission shall make a recommendation to the City Council". It does not require a "definitive" recommendation by the Planning Commission. The motion to approve and the motion to deny were both 4-4 votes. Both failed. That is the Planning Commission recommendation. It is reasonable to assume that had all 9 Planning Commission members been present, there likely would have been a "definitive" recommendation.

As for whether City Council "could" send the item back, City Council has the authority to send the item back to Planning Commission. It would be helpful if the reason for sending the item back were made clear in the resolution, to provide clear direction.

From: Rebecca A. Chamberlain-Creangă

Sent: Sunday, September 26, 2021 8:16 PM

To: City Manager Distribution Group <CityManager@troymi.gov>

Subject: Additional agenda question

Hi there,

I have another question related to E-02. Can you explain (a) what happens next if the conditional rezoning is approved (e.g., the applicant proceeds to site plan submission)?; or (b) what happens next if the conditional rezoning is not approved? The former is clearer to me than the latter.

Thank you,
Rebecca

--

Rebecca Chamberlain-Creanga
Troy City Council Member
RACHamberlain@troymi.gov | 248-457-5251

Answer: Brent Savidant, Community Development Director

If the Conditional Rezoning is approved by City Council, the applicant would next need to submit a Conditional Rezoning Agreement for review and approval of City Council, as required by the Zoning Ordinance. The applicant submitted a Preliminary Site Plan as a condition of approval. Approving the rezoning would grant Preliminary Site Plan Approval to the 25-unit townhome development. The next step following approval of the Conditional Rezoning Agreement would be submitting Final Engineering Plans. Review and approval of Final Engineering Plans is administrative.

If the Conditional Rezoning is denied by City Council, the applicant could seek Preliminary Site Plan Approval from the Planning Commission for the 25-unit townhome development that was initially considered by the Planning Commission on November 12, 2019. The EP district was not proposed to be rezoned for that application.

From: David Hamilton

Sent: Sunday, September 26, 2021 11:30 PM

To: City Manager Distribution Group <CityManager@troymi.gov>

Subject: Re: Agenda

I also listened to Mr. Rauch's comments during the August 2021 Planning Commission meeting. He gave his thoughts on the zoning ordinance regarding the entrance to the property, and with the garages and alleys. Does staff have a response to his concerns?

Here was his version of the minutes:

"Mr. Rauch stated section 5.06.E.1.a. requires the primary entrance (to buildings) be on a street, there is no primary entrance on a street, and stated Table 5.03.B.3 Lot access and circulation it states Driveways must access garages, if provided, integrated into buildings from the rear, in an alley configuration. The buildings facing east and west the driveways and the Primary Entrance are accessing an alley."

Thanks,

David Hamilton
Troy City Council Member

From: David Hamilton
Sent: Sunday, September 26, 2021 10:23 PM
To: City Manager Distribution Group
Subject: Agenda

Pine View Condos:

What is the maximum number of attached residential units the applicant could put in the NN area of this property by-right?

Thanks,

David Hamilton
Troy City Council Member

Answer: Brent Savidant, Community Development Director

The attached memo was prepared at the request of the Planning Commission at the April 13, 2021 Regular meeting:

Moved by: Rauch
Support by: Hutson

RESOLVED, That the Planning Commission direct staff to review the proposed Zoning Ordinance Text Amendment presented by Mr. Rauch in his March 29, 2021 memorandum and advise of the impact of those changes to the existing Zoning Ordinance.

Yes: All present (9)

MOTION CARRIED

The memo was placed on the May 11, 2021 Planning Commission agenda in response to the request.

DATE: April 23, 2021
TO: Planning Commission
FROM: R. Brent Savidant, Community Development Director
SUBJECT: Interpretation of Chapter 39 Zoning Ordinance, Section 5.06

Background

Planning Commission member Gerald Rauch submitted the following proposed text amendment to Section 5.06.E.1.a to the Planning Commission for consideration:

- a. Primary Entrance. The primary building entrance shall be clearly identifiable and useable and located in the front façade parallel to the street public or private street in residential developments that abut a residential district.*

Based on discussion at the April 13, 2021 Planning Commission meeting, Mr. Rauch contends that the provisions of Section 5.06.E.1.a should be applied to every residential unit in a Neighborhood Node development when the development abuts a residential district. This would have the effect of requiring the primary building façade of every building to front on a public or private street, including internal units. For most residential developments, vehicle access is provided internally via 24-foot drive aisles. Since private road easements are 40-foot wide and public rights-of-way are typically 60 feet wide, the amendment would have the effect of significantly reducing density in residential developments in Neighborhood Nodes. Mr. Rauch indicated this would be the intent of the amendment.

At the Regular Meeting of April 13, 2021, the Planning Commission passed the following Resolution:

Moved by: Rauch
Support by: Hutson

RESOLVED, That the Planning Commission direct staff to review the proposed Zoning Ordinance Text Amendment presented by Mr. Rauch in his March 29, 2021 memorandum and advise of the impact of those changes to the existing Zoning Ordinance.

Discussion on the motion on the floor.

Mr. Tagle asked if the extent of the Resolution is only for staff to review the text amendment and come back with pros and cons.

Mr. Rauch replied in the affirmative.

Vote on the motion on the floor.

Yes: All present (9)

MOTION CARRIED

During Planning Commission discussion on April 13, 2021, numerous Planning Commissioners disagreed with the Zoning Administrator's interpretation of Section 5.06.E.1.a. The interpretation of this provision will be discussed in this memo.

Zoning Ordinance Interpretation

The Zoning Ordinance is a 350-page document with thousands of provisions that are applied to a wide range of development applications. It is impossible to create a Zoning Ordinance that has provisions that apply to every potential situation. Because of this, interpretations are made on a regular basis. It is important that the Planning Commission understands how the Planning Department interprets the Zoning Ordinance.

The Zoning Administrator and Interpretation

The following Section 2.01 of the Zoning Ordinance lays out Rules of Interpretation that are applied when the Zoning Ordinance is interpreted:

For the purposes of this Ordinance, certain terms or words used in this Ordinance shall be interpreted as follows:

- A. *The particular shall control the general.*
- B. *In the case of any differences of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.*
- C. *The word "person" includes a firm, association, proprietorship, organization, partnership, trust, corporation, limited liability company, or other entity as well as an individual.*
- D. *The present tense includes the future tense; the singular number includes the plural, and the plural number includes the singular.*
- E. *The word "shall" is mandatory; the word "may" is permissive.*
- F. *The words "used" or "occupied" include the words "intended", "designed", or "arranged to be used" or "arranged to be occupied."*
- G. *A "building" or "structure" includes any part thereof.*

- H. *Unless the context clearly indicates the contrary, where a regulation involves two or more items, conditions, provisions, or events connected by the conjunction “and,” “or,” “either...or,” such conjunctions shall be interpreted as follows:*
1. *“And” indicates that all the connected items, conditions, provisions, or events shall apply.*
 2. *“Or” indicates that the connected items, conditions, provisions or events may apply singly or in any combination.*
 3. *“Either...or” indicates that the connected items, conditions, provisions or events shall apply singly but not in combination.*
- I. *Terms not defined in this Ordinance shall have the meaning customarily assigned to them.*

Designation of Zoning Administrator

The City Manager has designated the Community Development Director to serve as Zoning Administrator day to day, with final say on complicated matters reverting to the City Manager. Section 3.01 provides this authority:

This Zoning Ordinance shall be administered by the Zoning Administrator or such deputies as designated by the Zoning Administrator. The Zoning Administrator shall be designated by the City Manager.

Responsibility for Interpretation

The Zoning Administrator is charged with the responsibility of interpreting the Zoning Ordinance, as per Section 3.02:

The duties and responsibilities of the Zoning Administrator shall include the following:

- F. *Enforce and interpret the meaning and applicability of all provisions and requirements of the Ordinance.*

Process of Interpretation

Interpretation of Zoning Ordinance provisions is an important responsibility that is not taken lightly. In most situations, the Community Development Director will consult with another staff member or Planning Consultant for feedback, prior to making an interpretation. The person consulted depends on the specific provision being interpreted. For example, if the provision relates to an architectural feature, the Building Official is consulted based on his education, experience and expertise dealing with architecture and buildings. Consulting with another professional provides “checks and balances” and the interaction ensures the interpretation is fully vetted before making a final decision. The City Attorney is consulted if

the interpretation involves legal matters. For interpretations that are challenging or controversial, the City Manager is asked to participate in the interpretation. If the issue cannot be resolved administratively by the City Manager, the matter is sent to the Zoning Board of Appeals. This is a rare occurrence but the option is there if needed.

Credentials

The following is a summary of credentials of professionals involved in the interpretation of the City of Troy Zoning Ordinance:

R. Brent Savidant, AICP - Community Development Director

- 26 years experience in Planning and Zoning
- Masters in Planning
- Member, American Institute of Certified Planners

Salim Huerta, Building Official

- 35 years experience in Construction and Plan Review
- Undergraduate degree in Architecture
- Certified Building Official
- International Member, AIA

Paul Evans, Zoning Compliance Specialist

- 25 years experience in Code Enforcement and Zoning Administration
- Certified Zoning Administrator

Ben Carlisle, AICP - Planning Consultant

- 20 years experience in Planning and Zoning
- Masters in Planning
- Member, American Institute of Certified Planners

Mark F. Miller, AICP - City Manager

- 30 years experience in Planning & Zoning
- Undergraduate degree in Planning
- Member, American Institute of Certified Planners
- Former President, Michigan Association of Planners

Interpretation of Section 5.06.E.1.a:

Section 5.06.E.1.a is provided below within the entire subsection E to provide context for this discussion. The section of the Zoning Ordinance proposed to be amended is shown in **red** to differentiate from the rest of the section.

E. Design Standards. In addition to standards set forth in this Ordinance, all proposed development shall comply with the standards set forth herein.

1. Building Orientation and Entrance.

a. Primary Entrance. The primary building entrance shall be clearly identifiable and useable and located in the front façade parallel to the street.

b. Recessed Doorways. Where the building entrance is located on or within five (5) feet of a lot line, doorways shall be recessed into the face of the building to provide a sense of entrance and to add variety to the streetscape. The entrance recess shall not be less than the width of the door(s) when opened outward.

c. Residential Dwellings. Entrances for all residential dwellings shall be clearly defined by at least one (1) of the following:

i. Projecting or recessed entrance. A recessed entrance is required if the building entrance is located on or within five (5) feet of the lot line.

ii. Stoop or enclosed or covered porch.

iii. Transom and/or side light window panels framing the door opening.

iv. Architectural trim or unique color treatments framing the door opening.

Section 5.06.E.1.a has been interpreted to apply ONLY to the elevation of the building(s) facing the major road and NOT to the buildings internal to the development.

Justification of Interpretation

The following summarizes the information that was considered in making this interpretation:

1. The following Building Design Attributes from the Master Plan suggest that the façade(s) facing major thoroughfares are to be treated with stricter requirements than interior buildings.
 - *Facades facing major thoroughfares will be treated as fronts and should have a minimum of half transparent glass and special architectural design treatments.*
 - *Fenestration (the arrangement of windows and doors) should be highlighted through the use of awnings, overhangs or trim detailing.*
2. Section 5.06.E.1.a applies to all potential uses and building forms in Neighborhood Node. There are numerous uses and building forms that have been reviewed and approved under the Neighborhood Node provisions. All of the following entrances are examples of primary building entrances with façades that front on and are parallel to the street:



Retail – Node I



Gas station – Node L



Drive Through Restaurant – Node D



Townhomes – Node Q



Office/Retail – Node I



Apartments – Node I

3. The design focus of the Neighborhood Node Zoning District is to strengthen the relationship of the primary building façade with the street. This is based on the following:

- The Neighborhood Nodes are located exclusively at the intersection of major mile roads.
- The Neighborhood Node district has build-to requirements for the building(s) that front on the mile roads, but setback requirements for all other lot lines. Build-to requirements essentially pull the building close to the street, whereas setback requirements push buildings further away from property lines.
- The Neighborhood Node district includes minimum Transparency requirements to strengthen the relationship between the façade and the street. This means there are requirements for transparent windows that permit activities within the building to be viewed from the street. The Neighborhood Node district has a 50% Transparency requirement for the

façade that fronts on the mile road. But there is only a 30% Transparency requirement for the façade facing a parking lot, and no Transparency requirement for other building facades.

4. There are three (3) form-based zoning district in Troy: Big Beaver, Maple Road and Neighborhood Nodes. Form-based provisions attempt to strengthen the relationship between the street and the building(s) fronting on the street. For buildings and uses “behind” that building, the relationship with the street is partially screened by the frontage building and less important. There are numerous examples of this concept in the Big Beaver and Maple Road districts. An example of this in the Neighborhood Nodes is the Dunkin Donut drive through located in Node D, shown above. The placement of the restaurant building and the design of the south façade and primary entrance make the site more walkable and help the building and overall site relate to Big Beaver.
5. Section 5.06.E.1.a applies to all uses in the Neighborhood Node. For non-residential developments, such as retail and office, we did not require that the drive aisles providing access to non-residential buildings be treated as streets. We did not treat drives within residential development any differently.
6. Section 5.06.E.1.c includes standards specifically for Residential Dwellings. Standards for residential dwelling entrances are different and less restrictive than the general standards in Section 5.06.E.1.a. These Residential standards do not place any stricter requirements on access than the general standards of Section 5.06.E.i.e.
7. Finally, as someone involved in the process of comprehensively updating the Zoning Ordinance in 2011, it was never intended that the Neighborhood Node provisions treat internal drives and units in the exact same manner as units that front on major thoroughfares.

Compliance with Zoning Ordinance

During the April 13, 2021 Planning Commission meeting, members of the Planning Commission stated their opinion that Section 5.06.E.1.a was misinterpreted by the Zoning Administrator and/or Planning staff in the past. Consequently, there were residential developments that had been approved in the past that violated the City of Troy Zoning Ordinance. This claim is false. Furthermore, stating this publicly by Planning Commissioners complicates matters for the City in enforcing zoning provisions and defending zoning decisions should they be challenged. There are no violations of Section 5.06.E.1.a that the Planning Department is aware of. The Planning Department stands behind the interpretation of Section 5.06.E.1.a that has been applied in previous projects.

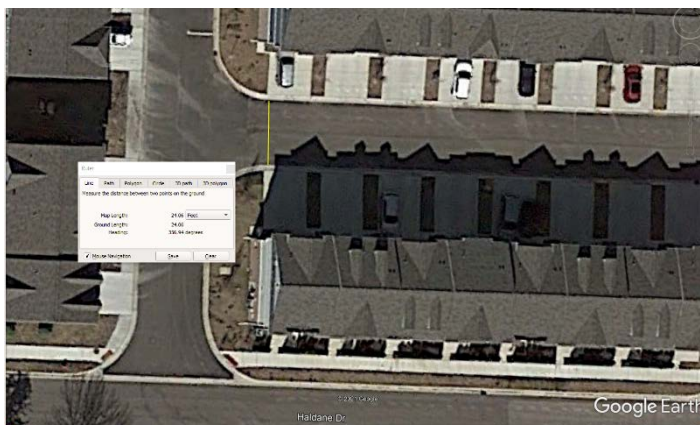
Project Example

Numerous Planning Commissioners referred to the Midtown Square development at the southwest corner of Maple Road and Coolidge Highway as example of a project that would meet the requirements of the proposed text amendment.

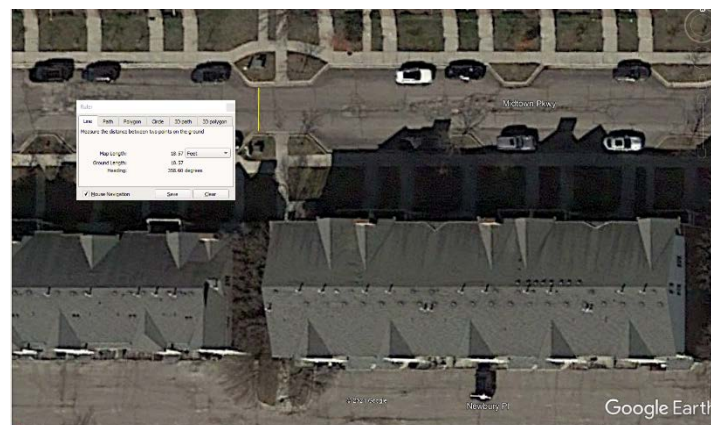
The Midtown Square development would not comply with the proposed text amendment. We would consider the internal roads to be “drives”, as they do not meet the easement or pavement width of a private or public road. Furthermore, there are units, outlined in red, that do not “front” on a drive or road, and would not comply.



The travel lanes in Midtown Square are narrower than those at the more recently approved Haldane townhome project.



Haldane Townhomes



Midtown Square

Pros/Cons of Proposed Amendment

The following is a summary of Pros and Cons of the proposed amendment to Section 5.06.E.1.e, as requested by the Planning Commission:

Pros:

- Planning Commissioner Rauch stated that the proposed amendment was intended to reduce density of residential developments in Neighborhood Nodes. The proposed amendment would have the desired effect.

Cons:

- The proposed amendment applies only to residential development and therefore should be located in Section 5.06.E.1.c, which specifically applies to residential development.
- The proposed revision is confusing and difficult to understand. There are other potential amendments that could reduce density that would be easier to understand and apply. For example, a flat per acre density cap would achieve the same end.
- There is a proposed text amendment that will be going before City Council on May 24, 2021 that if approved will restrict building height to 2 stories and increase setbacks for development in Neighborhood Nodes when abutting residential neighborhoods. This will have the effect of reducing density in Neighborhood Nodes. This will have a similar effect to the proposed amendment, eliminating the need for proceeding with another text amendment at this time.
- The proposed amendment would require greater infrastructure and wider roads, which may have the unintended consequences of requiring greater impervious surface, reducing open space, increasing internal vehicular speeds, and reducing walkability.
- The proposed revision could significantly change the intent, purpose, and function of Neighborhood Nodes. Amending the intent, purpose, and function of the Nodes is best done through a Master Planning process, which the city is currently undertaking.