

November 10, 2005

TO: John Szerlag, City Manager

FROM: Brian P. Murphy, Assistant City Manager/Services
Douglas J. Smith, Director of Real Estate & Development
Mark F. Miller, Planning Director

SUBJECT: AGENDA ITEM – PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA–201) – Article 28.30.00 Commercial Indoor Recreation in the M-1 Light Industrial Zoning District.

RECOMMENDATION

City Management and the Planning Commission developed language for this ZOTA. The Planning Commission held a public hearing on July 12, 2005 and recommended approval of Version “A”, which includes performance theaters. After the Planning Commission recommendation, further discussions raised concerns of the appropriateness of performance theaters in M-1 Zoning District. No one envisioned that performance theaters would be included in the commercial indoor recreation definition. This inclusion had simply been missed in earlier reviews of the amendments. Based upon the intent of the indoor commercial recreation in the M-1 district ZOTA, City Management recommends approval Version “B”, which excludes performance theaters and permits dance and performance studios. If City Council desires to clarify this intent with the Planning Commission, resolution “C” was prepared that will refer the ZOTA back to the Planning Commission.

BACKGROUND

The Link School of the Arts (1077 Rankin) submitted a Zoning Ordinance text amendment application to permit dance schools in the M-1 district. The Planning Commission determined that arts and dance schools should be included in a category known as indoor commercial recreation, and this category should be considered as a use permitted by Special Use Approval in M-1.

Commercial Indoor Recreation Facilities are appropriate uses in the M-1 Light Industrial District for a number of reasons:

1. These uses are compatible with uses presently permitted in the M-1 district;
2. The text amendment will be consistent with abutting communities, which generally permit similar uses in their industrial districts;
3. The amendment will encourage the re-use of buildings and properties in the M-1 District; and
4. There are a significant number of vacant, relatively large, high-ceilinged buildings that would be appropriate for these types of uses.

The definition of “Indoor Commercial Recreation Facility” considered at the Planning Commission Public Hearing included the uses dance studios and performance theaters. It was the intent to permit dance and performance studios, but not the intent to permit performance theaters, such as Freedom Hill located in the City of Sterling Heights. This potential situation was identified by Richard Carlisle, the City’s Planning Consultant, following the Planning Commission Public Hearing. Therefore, three resolutions are prepared for City Councils consideration. Version “A” is the Planning Commission’s recommendation which includes performance theaters. Version “B” is City Management’s recommendation, which excludes performance theaters but still includes dance and performance studios. Version “C” refers ZOTA 201 to the Planning Commission to consider the removal of performance theaters from ZOTA 201.

Attachments:

1. ZOTA 201, City Council Public Hearing Draft Version “A”
2. ZOTA 201, City Council Public Hearing Draft Version “B”
3. Minutes from July 12, 2005 Planning Commission Regular Meeting.

Prepared by RBS/MFM

G:\ZOTAs\ZOTA 201 Trade_Industrial Arts or Dance Schools in M-1\CC Public Hearing Memo 11 14 05.doc

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT VERSION "A"

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended to add a new section 04.20.73, which defines Indoor Commercial Recreation Facilities, to read as follows:

04.20.73 INDOOR COMMERCIAL RECREATION FACILITY: An enterprise conducted entirely within a building, which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, dance studios, performance theaters, skateboard parks, climbing facilities, miniature golf courses, indoor driving ranges, batting cages, firing ranges, basketball courts, soccer fields and similar activities or facilities. Such facilities may provide ancillary accessory uses such as pro shops or snack bars.

04.20.734 JUNK YARDS: an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to; scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Section 3 – Amendment to Article XXVIII of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new Section 28.30.09 which permits Indoor Commercial Recreational Facilities as Special Uses in the M-1 Light Industrial District, to read as follows:

28.30.09 Indoor commercial recreation facilities, subject to the following conditions:

A. Off-street parking requirements shall be determined based on the Zoning Ordinance requirements.

28.30.109 Other uses of a similar character to those permitted above, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, ____.

Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 201 Trade_Industrial Arts or Dance Schools in M-1\ZOTA 201 CC Public Hearing Draft Version
A 10 10 05.doc

CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
CITY COUNCIL PUBLIC HEARING DRAFT VERSION "B"

The City of Troy ordains:

Section 1. Short Title

This Ordinance shall be known and may be cited as an amendment to Chapter 39 of the Code of the City of Troy.

Section 2. Amendment to Article IV of Chapter 39

Article IV of Chapter 39 of the Code of the City of Troy is amended to add a new section 04.20.73, which defines Indoor Commercial Recreation Facilities, to read as follows:

04.20.73 INDOOR COMMERCIAL RECREATION FACILITY: An enterprise conducted entirely within a building, which receives a fee in return for the provision of some recreational activity or facility. Such activities and facilities include racquetball, tennis courts, gymnasiums, swimming pools, skating rinks, dance and performance studios, skateboard parks, climbing facilities, miniature golf courses, indoor driving ranges, batting cages, firing ranges, basketball courts, soccer fields and similar activities or facilities. Such facilities may provide ancillary accessory uses such as pro shops or snack bars.

04.20.734 JUNK YARDS: an open area where waste, used or secondhand materials are bought and sold, exchanged, stored, baled, packed, disassembled, or handled including, but not limited to; scrap iron and other metals, paper, rags, rubber tires, and bottles. A "junk yard" includes automobile wrecking yards and includes any area of more than two hundred (200) square feet for storage, keeping or abandonment of junk but does not include uses established entirely within enclosed buildings.

Section 3 – Amendment to Article XXVIII of Chapter 39

Article XXVIII of Chapter 39 of the Code of the City of Troy is amended to add a new Section 28.30.09 which permits Indoor Commercial Recreational Facilities as Special Uses in the M-1 Light Industrial District, to read as follows:

28.30.09 Indoor commercial recreation facilities, subject to the following conditions:

A. Off-street parking requirements shall be determined based on the Zoning Ordinance requirements.

28.30.109 Other uses of a similar character to those permitted above, and which will not be injurious or have an adverse effect on adjacent areas, and may therefore be permitted subject to such conditions, restrictions and safeguards as may be deemed necessary in the interest of public health, safety and welfare.

Section 4. Savings

All proceedings pending, and all rights and liabilities existing, acquired or incurred, at the time this Ordinance takes effect, are hereby saved. Such proceedings may be consummated under and according to the ordinance in force at the time such proceedings were commenced. This ordinance shall not be construed to alter, affect, or abate any pending prosecution, or prevent prosecution hereafter instituted under any ordinance specifically or impliedly repealed or amended by this ordinance adopting this penal regulation, for offenses committed prior to the effective date of this ordinance; and new prosecutions may be instituted and all prosecutions pending at the effective date of this ordinance may be continued, for offenses committed prior to the effective date of this ordinance, under and in accordance with the provisions of any ordinance in force at the time of the commission of such offense.

Section 5. Severability Clause

Should any word, phrase, sentence, paragraph or section of this Ordinance be held invalid or unconstitutional, the remaining provision of this ordinance shall remain in full force and effect.

Section 6. Effective Date

This Ordinance shall become effective ten (10) days from the date hereof or upon publication, whichever shall later occur.

This Ordinance is enacted by the Council of the City of Troy, Oakland County, Michigan, at a regular meeting of the City Council held at City Hall, 500 W. Big Beaver, Troy, MI, on the _____ day of _____, ____.

Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

G:\ZOTAs\ZOTA 201 Trade_Industrial Arts or Dance Schools in M-1\ZOTA 201 CC Public Hearing Draft Version
B 10 10 05.doc

ZONING ORDINANCE TEXT AMENDMENTS

12. **PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 201) – Article 28.30.00 Arts and Dance Schools (Commercial Recreation) in Light Industrial Zoning Districts**

Mr. Miller presented a summary of the proposed zoning ordinance text amendment relating to arts and dance schools in the light industrial zoning districts. Mr. Miller reported that City Management recommends approval of ZOTA 201 as printed on the draft ZOTA dated June 24, 2005.

There was a brief discussion relating to commercial recreation in the RC zoning districts. It was determined to discuss this at a future study meeting.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED**Resolution # PC-2005-07-121**

Moved by: Wright

Seconded by: Littman

RESOLVED, That the Planning Commission hereby recommends to the City Council that Article 28.30.09, pertaining to indoor commercial recreation facilities in the M-1 Light Industrial Zoning District, and related additional definitions, be amended as printed on the Proposed Planning Commission Public Hearing Draft Zoning Ordinance Text Amendment.

Yes: All present (7)

No: None

Absent: Vleck, Waller

MOTION CARRIED