

November 23, 2005

TO: John Szerlag, City Manager

FROM: Douglas J. Smith, Director of Real Estate & Development
Mark F. Miller, Planning Director

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

RECOMMENDATION

City Council conducted a public hearing on November 14, 2005 and postponed the ZOTA to November 28, 2005. Furthermore, City Council requested that definitions be provided for performance studios and performance theaters.

Resolution “A” was recommended by the Planning Commission and includes performance theaters as a permitted use. Resolution “B” is recommended by City Management, and excludes performance theaters and permits performance studios. Resolution “C” includes the same proposed provisions as Resolution “B”, with an additional definition for performance studio.

City Management prepared the following definitions for performance studios and performance theaters, as requested by City Council. The definition for performance studio was included in Resolution “C”. However, the definition for performance theater was not included in Resolution “C” because it is not listed as a permitted use in the Zoning Ordinance.

- **PERFORMANCE STUDIO:** A building or a portion of a building where the principal use of the space is the provision of instruction in the various arts, including but not limited to dance, theater, music, and singing. This shall not preclude student performances.
- **PERFORMANCE THEATER:** A building or portion of a building where the principal use of the space is dramatic, dance, or musical performances or similar activities, in front of an audience, including performances on film, television, music video, or multimedia. Performance theaters shall include theaters, assembly halls, concert halls or similar places of assembly.

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 neighboring 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-bayed 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 dance studios and performance theaters. Discussion at Planning Commission focused on dance and performance studios, but not performance theaters. This inadvertent inclusion of performance theaters 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. Resolution "A" is the Planning Commission's recommendation which includes performance theaters. Resolution "B" is City Management's recommendation, which excludes performance theaters. Resolution "C" is identical to Resolution "B", including definitions for performance studios.

Attachments:

1. ZOTA 201, City Council Public Hearing Draft Version "A".
2. ZOTA 201, City Council Public Hearing Draft Version "B".
3. ZOTA 201, City Council Public Hearing Draft Version "C".
4. Minutes from July 12, 2005 Planning Commission Regular Meeting.
5. Minutes from November 14, 2005 City Council Meeting.

Prepared by RBS/MFM

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CITY OF TROY
AN ORDINANCE TO AMEND
CHAPTER 39 OF THE CODE
OF THE CITY OF TROY
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

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CITY OF TROY
AN ORDINANCE TO AMEND
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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

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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.

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Louise Schilling, Mayor

Tonni Bartholomew, City Clerk

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CITY OF TROY
AN ORDINANCE TO AMEND
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VERSION "C"

The City of Troy ordains:

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Section 2. Amendment to Article IV of Chapter 39

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- 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.
- 04.20.109 MEZZANINE: an intermediate or fractional story between the floor and ceiling or a main story occupying not more than one third (1/3) of the floor area of such main story.
- 04.20.1104 MOTEL: a series of attached, semi-detached or detached rental units containing bedroom, bathroom and closet space. Units shall provide

for overnight lodging and are offered to the public for compensation, and shall cater primarily to the public traveling by motor vehicle.

- 04.20.111~~2~~ MUNICIPALITY: the City of Troy.
(Renumbered: 01/10/2005)
- 04.20.112~~3~~ NATURAL FEATURE, SIGNIFICANT: a natural area as designated by the Planning Commission OR City Council which exhibits unique topographic, ecological, hydrological characteristics, such as a wetland, floodplain, water feature, individual trees over 10 inch diameter, woodland areas, rolling topography with pre-development grades exceeding 15%, significant views, or other unique natural features.
(Added: 01/10/2005)
- 04.20.113~~4~~ NON-CONFORMING BUILDING: a building or portion thereof, existing at the effective date of Ordinance 23, or amendments thereto, that does not conform to the provisions of this Chapter relative to height, bulk, area, or yards for the district in which it is located.
- 04.20.114~~5~~ NON-CONFORMING USE: a use which lawfully occupied a building or land at the effective date of Ordinance 23, or amendments thereto, that does not conform to the use regulations of the district in which it is located.
- 04.20.115~~6~~ NURSERY, PLANT MATERIAL: a space, building or structure, or combination thereof, for the storage of live trees, shrubs, or plants offered for retail sale on the premises including products used for gardening or landscaping. The definition of nursery within the meaning of this Chapter does not include any space, building or structure used for the sale of fruits, vegetables or Christmas trees.

(Rev. 12-13-93)
- 04.20.116~~7~~ NURSERY SCHOOL: See Section 04.20.28 "Child Care Center":

(Rev. 12-13-93)
- 04.20.117~~8~~ NURSING OR CONVALESCENT HOME:
Shall refer to a state licensed medical establishment providing accommodation and care for aged or infirmed persons, or for those who are bedfast or needing considerable nursing care, but not including facilities for the treatment of sickness or injuries or facilities for surgical care.

(12-13-93)

- 04.20.1189 OFF-STREET PARKING LOT: a facility other than for single family dwellings providing vehicular parking spaces along with adequate drives and aisles, for maneuvering, so as to provide access for entrance and exit for the parking of more than three (3) vehicles.
- 04.20.11920 OPEN FRONT STORE: a business establishment so developed that service to the patron be extended beyond the walls of the structure, not requiring the patron to enter the structure. The term "open front store" shall not include automobile repair stations, automobile service stations, or uses involving drive-up windows or service pedestals.
(Renumbered: 01/10/2005)
- 04.20.1204 OPEN SPACE: a parcel or area of land that is intended to provide light and air, and is designed for resource protection, aesthetic, or recreational purposes. Open space uses may include, but are not limited to, lawns, decorative plantings, walkways, active and passive recreation areas, land use buffers, playgrounds, fountains, woodlands, wetlands and bio-retention facilities. Open space shall not be deeded to include streets, driveways, parking lots, or other surfaces designed or intended for vehicular traffic.
(Added: 01/10/2005)
- 04.20.1212 OPEN SPACE, COMMON: open space within or related to a development, not in individually owned lots, which is designed for and dedicated to the common use or enjoyment of the residents of the development or general public.
(Added: 01/10/2005)
- 04.20.1223 PARKING SPACE: an area of definite length and width, said area shall be exclusive of drives, aisles, or entrances giving access thereto, and shall be fully accessible for the storage or parking of permitted vehicles.
- 04.20.123 PERFORMANCE STUDIO: A building or a portion of a building where the principal use of the space is the provision of instruction in the various arts, including but not limited to dance, theater, music, and singing. This shall not preclude student performances.
- 04.20.124 PLACES OF ASSEMBLY:
Places of Assembly shall include, but not be limited to, the following: Restaurants (in excess of 20 seats), Health Clubs, Fitness Clubs, Athletic Clubs, Business Schools, Colleges, Martial Arts Schools, Dance Studios, Commercial Recreation Facilities, Lecture Facilities, Social Clubs, Fraternal Organizations, Theaters and Auditoriums and uses similar to the above.

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