The Regular Meeting of the Troy City Planning Commission was called to order by Chair Schultz at 7:30 p.m. on May 1, 2007, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:
Michael W. Hutson
Mary Kerwin
Robert Schultz
Thomas Strat
John J. Tagle
Kathleen Troshynski
Mark J. Vleck
Wayne Wright

Absent:
Lawrence Littman

Also Present:
Mark F. Miller, Planning Director
R. Brent Savidant, Principal Planner
Susan Lancaster, Assistant City Attorney
Kathy Czarnecki, Recording Secretary

Resolution # PC-2007-05-084
Moved by: Wright
Seconded by: Strat

RESOLVED, That Member Littman is excused from attendance at this meeting for personal reasons.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

2. APPROVAL OF AGENDA

Resolution # PC-2007-05-085
Moved by: Kerwin
Seconded by: Wright

RESOLVED, To approve the agenda as revised by moving item #8 behind #5.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

3. MINUTES

Resolution # PC-2007-05-086
Moved by: Kerwin
Seconded by: Tagle

RESOLVED, To approve the April 24, 2007 Special/Study meeting minutes as presented.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

POSTPONED ITEM

5. PUBLIC HEARING – REZONING REQUEST (Z 722) – Proposed Retail Development, Northwest corner of Maple Road and Thorncroft, Section 29 – From R-C (Research Center) to B-3 (General Business) District

Mr. Miller presented a summary of the Planning Department report on the proposed rezoning request, and reported it is the recommendation of City Management to approve the rezoning application.

Chair Schultz asked if the property to the south, zoned M-1 and a Consent Judgment, is built out as retail.

Mr. Miller replied in the affirmative

Dave Berry of 40682 Lenox Park Drive, Novi, was present to represent the petitioner.

William Fuller, principal of Orland Park Properties, gave a brief history of the site. He indicated the site would be more suitable for retail activity.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2007-05-087
Moved by: Troshynski
Seconded by: Strat

RESOLVED, That the Planning Commission hereby recommends to the City Council that the R-C to B-3 rezoning request, located at the northwest corner of Maple and Thorncroft, within Section 29, being approximately 3.2 acres in size, be granted.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

SITE PLAN REVIEW

8. SITE PLAN REVIEW (SP 909) – Proposed Amendment to Consent Agreement – Starbucks Restaurant, Northwest corner of Big Beaver Road and Crooks Road, Section 20, Zoned B-3 (General Business) and H-S (Highway Service) – Controlled by Consent Judgment

Mr. Hutson asked to be excused because of a tangential interest in the item.

By a voice vote, members agreed to excuse Mr. Hutson from discussion and vote on the item.

[Mr. Hutson exited the meeting.]

Mr. Savidant presented a history of the site plan application and a summary of the revised site plan. He reported City Management recommends approval of the site plan with the conditions that rooftop screening and an 8-foot wide sidewalk along Crooks Road, as per City of Troy Engineering standards, are provided.

Chair Schultz asked if it is within the purview of the Planning Commission to request full perimeter screening of rooftop mechanical equipment.

Mr. Miller replied in the affirmative.

Dave Berry of 40682 Lenox Park Drive, Novi, was present to represent the petitioner. Mr. Berry gave a brief history of the project. He indicated Starbucks agreed to move the building closer to the corner so the development would conform to the Big Beaver Corridor Study.

Mr. Tagle asked the petitioner to address building design and materials.

Steve Sorensen of Professional Engineering Associates, 2430 Rochester Court, Troy, was present. Mr. Sorensen, who is not the architect on record, said he worked directly with Starbucks' project and design manager on making the facades along Crooks and Big Beaver Roads presentable and as nice as possible. He said the rendering from Starbucks is similar in representation to the building design, indicating materials and floor plans might be available in two to three weeks, prior to going to City Council.

Mr. Strat said it is standard procedure to have sealed architectural drawings, and the item should be tabled because the drawing is not sealed.

Ms. Lancaster reminded members that the item is a Consent Judgment and falls outside of standard procedure. She said City Council has the ultimate decision on the matter, but it is City Council's preference to seek Planning Commission comments and recommendation. Ms. Lancaster briefly reviewed the procedure of a Consent Judgment item, and noted the item would most likely not come back before the Planning Commission.

Mr. Miller stated a significant change in the site plan is the reason members are reviewing the plan tonight. He said the petitioner has made an effort to accommodate the City's preference in design, and the City is trying to move the project forward as quickly as possible. Mr. Miller indicated any suggestions relating to materials and design could be incorporated in a recommendation to City Council.

Mr. Tagle asked for an explanation in terms of providing a recommendation when project information is incomplete. He commended the petitioner in moving the building closer to Big Beaver.

Ms. Lancaster responded a Consent Judgment in most cities is acted upon by City Council, with no recommendation from the Planning Commission. She indicated Troy is different and City Council values the input from its Planning Commission members as relates to the project design, materials, likes, dislikes, etc. She said City Council would consider Planning Commission comments with respect to the terms of the Consent Judgment.

Ms. Kerwin applauded the petitioner in coming back with a revised design in response to voices of the Planning Commission members, and said she would approve the revised plan.

Mr. Vleck said he is in full support of the revised plan because of its relation to the Big Beaver corridor, and indicated he would like to move forward with the project.

Mr. Strat concurred with the favorable comments, but voiced concern with the significant trees in the lot behind the service station to the west. He asked that as many trees as possible be saved and relocated to the boulevard area, and brick pavers removed. Mr. Strat said he would prefer to see building material samples and building elevations.

Chair Schultz said he would like to see less brick pavers, and more grass and trees, between the City sidewalk and the street along Big Beaver. He also suggested permeable surface along Big Beaver Road between the sidewalk and the street. Chair Schultz asked if the petitioner could go forward with the previously approved site plan, should the revised site plan be postponed.

Ms. Lancaster answered in the affirmative.

Chair Schultz opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Mr. Strat asked if the petitioner is receptive to the comments made by the members.

Mr. Berry assured members that the petitioner and Starbucks would accommodate their suggestions and comments to the best of their ability.

Mr. Sorensen said trees in the right of way are subject to approval by Oakland County.

Ms. Troshynski said she also would like to see more trees and less brick pavers, but noted traffic visibility would be a critical consideration.

Mr. Tagle requested the petitioner to also consider a pedestrian entrance off the east side of the building that would provide immediate access to the building off of Crooks.

Resolution # PC-2007-05-088
Moved by: Kerwin
Seconded by: Wright

RESOLVED, That the Planning Commission hereby recommends that the proposed Amendment to Consent Judgment, as requested for the proposed Starbucks Restaurant, located on the northwest corner of Big Beaver and Crooks, located in Section 20, on approximately 0.53 acres, within the B-3 and H-S zoning districts, be granted, subject to the following:

1. Add a note on the site plan stating that a full perimeter screen of rooftop mechanicals will be provided.
2. Provide an 8-foot wide concrete sidewalk on Crooks Road, per City of Troy Engineering standards.

Yes: Kerwin, Tagle, Troshynski, Schultz, Strat, Vleck, Wright
No: None
Abstain: Hutson
Absent: Littman

MOTION CARRIED

[Mr. Hutson returned to the meeting.]

ZONING ORDINANCE TEXT AMENDMENT

6. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (ZOTA 207) – Proposed Article 22.30.08 Adult Business Uses

Mr. Miller briefly reviewed the proposed zoning ordinance text amendment relating to adult business uses. He summarized the impacts of distance requirements of adult business uses from a church, school, childcare facility, public park or any residential zoning district or any parcel used for residential purposes, ranging from 500 feet to 1,000 feet.

Ms. Lancaster detailed the legal aspects of an adult business use text amendment in relation to the First Amendment. She addressed court decisions based on the secondary effects associated with a concentration of adult business uses, and what the courts look for when an ordinance is challenged. Ms. Lancaster said courts recognize the need for a balance between the First Amendment and deleterious affects of an adult business use. She said the bottom line is the Zoning Ordinance must be content-neutral, and the City cannot deny the First Amendment use or access to our City to have these uses. The Legal Department recommends a distance requirement of 500 feet of adult business uses from a church, school, childcare facility, public park or any residential zoning district or any parcel used for residential purposes.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Ms. Kerwin said the Legal Department and Planning Department served the City very well in their recommendations on adult business uses, and the need to have an ordinance in place to protect the City is recognized. Ms. Kerwin said that personally, as an advocate for youth, she could not support the 500-foot distance requirement from a church, school, childcare facility, public park or residential zoning.

Mr. Vleck indicated he would favor a minimal of 600 feet from a church, school, childcare facility, public park or residential zoning.

Mr. Hutson addressed the viewpoint of a judge, and questioned if anything in excess of 600 feet from a church, school, childcare facility, public park, or residential zoning would stand up to a test in court. He indicated the safest course to take would be to adopt an ordinance with the 500-foot distance, as recommended by the Legal Department. Mr. Hutson said he would not support anything over 600 feet.

Ms. Troshynski said her concern is with the concentrations of adult business uses along Big Beaver, Maple and 14 Mile Roads. She asked if there were other options that could be considered in that respect.

Ms. Lancaster said the uses cannot be zoned out of business, and the court wants an ordinance that is content-neutral. She said the City could amend the ordinance to allow adult business uses in other zoning districts, but she is not sure that would help with the concentration aspect. Ms. Lancaster said an open mind must be kept in terms of providing access for such a use.

Chair Schultz said he would support the recommendation of the City Attorney's office. He said it is understood that the majority of residents do not want any adult business use in our City, but they cannot be prohibited.

Resolution # PC-2007-05-089
Moved by: Hutson
Seconded by: Strat

RESOLVED, To move the adoption of Proposed Resolution # PC-2007-05 relating to Article 22.30.08, and that the motion should recognize when it is voted upon, that the written resolution is the one moved.

> ***WHEREAS***, it is recognized that there are some uses which, because of their very nature, have serious objectionable operational characteristics, particularly when several of them are concentrated under certain circumstances or when one (1) or more of them are located in near proximity to a residential zone, thereby having a deleterious effect upon the adjacent areas. Special regulation of these uses is necessary to ensure that these adverse effects will not contribute to the blighting or downgrading of the surrounding neighborhood. These controls are for the purpose of preventing a concentration of these uses within any one (1) area, or to prevent deterioration or blighting of a nearby residential neighborhood. These controls do not legitimatize activities that are prohibited by other applicable laws.
>
> ***AND WHEREAS***, in regulating adult business uses, it is the purpose of this ordinance to promote the health, safety, and general welfare of the citizens of the City of Troy, and to establish reasonable and uniform regulations to prevent the

deleterious secondary effects of adult business uses within the City of Troy. The provisions of this ordinance have neither the purpose nor effect of imposing a limitation or restriction on the content or reasonable access to any communicative materials, including sexually oriented materials. Similarly, it is neither the intent nor effect of this ordinance to restrict or deny access by adults to sexually oriented materials protected by the First Amendment, or to deny access by the distributors and exhibitors of sexually oriented entertainment to their intended market. Neither is it the intent nor effect of this ordinance to condone or legitimize the distribution of obscene material.

AND WHEREAS, based on evidence of the adverse secondary effects of adult business uses presented in reports made available to the Planning Commission, and on findings incorporated in the cases of *City of Renton v. Playtime Theatres, Inc.*, 475 U.S. 41 (1986), *Young v. American Mini Theatres*, 426 U.S. 50 (1976), and other cases; and reports of secondary effects occurring in and around adult business uses, including, but not limited to, Tucson AZ, Garden Grove CA, Ellicottville NY, New York NY, Times Square (New York City) NY, Oklahoma City OK, Cleburne TX, Dallas TX, Houston TX, Newport News VI, and St. Croix County WI, the Planning Commission finds that adult business uses as a category of establishments are correlated with harmful secondary effects, and that the foregoing reports are reasonably believed to be relevant to the problems that the City of Troy is seeking to abate and prevent in the future.

THEREFORE BE IT RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles IV DEFINITIONS and XXII B-3 GENERAL BUSINESS DISTRICT, pertaining to permitting Adult Business Uses subject to Special Use Approval in the B-3 District, be approved as printed on the proposed Zoning Ordinance Text Amendment, Planning Commission Public Hearing Draft.

Yes: Hutson, Schultz, Strat, Tagle, Troshynski, Wright
No: Kerwin, Vleck
Absent: Littman

MOTION CARRIED

Mr. Vleck said he is in agreement with the motion with the exception that he would like to see a distance of 600 feet from a church, school, childcare facility, public park or any residential zoning district, or any parcel used for residential purposes.

SPECIAL USE REQUEST

7. PUBLIC HEARING – SPECIAL USE REQUEST (SU 338) – Proposed Auto Detailing and Repair Facility and Outdoor Storage, East side of Souter, South of Maple Road (1402 Souter), Section 34, Zoned M-1 (Light Industrial) District

Mr. Savidant presented a summary of the Planning Department report on the proposed special use, and reported it is the recommendation of City Management to approve the special use request and site plan as submitted. Mr. Savidant noted two letters of opposition were received.

Douglas McGaw of 5455 Corporate Drive, Troy, was present to represent the petitioner.

Alec Bien of 1402 Souter, Troy, part owner of the building, was also present.

Mr. McGaw addressed the outside storage. He indicated the outside storage was a continued use from the previous ownership, and the petitioner was not aware that he was in violation of the Zoning Ordinance.

Mr. Hutson questioned the communication received from Stuart Tool Service expressing opposition and concern that there has been paint overspray discovered on some of their vehicles.

Mr. McGaw said the other tenant operates a car detailing business, of which he does not know the status. He said he could not conceive how paint could get outside of the building as all the painting occurs inside. Mr. McGaw said the other letter of opposition from a Big Beaver address appears to be in general opposition to the special use request, but indicated the site is over one mile away from the subject site.

Ms. Kerwin ask what would prevent the site from becoming “junked” up.

Mr. McGaw replied the storage area is completely screened and cars are not stored on site.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Strat asked if paint spraying occurs outside.

Mr. Bien said the tenant does not spray outside of the building, and that this complaint of overspray is the first of which he has been made aware. He indicated he would make sure both garage doors are closed during any painting operation. Mr. Bien said he stores pipe in the outside storage area, and the area is screened with a chain link, slatted fence.

There was further discussion on the letter of opposition from 1208 E. Maple, the location of which was determined with reference to the subject site.

Resolution # PC-2007-05-090
Moved by: Vleck
Seconded by: Tagle

RESOLVED, That Special Use Approval and Preliminary Site Plan Approval, pursuant to Sections 28.30.04 and 28.30.07 of the Zoning Ordinance, as requested for the Auto Detailing and Repair Facility and Outdoor Storage, located on the east side of Souter, south of Maple, in Section 34, within the M-1 zoning district, is hereby granted.

Yes: All present (8)
No: None
Absent: Littman

MOTION CARRIED

SITE PLAN REVIEW

9. SITE PLAN REVIEW (SU 328) – Existing Clark Station, Northeast corner of Maple and Livernois, Section 27, Zoned H-S (Highway Service) District

Mr. Savidant presented a summary of the Planning Department report on the proposed site plan, and reported it is the recommendation of City Management to approve the site plan as submitted.

Mr. Strat addressed the alley vacation abutting the subject parcel and the site plan design with respect to the proposed masonry screen wall.

Jason Longhurst of Nowak & Fraus, 1310 N. Stephenson Highway, Royal Oak, was present. Mr. Longhurst reviewed the proposed site improvements. He addressed the elimination of two approaches nearest the intersection, the deceleration lane off of Livernois required by Oakland County and the City, the existing canopies and pumps, the masonry screen wall in lieu of the required greenbelt, and the alley vacation.

Discussion followed on:
- Masonry screen wall; design, material and maintenance.
- Dumpster location.
- Building elevation; material.
- Site plan submission; i.e., unsealed architectural plans.

Mr. Strat indicated he would support a postponement of the item based on its design, proposed masonry screen wall and incomplete submittal. He addressed the damaged masonry screen wall at the Maple and John R service station.

Chair Schultz opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Mr. Longhurst addressed the building façade and screen wall. He indicated willingness to look into a different façade for the north side of the building. Mr. Longhurst said the masonry wall would be poured concrete with a color and texture that would match the building façade. He indicated the owner would be responsible for the maintenance of the screen wall, and there should be no comparison to another location that is delinquent in making repairs.

There was a brief discussion on the proposed material of the masonry screen wall.

Mr. Vleck asked if the members have authority to request a brick wall.

Ms. Lancaster said members could not negotiate or request the petitioner to go above and beyond the requirements of the Zoning Ordinance.

Mr. Miller read Section 39.70.05 of the Zoning Ordinance that relates to screen wall options.

Mr. Vleck suggested the use of curbing along the west wall to negate the probability of knocking down the screen wall.

Ms. Kerwin asked the petitioner to bring back a revised plan that would incorporate comments expressed by members.

Resolution # PC-2007-05-091
Moved by: Kerwin
Seconded by: Vleck

RESOLVED, To postpone this item until appropriate information is submitted.

Yes: Kerwin, Schultz, Strat, Tagle, Troshynski, Vleck, Wright
No: Hutson
Absent: Littman

MOTION CARRIED

Mr. Hutson said there is sufficient information to approve the site plan. He said he was not sure that the petitioner would legally have to obey the requests of the members.

OTHER ITEMS

10. PUBLIC COMMENTS – Items on Current Agenda

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENTS

There were brief comments on the new Pavilions of Troy development.

The Regular Meeting of the Planning Commission was adjourned at 9:17 p.m.

Respectfully submitted,

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Robert Schultz, Chair

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Kathy L. Czarnecki, Recording Secretary

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