

The Regular Meeting of the Troy City Planning Commission was called to order by Chair Strat at 7:30 p.m. on October 11, 2005, in the Council Chambers of the Troy City Hall.

1. ROLL CALL

Present:

Lynn Drake-Batts
Fazal Khan
Lawrence Littman
Robert Schultz
Thomas Strat
Mark J. Vleck
David T. Waller
Wayne Wright

Absent:

Gary Chamberlain

Also Present:

Mark F. Miller, Planning Director
Brent Savidant, Principal Planner
Allan Motzny, Assistant City Attorney
Christopher Kulesza, Student Representative
Kathy Czarnecki, Recording Secretary

Resolution # PC-2005-10-159

Moved by: Schultz
Seconded by: Wright

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

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

MOTION CARRIED

2. MINUTES

Resolution # PC-2005-10-160

Moved by: Wright
Seconded by: Khan

RESOLVED, To approve the September 27, 2005 Special/Study Meeting minutes as published.

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

MOTION CARRIED

3. PUBLIC COMMENT – Items not on the Agenda

There was no one present who wished to speak.

TABLED ITEMS

4. PUBLIC HEARING – PLANNED UNIT DEVELOPMENT (PUD 1) – Proposed Amendment to Woodside Bible Church/Northwyck Condominium P.U.D., East side of Rochester and South of South Boulevard, Section 2 – PUD 1

Mr. Savidant presented a summary of the Planning Department report for the proposed PUD amendment. Mr. Savidant reported that City Management has determined that the size and placement of the sign is not a health and safety concern, and it is the recommendation of the Planning Department to move the item forward to City Council for approval.

The petitioner, Wayne Chubb of Hobbs & Black, 100 N. State Street, Ann Arbor, was present.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Mr. Littman asked how the size of the sign evolved into 276 square feet.

Mr. Chubb said the development of the sign originated in January 2004, at which time it was determined by the City to use 100 square feet as a basis for the design because there was no defining ordinance for PUD signage. He explained the interpretation of the 100 square feet at that time was the area within the boundaries of the letters, and the sign evolved based on the size of the site, the proportion of the building from the front of the property and the speed of traffic along Rochester Road. Mr. Chubb indicated that the berm along Rochester Road also played a large part in the placement and size of the sign. Mr. Chubb confirmed that the sign is a backlit changeable letter sign and not an LED sign. He said to his knowledge the church does not intend to ever have an LED sign.

Resolution # PC-2005-10-161

Moved by: Waller

Seconded by: Vleck

WHEREAS, The Final Plan and Agreement for a Planned Unit Development, pursuant to Section 35.60.01 and Section 35.80.00, for the Woodside Bible Church/Northwyck Planned Unit Development known as PUD 1, located on the east side of Rochester Road and south of South Boulevard, in Section 2, within the R-1D zoning district, being 89.83 acres in size, was approved by City Council on June 2, 2003;

WHEREAS, Woodside Bible Church has submitted the Second Amendment to Development Agreement for the Woodside Bible Church/Northwyck PUD, Sheet A-065, Site Sign Plan and Details, for consideration and recommendation by the Planning Commission;

NOW THEREFORE BE IT RESOLVED, That the Planning Commission hereby recommends to City Council that the Second Amendment to Development Agreement for the Woodside Bible Church/Northwyck PUD be granted, for the following reasons:

1. The larger sign is required because of the berm that is located at the front of the property.
2. The sign does not pose a health or safety concern.
3. The petitioner is adding an additional 70 trees to the development.

BE IT FURTHER RESOLVED, That the Planning Commission hereby recommends that Sheet A-065, Site Sign Plan and Details, be added to the Final Plan of Woodside Bible Church/Northwyck PUD.

Discussion on the motion on the floor.

Mr. Khan asked if a clause could be added to the motion to hold the City harmless of any liability in the event of an accident because the petitioner is not complying with the required setback.

Mr. Motzny said there is no reason that the Planning Commission could not have such a provision.

Mr. Waller stated that particular thinking would create a slippery slope for the City. He said there are a series of signs adjacent to the subject location at varying distances less than the required 10-foot setback.

A brief discussion followed on providing a clause to hold the City harmless of liability.

Mr. Vleck noted that the Northwyck Condominium signage is at the same distance from the right-of-way as the church sign.

Mr. Miller said the Northwyck Condominium signage was included in the approval process of the PUD package, but the church did not indicate an actual design of their sign.

Mr. Schultz said he would be more comfortable if the sign was approved with the current lettering and lighting configuration. He said an active LED sign of that size and near proximity to Rochester Road would be extremely distracting.

Resolution # PC-2005-10-162

Moved by: Schultz

Seconded by: Littman

RESOLVED, To amend the motion on the floor to approve the sign with its current lettering and lighting configuration and, if the message board is changed in the future, that shall constitute another amendment to the PUD and the owners shall come back before this body for approval before the sign is changed.

Yes: All present (8)

No: None

Absent: Chamberlain

MOTION CARRIED

Vote on the motion on the floor as amended.

Resolution # PC-2005-10-161 (as amended by Resolution #PC 2005-10-162)

Yes: Drake-Batts, Schultz, Strat, Vleck, Waller

No: Khan, Littman, Wright

Absent: Chamberlain

MOTION CARRIED

Mr. Khan wanted a hold harmless clause in the motion.

Mr. Littman agreed that a hold harmless clause would be good and should be considered in the future for similar situations. Mr. Littman stated the main reason for his negative vote is that a good explanation was not provided for the deviation in the sign design.

Mr. Wright agreed with the comments of Messrs. Khan and Littman. Mr. Wright said he is very upset that the petitioner erected the sign without approval from the City.

Mr. Waller asked the Legal Department to advise the Planning Commission when a hold harmless clause would be appropriate and the wording of such a clause should there be merit to consider one in future actions.

Mr. Schultz asked if the Planning Department would request the petitioner to put in writing when specifically the rooftop mechanical equipment would be screened per ordinance, as stated in their letter of July 5, 2005.

Mr. Miller responded in the affirmative. He said to his knowledge the development has received only a temporary certificate of occupancy.

5. SITE PLAN REVIEW (SP 920) – Proposed Troy Retail Center (formerly Cranbrook Plaza), North side of Maple, West side of Dequindre, Section 25 – B-2

Mr. Savidant reported that the petitioner has requested to table the item to the November Regular Meeting. The petitioner would like additional time to complete the required information requested by the Planning Department.

The petitioner was not present.

Resolution # PC-2005-10-163

Moved by: Khan
Seconded by: Wright

RESOLVED, That Preliminary Site Plan Approval for SP 920 for the Proposed Troy Retail Center, located on the north side of Maple and west of Dequindre, in Section 25, is postponed to the January 10, 2006 Regular Planning Commission Meeting.

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

MOTION CARRIED

REZONING REQUEST

6. PUBLIC HEARING – PROPOSED REZONING (Z 710) – Existing Shopping Center (to include proposed Marshall's Music store), Northeast corner of Rochester Road and Wattles Road (4048-4060 Rochester Road), Section 14 – From B-1 (Local Business) to B-2 (Community Business)

Mr. Savidant presented a summary of the Planning Department report for the proposed rezoning. He referenced communication from the Director of Building and Zoning that provides an interpretation of the Zoning Ordinance as relates to B-1 and

B-2 zoning. Mr. Savidant reported that it is the recommendation of City Management to approve the rezoning request.

Marc Swoish of Purtan & Swoish, P.C., 4198 Orchard Lake Road, West Bloomfield, was present to represent the petitioner. Mr. Swoish said the rezoning change would have no dramatic affect on anyone in the City. He said the rezoning would allow Marshall's Music to move from its existing location in Troy, resulting in a long-time vacant space being leased and a viable tenant remaining in the City.

PUBLIC HEARING OPENED

No one was present to speak.

Mr. Schultz asked what zoning district the existing Marshall's Music store is in.

Mr. Miller said he did not know off-hand but would look it up.

Mr. Schultz referenced the interpretation of the Director of Building and Zoning, specifically his comment that Section 20.10.00 states that B-1 zoning was established for "day-to-day convenience, shopping and service needs of persons residing in adjacent residential areas." Mr. Schultz questioned how Marshall's Music, a local business, would not be appropriate when there are two national chain stores currently existing in the retail center. He said rezoning from B-1 to B-2 would further the inconsistency of the Future Land Use Plan, and he believes that Marshall's Music is equally consistent in the local business zone as is Kinko's, Blockbuster Video and the florist shop. Mr. Schultz suggested the petitioner apply to the Board of Zoning Appeals (BZA) for an interpretation of the Zoning Ordinance, and the Planning Commission hold the rezoning request in an open state until the end of the month.

Mr. Wright agreed that the existing stores at that location are not local businesses but city-wide businesses, and said Marshall's Music should fall under the same classification. Mr. Wright said he lives on the other side of Troy and frequents the various stores in the shopping center.

Chair Strat agreed. He also frequents Kinko's and lives on the opposite side of the city.

Mr. Littman noted people from afar and wide frequented a very well known wine shop previously located in the retail center. Mr. Littman cited an unattended consequence from the proposed rezoning would be that the entire shopping center is bought and developed into something undesirable by the City. He said he would support Marshall's Music going in the location by a means other than rezoning.

Mr. Swoish said discussions with the City led him to believe that the rezoning process would be the most expeditious process to take as well as provide more

consistent zoning for the entire retail center. Mr. Swoish said he respectfully disagrees with the original ruling that Marshall's Music is not a B-1 use.

Discussion followed on the scheduling of the rezoning request through the approval process of City Council, and the time frame to obtain an interpretation from the Board of Zoning Appeals.

Mr. Waller said consideration should be given to the reasonableness of having a consistent zoning classification for the whole corner.

Mr. Miller reviewed the allowable uses and required setbacks in B-2 zoning.

Resolution # PC-2005-10-164

Moved by: Schultz

Seconded by: Wright

RESOLVED, That the Planning Commission disagrees with the Building and Zoning Department's interpretation of the City of Troy Zoning Ordinance related to musical instrument sales, rental, service and/or musical instruction. These uses fall within the category of specialty shops (Section 20.20.02) and personal service establishments (Section 20.20.03), which are both uses permitted by right in the B-1 Local Business Zoning District. The Planning Commission requests that the applicant seek an interpretation from the Board of Zoning Appeals.

BE IT FURTHER RESOLVED, That the Future Land Use Plan classifies the parcel as Low Rise Office. Neither the existing B-1 zoning district nor the proposed B-2 zoning district is consistent with the Future Land Use Plan. Prior to considering a rezoning request that is inconsistent with the Future Land Use Plan, the Planning Commission prefers that the applicant attempt to solve this use issue without rezoning the property. The Planning Commission would respectfully request that the Board of Zoning Appeals review this subject during its meeting scheduled for October 18, 2005.

BE IT FINALLY RESOLVED, That the B-1 to B-2 rezoning request located on the northeast corner of Rochester and Wattles, within Section 14, being approximately 2.7 acres in size, be tabled to the October 25, 2005 Special/Study Meeting.

Discussion on the motion on the floor.

Mr. Littman said he would prefer to have the item go to the Board of Zoning Appeals for an interpretation.

Chair Strat suggested that the request to be placed on the BZA agenda come directly from Marshall's Music.

Mr. Miller noted the original communication to/from the Director of Building and Zoning was with the President of Marshall's Music Company; the second communication was with the representing attorney.

Vote on the motion on the floor.

Yes: Khan, Schultz, Strat, Waller, Wright
No: Drake-Batts, Littman, Vleck
Absent: Chamberlain

MOTION CARRIED

Chair Strat announced the Public Hearing would remain open.

Mr. Littman said there is a slim chance for the request to get on the October BZA meeting agenda. He would prefer that the request be handled through the BZA.

Mr. Schultz said nothing in the motion precludes the BZA from acting on the matter at its November meeting should it not make the October agenda. Mr. Schultz said the timing still provides the Planning Commission to take action at its October 25 Special/Study Meeting should it be necessary.

Chair Strat asked what would happen if the Planning Commission took action on the rezoning request at the same time the petitioner seeks an interpretation from the BZA.

Mr. Motzny said the petitioner would have time to withdraw the rezoning request before City Council action, should the BZA overrule the Building Department decision.

Ms. Drake-Batts said she has no problem rezoning the property to B-2.

Mr. Vleck said he has no problem rezoning the property to B-2, but would like to get the BZA's interpretation of the Zoning Ordinance.

Mr. Kulesza said he is familiar with the reason that Marshall's Music wants to move the store location. He questioned the impact any delay in the rezoning process or BZA action would have on the music class schedule.

Chair Strat requested a recess at 8:35 p.m.

The meeting reconvened at 8:44 p.m.

SITE PLAN REVIEW

7. SITE PLAN REVIEW (SP 922) – Proposed Rochester Maples Condominium, West side of Rochester Road, between I-75 and Maple Road, Section 27 – R-1T (One Family Attached Residential) District

Mr. Savidant presented a summary of the Planning Department report for the proposed condominium development. Mr. Savidant reported that it is the recommendation of the Planning Department to approve the site plan as submitted with the condition that the 8-foot sidewalk on the west side of Rochester Road be extended to the southern project limits. The Planning Department encouraged the applicant to utilize green techniques in the proposed development.

James Butler of Professional Engineering Associates, 2430 Rochester Court, Troy, was present to represent the petitioner. Mr. Butler provided a front elevation of the development and indicated that 240 trees would be planted on the site.

Innovative “green” technology was discussed with respect to emergency vehicle access (EVA) surface and storm water retention.

There was discussion on visitor parking and off-street parking. It was determined to move the watermain and sanitary sewers to the same side of the street as the fire hydrants, which would provide additional off-street parking spaces. Mr. Butler said he would provide as much parking as possible.

Mr. Vleck said the sidewalk appears to stop at the last unit on the court, and said it would make more sense to continue the sidewalk around the court.

Mr. Butler confirmed the sidewalk ends, but connection to the sidewalk on the west side can be made after crossing over. Mr. Butler acknowledged an oversight on the plan and said the sidewalk on the west side should connect to the last driveway.

Chair Strat opened the floor for public comment.

There was no one present who wished to speak.

The floor was closed.

Resolution # PC-2005-10-165

Moved by: Waller

Seconded by: Khan

RESOLVED, That Preliminary Site Plan Approval, as requested for the Proposed Rochester Maples Condominium, located on the west side of Rochester, between I-

75 and Maple Road, in Section 27, containing 42 units on approximately 8.32 acres, within the R-1T zoning district, is hereby granted, subject to the following conditions:

1. The 8-foot sidewalk on the west side of Rochester Road is connected to the southern project limits.
2. The fire hydrants and watermains are moved to the west side of Pennington Avenue, which would allow parking on the other side.
3. A painted crosswalk is created at the end of the west sidewalk to the opposite [east] sidewalk to allow direction for people to cross to use the sidewalks.
4. The hard surface of the emergency vehicle access (EVA) is some form of permeable concrete or paver bricks or something.

Yes: Drake-Batts, Khan, Littman, Schultz, Strat, Waller, Wright
No: Vleck
Absent: Chamberlain

MOTION CARRIED

Mr. Vleck would like the sidewalk to continue all the way around the court.

8. ZONING ORDINANCE TEXT AMENDMENT (ZOTA 214) – Articles 04.20.00 and 10.30.00, Group Day Care Homes in the R-1A through R-1E Districts

Mr. Miller provided an overview of the information provided to the members prior to tonight's meeting. He apologized and said the material was not provided earlier due to an internal glitch in the Planning Department.

Items briefly discussed were:

- Areas of purview.
- Ordinance recently approved by the City of Farmington Hills.
- Communication from Director of Building and Zoning relating to applicable Michigan Building Codes.
- Resources of professional City staff.
- Michigan Municipal League (MML) assistance as relates to inconsistencies between the State laws and City regulations.
- Review process of Michigan Building Codes.

Mr. Vleck requested inclusion of the following items to the list of discussion topics.

- Drop-off areas in relationship to other residences (side door entrances).
- Fire safety; multiple points of ingress and egress.
- Setbacks from other residences.
- Approval process as relates to inspections by City officials.
- Approval process; City approval before State approval, or vice versa.
- Notification of incidents, accidents, illnesses or injuries.

Chair Strat opened the floor for public comment.

David Schafer of 5593 Mandale, Troy, was present. Mr. Schafer addressed the direction of Councilwoman Beltramini's communication relating to State ordinances and the Public Hearing notification relating to ZOTA 214 for the October 25, 2005 Special/Study Meeting. Mr. Schafer requested a copy of the material provided to the members inclusive of the list of concerns.

Chair Strat explained that the actual text for a proposed zoning ordinance amendment is not published in a Public Hearing notification.

Curtis Childs of 1931 Atlas Court, Troy, was present. Mr. Childs encouraged members to review the City of Livonia ordinance on residential child day care and addressed proposed changes in State licensing regulations. He also requested a copy of the material provided to the members this evening, and thanked City Management for working with the State on the building codes.

The floor was closed.

It was the consensus of the members to discuss the matter at the October 25, 2005 Special/Study Meeting so they would have the opportunity to review the material that was provided by the Planning Department prior to tonight's meeting.

9. PLANNING COMMISSION BY-LAWS

This item was not discussed.

10. PUBLIC COMMENT – Items on the Agenda.

There was no one present who wished to speak.

GOOD OF THE ORDER

Mr. Kulesza offered his assistance in research work on the residential child day care issue.

Mr. Miller referenced the proposed PUD 5 Caswell Town Center booklet distributed to members, and asked consideration in getting the matter on a study session agenda quickly. He apologized again for not providing the members time to review the information on group day care homes. Mr. Miller addressed the handout relating to the masonry ordinance case study in Canton Township. He reminded members that review and discussion on a potential amendment to the Future Land Use Plan with respect to Rochester Road would be lengthy.

Chair Strat said he would like to dedicate a full Special/Study Meeting to review the proposed PUD 5. He reminded members who attended the formed base code seminar at the annual MAP conference to be ready to discuss it at the next meeting.

The Regular Meeting of the Planning Commission was adjourned at 9:40 p.m.

Respectfully submitted,

Thomas Strat, Chair

Kathy L. Czarnecki, Recording Secretary

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