CITY COUNCIL AGENDA ITEM

Date: February 13, 2013

To: Brian Kischnick, City Manager

From: Brent Savidant, City Planner
M. Aileen Bittner, City Clerk

Subject: Planning Commission Representative to the Zoning Board of Appeals

History

On January 8, 2013, the Planning Commission voted in favor of nominating Tom Krent as the Planning Commission Representative to the Zoning Board of Appeals. This appointment requires City Council approval. This appointment is reviewed annually in January by the Planning Commission.

Purchasing – Not Applicable

Financial – No Financial Considerations

Recommendation

City Administration recommends that City Council approve the Planning Commission's nomination and appoint Tom Krent to be the Planning Commission Representative to the Zoning Board of Appeals.

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Chair Tagle called the Regular meeting of the Troy City Planning Commission to order at 7:00 p.m. on January 8, 2013 in the Council Chamber of the Troy City Hall.

1. ROLL CALL

Present:
Donald Edmunds
Michael W. Hutson
Edward Kempen
Tom Krent
Philip Sanzica
Gordon Schepke
Robert Schultz
Thomas Strat
John J. Tagle

Also Present:
R. Brent Savidant, Planning Director
Susan Lancaster, Assistant City Attorney
Ben Carlisle, Carlisle/Wortman Associates, Inc.
Kathy L. Czarnecki, Recording Secretary

2. APPROVAL OF AGENDA

Resolution # PC-2013-01-001
Moved by: Schultz
Seconded by: Strat

RESOLVED, To approve the Agenda as prepared.

Yes: All present (9)

MOTION CARRIED

3. APPROVAL OF MINUTES

Resolution # PC-2013-01-002
Moved by: Edmunds
Seconded by: Krent

RESOLVED, To approve the minutes of the December 11, 2012 Regular meeting as published.

Yes: All present (9)

MOTION CARRIED

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

CONDITIONAL REZONING REQUEST

5. PUBLIC HEARING – CONDITIONAL REZONING APPLICATION (File Number CR 008) – Proposed Tim Horton's Café, Northwest Corner Square Lake and Dequindre, Section 1, From NN (Neighborhood Node "N") to CB (Community Business) District

Mr. Hutson informed the Board he has a client who might be involved in litigation with the petitioner's law partner. Mr. Hutson asked to recuse himself from discussion and deliberation on this item to avoid any appearance of impropriety.

The Board had no objection to the request.

[Mr. Hutson exited the meeting.]

Mr. Carlisle gave a review of the Conditional Rezoning application. Mr. Carlisle said the proposed drive-through use predicated on a conditional rezoning would not advance the Master Plan intent of the Neighborhood Node "N" zoning classification. He addressed the size of the parcel in relation to the drive-through, the restaurant use in terms of parking and the corner location with two access points.

Mr. Carlisle further identified specific site plan issues:

- Deficiency in parking spaces; 20 provided, 28 required.
- Requirement of 10 stacking spaces; 10th stacking space protrudes into drive aisle.
- Bisected / disjointed parking area.
- Potential deficiency in overall landscape area; 20% required, plan does not indicate.
- Impact on residential property to the west.
- Access and internal traffic circulation; specifically in morning and evening hours.
- Internal pedestrian circulation; both from parking lot to building and in location of menu/speaker board.
- Lack of snow storage location.
- Dumpster location; high visibility on Square Lake Road.
- Unknown specifics from future traffic study; petitioner expressed feedback from Planning Commission prior to providing traffic study.

Mr. Carlisle did not recommend approval of the Conditional Rezoning application, as submitted. He offered the following suggestions:

- Consider adding a portion, if not all, of the parcel to the north.
- Keep restaurant use but eliminate the drive-through.
- Consider an alternative use of site.

Mr. Savidant announced the Planning Department received 16 email messages from residents in the area, of which copies were distributed to members prior to the beginning of tonight's meeting.

The petitioner, Burt Kassab, was present. Mr. Kassab stated the property owner, Sam Askar, is present and in the audience. Mr. Kassab addressed the size of the parcel. He compared the proposed Tim Horton restaurant site to two existing Tim Horton restaurants in Troy on Rochester Road and Maple Road, as relates to parcel size and building size. Mr. Kassab said they have tried to meet the Neighborhood Node requirements in every respect.

Mr. Kassab reported the overall landscaped area is 21.1%; exceeding the 20% requirement. He stated Tim Horton's corporate office is satisfied that the 20 parking spaces provided will be sufficient. Mr. Kassab said the parcel to the north provides a great buffer to the residential neighborhood. He addressed the location and decibel level of the menu/order board that faces Square Lake, indicating it should have no affect on the neighborhood. Mr. Kassab said a drive-through restaurant is a corporate requirement.

Mark Kellenberger, Tim Horton's project planner, was present. Mr. Kellenberger said to his knowledge, all freestanding Tim Horton restaurants in Michigan are drive-through restaurants; those without drive-through's are located in non-traditional locations.

There was discussion on the following:

- Curb cuts / access points.
  - Critical to petitioner to attract business from both Square Lake and Dequindre Roads.
  - Curb cuts currently exist, installed by City during widening of right of way.
  - Affect on development should traffic study determine elimination of one curb cut to potentially alleviate traffic issues.
    - Petitioner stated restaurant operations would likely not go forward with development.
    - Elimination could potentially create more traffic issues.
  - Engineering review had no comments on curb cuts; asked petitioner to provide traffic study.
- Deficiency of eight (8) parking spaces.
  - Restaurant operations satisfied proposed parking is sufficient.
- Traffic, internal circulation, drive-through.
  - Morning hours draw majority of business, heaviest traffic and drive-through use.
  - Afternoon/evening hours light; new marketing strategy to attract customer base.
  - Configurations of turn lanes at intersection.
  - No escape lane proposed.
- Buffer to residential.
  - Dense evergreens to west and north.
  - Fence around property line.
  - Parcel to north acts as buffer.
  - Masonry wall on west.

- Noise levels; petitioner addressed menu board location.
- Property to north; parcel larger in size than subject parcel.
- Positive features of site plan, restaurant use and location.
  - Patio.
  - Walkability.
  - Two access points.
  - Good fit for potential customer base; nearby hospital.

PUBLIC HEARING OPENED

The following residents spoke in opposition:

Tom Dombrowski	2900 Briarwood Ct
Robert Cantlon	2864 Briarwood
Prabhakar Vallury	2878 Briarwood
Matthew Zelenak	2819 Briarwood
Pari Tathavadekar	2861 Briarwood
Lisa Havlish	2875 Briarwood
Srivatsan Santhanam	2945 Briarwood
Ritika Undemane	2892 Briarwood
Anup Gongle	2936 Briarwood
Norman Balston	2916 Briarwood
Akram Muhammad	2978 Briarwood

Residents who spoke in opposition expressed concerns with:

- 24-hour operation.
- Drive-through facility.
- Traffic congestion, signalization.
- Internal circulation; stacking of cars.
- Noise level.
- Lights.
- Garbage, litter.
- Overall safety.
- Safety of school children; bus pickup.
- Re-use of existing vacant parcels.
- Loitering; negative impact on children.
- Non-friendly sidewalk/bicycle use.
- Deviation from Master Plan intent.

The following resident spoke in favor:

G. James Grix	2508 Coral

Mr. Grix said a restaurant would generate revenue, offer employment and a ‘go to’ place for the neighborhood. He said other cities are attracting drive-through restaurants and potential revenue because Troy turns them away.

PUBLIC HEARING CLOSED

Discussion followed:

- Site plan design as relates to positive features and deficiencies.
  - Stacking spaces critical; no provision to waive Zoning Ordinance requirement.
- Master Plan intent.
- Responsibility of Planning Commission; health, safety and welfare of residents.
- Potential impact / non-impact on neighboring residents.
- Limited operational hours for drive-through.
- Approval process.
  - Recommendation to City Council.
  - Conditions to site plan must be volunteered by petitioner.
  - Site plan, if approved, would not come back before Board.
- Consider noise/decibel level study.
- Potential of traffic study to impact lay of the property.
  - Site plan might not come back before Board.
- Legal opinion to complete Conditional Rezoning Agreement and traffic study prior to recommendation to City Council.

The property owner, Sam Askar, addressed attempts to develop parcel after purchasing it from the City seven years ago. Mr. Askar said the asking price of the property to the north is high, and even if acquired a larger Tim Horton restaurant would be proposed. He intimated that most likely the Tim Horton's corporate office would go to another city with a proposal if the Board does not approve this application. Mr. Askar, noting he is familiar with the area, addressed the concern expressed for the safety of school children.

Mr. Kassab said he believes the asking price of the parcel to the north is above market and informed the Board that negotiations could not be reached with the two owners.

Mr. Kassab said if the Board chose to postpone the item, he would work on traffic study issues and relocation of the dumpster.

Resolution # PC-2013-01-003
Moved by: Schultz
Seconded by: Krent

RESOLVED, To postpone the item for thirty (30) days, not to exceed 30 days.

Yes: All present (9)

MOTION CARRIED

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Chair Tagle requested a recess at 8:56 p.m.

The meeting reconvened at 9:04 p.m.

[Mr. Hutson returned to the meeting.]

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SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW

6. PUBLIC HEARING – SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW (File Number SU 398) – Proposed Fifth Third Bank, North Side of Big Beaver between Lakeview and Alpine (2282 W Big Beaver), Section 20, Currently Zoned BB (Big Beaver) District

Mr. Carlisle gave a brief review of the application. He said the application meets all Zoning Ordinance requirements and Big Beaver form based requirements. Mr. Carlisle recommended approval of the Special Use and Preliminary Site Plan application as submitted.

There was discussion on the existing sign. Sign placement is not within the Planning Commission purview but it was noted there was concern with pedestrian visibility.

The petitioner, Doug Brinker of Atwell, and Jeff Wagner, representative of Fifth Third Bank, were present.

Mr. Wagner addressed the recently adopted Zoning Ordinance Text Amendment with respect to drive-through's on Big Beaver Road. Mr. Wagner acknowledged the City's concern on the sign placement. He said pedestrian visibility and line of sight guidelines will be applied when placing the monument sign at the new facility.

Messrs. Wagner and Brinker addressed the stacking of cars in the drive-through.

Mr. Savidant commended the applicant in responding quickly to some site plan revisions and submitting a clean application to the Planning Commission.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2013-01-004
Moved by: Schultz
Seconded by: Schepke

RESOLVED, That Special Use Approval and Preliminary Site Plan Approval for the proposed Fifth Third Bank, located on the north side of Big Beaver between Lakeview and Alpine (2282 W Big Beaver), Section 20, currently zoned BB (Big Beaver) District, be granted.

Yes: All present (9)

MOTION CARRIED

ZONING ORDINANCE TEXT AMENDMENT

7. PUBLIC HEARING – ZONING ORDINANCE TEXT AMENDMENT (File Number ZOTA 244) – Miscellaneous Zoning Ordinance Revisions

Mr. Carlisle reviewed the proposed amendment changes to the April 2011 Zoning Ordinance. He asked if the Board had any comments and for a recommendation to City Council for approval of the proposed revisions.

Mr. Edmunds requested the correction of the spelling of “insure” to “ensure”.

PUBLIC HEARING OPENED

No one was present to speak.

PUBLIC HEARING CLOSED

Resolution # PC-2013-01-005
Moved by: Schultz
Seconded by: Edmunds

RESOLVED, That the Planning Commission hereby recommends to the City Council that Articles 2, 3, 4, 5, 6, 7, 10, 12, 13 and 16 of Chapter 39 of the Code of the City of Troy, which includes miscellaneous Zoning Ordinance revisions, be amended as printed on the proposed Zoning Ordinance Text Amendment.

Yes: All present (9)

MOTION CARRIED

SITE CONDOMINIUM DEVELOPMENT

8. PRELIMINARY SITE PLAN REVIEW – Proposed Beachview Estates Site Condominium, 8 units/lots, West side of Beach Road, 1000' South of Long Lake, Section 18, Currently Zoned R-1A (One Family Residential) District

Mr. Carlisle reviewed the history of the proposed Site Condominium application. The plan before the Board this evening is for the originally requested 8 units/lots. Mr. Carlisle identified small site plan issues as noted in his report dated December 27, 2012 and recommended approval of the Site Condominium application, conditioned on those items being satisfied at the time of Final Site Plan approval.

The petitioner, Joseph Maniaci of Mondrian Properties, was present. Mr. Maniaci said he plans to go before the Traffic Committee to request a sidewalk waiver.

Mr. Edmunds applauded the petitioner for his patience and motivation in his attempt to develop the site as a cluster development.

Chair Tagle opened the floor for public comment.

There was no one present who wished to speak.

Chair Tagle closed the floor for public comment.

Resolution # PC-2013-01-006
Moved by: Edmunds
Seconded by: Schultz

RESOLVED, That Preliminary Site Condominium Approval, pursuant to Article 8 and Section 10.02 of the Zoning Ordinance, as requested for Beachview Estates Site Condominium, 8 units/lots, West side of Beach Road, South of Long Lake, Section 18, within the R-1A (One Family Residential) District, be granted, subject to the following:

1. Submit a revised Preliminary Site Plan that includes the following revisions:
   a. Reconfigured unit five building footprint.
   b. Identify proposed lot coverage.
   c. Show the required 25' x 25' corner clearance on both sides of the new intersection of Beachview Court and Beach Road.
   d. Show access drive to the detention basin.
2. Provide a 5-foot wide sidewalk along Beach Road or seek a waiver from the Traffic Committee.
3. Obtain all appropriate wetland permits MDEQ, Oakland County Soil Erosion, Oakland County Water Resources Commissioner, City of Troy, and any other appropriate body prior to Final Site Plan approval.

Yes: All present (9)

MOTION CARRIED

OTHER BUSINESS

9. ELECTION OF OFFICERS FOR 2013

Chair Tagle opened the floor for nominations for Chair and Vice Chair.

Mr. Schultz nominated John Tagle as Chair and Don Edmunds as Vice Chair.

Hearing no further nominations, Chair Tagle declared the nominations for the positions of Chair and Vice Chair closed.

Chair Tagle opened the floor for nominations for the Zoning Board of Appeals representative.

Mr. Schultz nominated Tom Krent as Zoning Board of Appeals representative.

Hearing no further nominations, Chair Tagle declared the nominations for the position of Zoning Board of Appeals representative closed.

Roll Call vote on the nominations on the floor.
Yes: All present (9)

10. PUBLIC COMMENTS – For Items on Current Agenda

There was no one present who wished to speak.

11. PLANNING COMMISSION COMMENTS

There were general Planning Commission comments.

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

Respectfully submitted,

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John J. Tagle, Chair

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Kathy L. Czarnecki, Recording Secretary

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