The Regular Meeting of the Troy City Planning Commission was called to order by Chair Hutson at 7:30 p.m. on April 13, 2010, in the Council Chamber of Troy City Hall.

1. ROLL CALL

Present:
Donald Edmunds
Michael W. Hutson
Mark Maxwell
Philip Sanzica
Robert Schultz
Thomas Strat
John J. Tagle
Lon M. Ullmann

Absent:
Mark J. Vleck

Also Present:
R. Brent Savidant, Acting Planning Director
Christopher Forsyth, Assistant City Attorney
Zachary Branigan, Carlisle/Wortman Associates, Inc.
Barbara A. Pallotta, Acting Recording Secretary
Adrienne Milnar, Student Representative

2. APPROVAL OF AGENDA

Resolution # PC-2010-04-020
Moved by: Schultz
Seconded by: Maxwell

RESOLVED, To approve the Agenda as prepared.

Yes: All present (8)
Absent: Vleck

MOTION CARRIED

3. APPROVAL OF MINUTES

Resolution # PC-2010-04-021
Moved by: Edmunds
Seconded by: Schultz

RESOLVED, To approve the minutes of the March 23, 2010 Special/Study meeting as prepared.

Yes: All present (8)
Absent: Vleck

MOTION CARRIED

4. PUBLIC COMMENTS – Items not on the Agenda

There was no one present who wished to speak.

SPECIAL USE REQUESTS

Chair Hutson briefly outlined the role of the Planning Commission as it pertains to the Special Use process. He explained that after tonight's action by the Planning Commission, the applicant will first appear before the Board of Zoning Appeals and depending upon the outcome, the applicant will then return before the Planning Commission.

Chair Hutson noted that tonight's Public Comment will be limited to three minutes and he respectfully requested that speakers not repeat comments.

5. PUBLIC HEARING – SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW (File Number SU 378) – Proposed Local Area Church, Southeast corner of Adams and Bolingbrooke (3586 Adams), Section 19, Currently Zoned R-1B (One Family Residential)

Zachary Branigan of Carlisle/Wortman Associates, Inc. provided a comprehensive overview of the Special Use Review for SU 378 dated April 9, 2010 included in the agenda packet. Mr. Branigan reported there are specific deficiencies of the project pertaining to: setbacks; site access and circulation; and landscaping. It is Mr. Branigan's recommendation that the Planning Commission take no action at this time and that the applicant apply for the necessary variances with the Board of Zoning Appeals.

R. Brent Savidant, Acting Planning Director noted that all correspondence received from the public has been forwarded to the Planning Commissioners.

Mr. Edmunds asked whether the applicant will appear before the Board of Zoning Appeals at their next meeting.

Mr. Savidant responded that the applicant has not yet submitted their application.

Mr. Tagle raised a question in regard to the load space requirements.

Mr. Branigan responded that the load space is based upon the square frontage of the building.

Mr. Strat asked whether the public will be notified as to when the applicant will appear before the Board of Zoning Appeals.

Mr. Savidant responded that the public is notified in the same manner as public hearings held before the Planning Commission.

Steve Carnwath stated he serves as a trustee and as an elder for the Detroit Meeting Rooms community. He has reviewed all of the correspondence received from the public and he is pleased about the amount of public interest. He continued by stating that Mr. Branigan has already addressed the two biggest questions about who they are and what is the impact of their organization. Mr. Carnwath reported that their organization also has locations in Berkley, Royal Oak and Clawson. He added that the Royal Oak location is the central meeting room and is the largest of their facilities. Mr. Carnwath indicated that the purpose of the Troy location is to bring together families that have migrated to Troy. Further, it is their intention to maintain and beautify the site.

Mr. Maxwell asked if the maximum capacity has been determined.

Mr. Carnwath responded that six families, less than thirty people will utilize the facility.

Mr. Maxwell understands that many churches experience a growth phase and asked the applicant to project their maximum capacity for this facility.

Mr. Carnwath responded that if they outgrow this facility, then they will look for another one. He explained that typically they have small gatherings and that large gatherings do not lend themselves to their type of worship.

Mr. Ullmann asked how many members would attend their worship services immediately upon opening.

Mr. Carnwath responded twenty-seven.

Mr. Ullmann is concerned that they are already at their maximum capacity.

Mr. Carnwath explained that their organization already has a larger site with a capacity of one-thousand. He further explained that the Troy facility is strictly for their communion services and their conversation meetings are held in the larger location. In addition, Mr. Carnwath stated that if there should be further migration to Troy, then they would look for another facility to accommodate those additional members.

Mr. Edmunds asked who would be responsible for policing the capacity requirements.

Mr. Carnwath believes that the fire department establishes those restrictions, but noted their fixed seating does not lend itself to a larger capacity.

Mr. Edmunds recalled that the applicant previously indicated they could accommodate seventy.

Mr. Carnwath responded that the plan originally included a capacity of seventy because at that point they considered adding a parking lot.

Mr. Strat suggested that the applicant confirm capacity with the Fire Marshal and the Building Department.

Mr. Carnwath responded that he would defer to the engineer who designed the floor plan, but he is fairly confident that they meet the requirements.

Mr. Branigan interjected that ordinance issues are enforced by Code Enforcement.

Chair Hutson asked whether the applicant's organization is recognized as a 501.3(c) non-profit corporation.

Mr. Carnwath confirmed that the organization is recognized as a 501.3(c) non-profit corporation.

Mr. Savidant interjected that fire and building codes are considered during the final site plan approval process.

Mr. Tagle asked if the applicant has explored other locations or leasing options.

Mr. Carnwath responded that their organization does not lease nor do they lease their facilities to others for private social activities.

Mr. Tagle asked if their organization has a by-law that precludes leasing as an option.

Mr. Carnwath believes there could be a by-law.

Mr. Tagle has concerns in regard to capacity because it leaves a lot of the responsibility with the applicant.

Mr. Carnwath replied that their endeavor is to be a good neighbor.

Mr. Tagle stated it would be helpful if the applicant could provide examples of their other facilities.

Mr. Carnwath believes they have already presented that to the Planning Commission.

Mr. Savidant interjected that this issue has been discussed in general terms during a study session, but not provided as part of the preliminary site plan procedure.

Mr. Schultz is concerned about a single family home serving as a meeting hall. He would like to observe their other locations to determine if this proposed plan would fit into a single residential community. Mr. Schultz does not have an issue with a

church in residential zoning, but he does have issues with a single family home serving as a church in a residential neighborhood.

Mr. Carnwath assured the Planning Commission that he will supply the addresses for their other locations.

Chair Hutson opened the Public Hearing and the following public comment was received from:

Elizabeth Yee **Harlan School Crossing Guard**	Opposed, concerns about safety and use of the school parking lot.
Dennis McCardle	Opposed, concerns about a church in residential zoning and home values in surrounding area.
Susan Montgomery	Opposed, lives adjacent to location; believes churches should be situated on large lots.
Tom Cook	Opposed, concerns with traffic, the proximity to Harlan School's entrance, maintenance of property and children's safety.
Gary Jensen	Opposed, concerns about the safety of his two children who attend Harlan Elementary School.
Neil Strefling	Supports, lives adjacent to the location and is the most impacted neighbor; believes applicant has improved the site and as a result the value of his property has increased
John Herrick	Opposed, concerns with traffic.
Larry Ianni	Opposed, agrees with earlier comments; concerned about economic impact in regard to tax exemption the church will receive; believes there should be an additional exit in the meeting room.
Margaret Confer	Opposed, concerns with traffic.
Steve King **Harlan School Representative**	Supports, conditioned upon evening meetings only and no overflow parking permitted in the school's parking lot.
Tom Monroe	Opposed, concerns with pedestrian safety due to increased traffic conditions in the evening and on the weekend.
Bill Grier	Opposed, concerns with traffic and pedestrian safety issues occurring when evening events are held at the school because there are no sidewalks in the adjacent subdivision.
Sandi Marshall	Opposed, concerns with increased traffic and increased noise.
Cathy Kershenbaum	Opposed, concerns with increased traffic conditions when evening events are held at the school; circulated a petition and has 100 signatures of residents opposing the special use request. (Petition presented to Mr. Savidant)
Dawn Jensen	Opposed; concerned with increased and conflicting

	traffic, bad intersection; egress of the circular drive and potential of overflow parking on the street.
Jim Sheridan	Supports; City is still collecting tax dollars; believes there is still time to correct deficiencies.
Kyle Beardmore **Member of Detroit Meeting Rooms**	Supports; clarified that church members police the parking and capacity; noted there will be no signage identifying the church.

Having received no further public comment, Chair Hutson closed the Public Hearing.

Chair Hutson stated that the Planning Commission shall take no action on this item at this time because the Board of Zoning Appeals must first consider the applicant's variance requests. He explained that any Planning Commission action will depend upon the outcome of the action taken by the BZA.

6. PUBLIC HEARING – SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW (File Number SU 376) – Proposed Taco Bell, East side of Rochester between Torpey and Harris (3268) Rochester, Section 23, Currently Zoned B-2 (Community Business) District

Zachary Branigan of Carlisle/Wortman Associates, Inc. provided a comprehensive overview of the *Special Use Review* for SU 376 dated April 8, 2010 included in the agenda packet. He noted that this proposal consists of an existing Taco Bell on Rochester Road and the site was formerly a different fast food establishment prior to becoming a Taco Bell. Although there are several site plan issues related to the application, Mr. Branigan explained the real reason the applicant is before the Planning Commission is that they are making minor site improvements related to the current road improvements taking place on Rochester Road. However, during the process of due diligence, Mr. Branigan reported it was determined that no special land use permit ever existed for the site even though one is required for a drive-thru restaurant facility in the B-2 District. He explained basically this is going through the motions of them applying for the special land use permit to allow an existing site that has been illegally existing as a non-conformity up until this time.

John Wollberg, Taco Bell representative stated that Mr. Branigan explained the project very well in his overview.

Mr. Savidant interjected that this site never received special use approval for the drive-thru and had it received special use approval in the past, the proposed changes would have most likely been approved administratively. He continued by stating that he initially was uncomfortable with the relocation of the dumpster because of the potential for increased noise that could impact the surrounding neighbors. However, Mr. Savidant noted that the neighbors were notified and the Planning Department has not received any communications from them.

Chair Hutson opened the Public Hearing for public comment. Having received no comment from the public, Chair Hutson closed the Public Hearing.

Mr. Schultz asked if anyone recalls when the original site plan was approved.

Mr. Savidant believes it was approximately twenty years ago.

Mr. Schultz cannot believe a certificate of occupancy was issued by the City for a plan that required special use approval.

Mr. Savidant suggested at the time the original restaurant was approved, that the requirement for the special use permit was a part of the initial site plan approval.

Mr. Branigan added that he understands that the site was something else before it was a Taco Bell. He continued by stating that the Taco Bell may have been there for almost twenty years but it was something else even before that. His point is that the drive-thru was approved a very, very long time ago.

Resolution # PC-2010-04-022
Moved by: Schultz
Seconded by: Edmunds

RESOLVED, That Special Use Approval and Preliminary Site Plan Approval for the Taco Bell restaurant, located on the east side of Rochester between Torpey and Harris (3268 Rochester), Section 23, within the B-2 zoning district, be granted, subject to the following conditions:

1. The applicant shall provide three (3) additional greenbelt trees along Rochester Road, as required.
2. The applicant shall provide a revised site plan addressing the informational items noted in the report prepared by Carlisle/Wortman Associates, Inc., dated April 8, 2010.

Yes: All present (8)
Absent: Vleck

MOTION CARRIED

7. PUBLIC HEARING – SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW (File Number SU 377) – Proposed Service Station/Convenience Store, Southeast Corner of Rochester and Wattles (3990 Rochester), Section 23, Currently Zoned H-S (Highway Service) District

Zachary Branigan of Carlisle/Wortman Associates, Inc. provided a comprehensive overview of the *Special Use Review* for SU 377 dated March 5, 2010 and revised on April 6, 2010 included in the agenda packet. He noted he has spoken with applicant on several occasions, including last month. He continued that there were a series of items discussed with the applicant as a result of staff's review that

needed to be addressed. He noted that the revised site plan addresses a majority of those items.

On behalf of the applicant, Tom August, Attorney, stated they appeared before the Planning Commission on March 9th and since that date, they have submitted all materials that had been omitted and they have addressed all of the issues raised by staff and the Planning Commission. Mr. August added that Leo Gonzalez, Project Manager, and Sam Beydoun, Principal Owner, of the property are also present.

Mr. August stated the applicant is seeking an approval pursuant to MCL [213.54] such that the property is treated as though it were grandfathered in. He continued by stating they are also seeking recognition that the owners have the rights and benefits as if it were completely conforming with the zoning ordinance. Furthermore, Mr. August requested that any planning requirement, should the building be modified in the future be it set-back, size or otherwise, be such that the expansion is permitted under the city's zoning ordinance with nonconformity and that it is not further expanded. He continued by stating that the approval shall travel with the land and is transferable in perpetuity including alternate uses allowed by the zonings. He noted this would include rebuilding or construction of a new building, and would apply to future uses with respect to a nonconformity created by the public taking. Mr. August stated they are before the Planning Commission as a result of the taking of Rochester Road and Wattles Road.

Chair Hutson interjected by suggesting that the applicant take that request before the Board of Zoning Appeals or through a consent judgment.

Chair Hutson opened the Public Hearing for public comment. Having received no comment from the public, Chair Hutson closed the Public Hearing.

Mr. Schultz noted that all the landscaping is located on the north and south sides of the building with a three-foot screen wall. Mr. Schultz asked whether it is within the purview of the Planning Commission to eliminate the screen wall between the east property line and the sidewalk that comes off of Wattles Road so that the landscaping is shown.

Mr. Branigan stated the wall is there to replace areas where they are required to have a greenbelt. He explained that basically in lieu of the greenbelt, they can have a wall. He continued by stating that it does not offer any specifics about the length of the wall other than its height. Mr. Branigan believes that if the wall were removed altogether that it would still meet the spirit of intent, which is to provide a greenbelt there. He added that they would still have the wall near the parking.

Chair Hutson believes that they can only shrink it so much to be within the spirit, but if it goes too far they have abrogated the rules. He believes it would depend upon where they would want to do that.

Mr. Tagle asked whether this area or a part of this area fulfill the requirement of a greenbelt if the wall were removed.

Mr. Branigan believes it probably would fill the requirement of a greenbelt. However, he added that he would have to first determine what the plant species are. In addition, he believes that it is about thirty feet, so they would need to add one tree to meet the greenbelt requirement. He noted that the area clearly has sufficient depth to meet the requirement. He added that if it is thirty feet or less and if they had one tree, that would qualify as a street tree and they would be fine.

Mr. Schultz noticed that the diagonal wall along the northwest boundary does not seem to terminate at the same distance from the driveway as all the other walls. He thinks it would look better if it went around the angle and terminated the same distance from inside the curb as all the other walls on the property.

Mr. Branigan believes what they have there would meet the minimum requirements.

Mr. Savidant agreed and added although that section of the wall is proposed, it is not required. He guesses the question to the Planning Commission is whether they feel it is appropriate to keep the wall there because it will maintain the continuity for the frontage of the property.

Mr. Strat stated that these walls remind him of some of the walls they currently have where half of them are down and have different colors of brick. He does not know if there is a better solution, but believes they should look at that.

Mr. Schultz recalled there was a question raised at the last meeting about the material that the building was going to be built out of and he believes the answer was that it would be built with two different colors of brick. He asked the applicant if this structure is the same structure that is currently being built at Ten Mile Road and Orchard Lake.

On behalf of the applicant, Leo Gonzalez responded that the building is the same.

Mr. Schultz asked if the building is going to be built with block instead of brick.

Mr. Gonzalez replied that the building will be constructed with split face cement block with a color and a texture to it.

Mr. Edmunds understands that the knee wall would be constructed with the same split face material as the building.

Mr. Gonzalez would like to go on record by stating that yes, it will.

Mr. Branigan interjected that there is a detail of the wall on the site plan that shows an update of the same material. He added that both the old and new plans specify twelve inch split face sand rock beige and twelve inch split face merlot on the material elevations on the site plan sheet.

Chair Hutson asked whether Mr. Schultz would like to include his proposal regarding the brick wall in the resolution.

There was a general consensus of Planning Commission members present to include the recommendations made regarding the screen wall along the Wattles Road frontage from the east property line to the sidewalk running in off Wattles Road and the screen wall on the northwest corner of the property that is on a diagonal in the resolution.

Resolution # PC-2010-04-023
Moved by: Schultz
Seconded by: Ullmann

RESOLVED, The Planning Commission hereby approves a reduction in the number of required parking spaces for the proposed service station/convenience store to 13 when a total of 15 spaces are required on the site based on the off-street parking space requirements for these uses, as per Article XL. This 2-space reduction is justified through the characteristics of the proposed uses, as outlined in the justification of the parking reduction, and therefore meets the standards of Article 40.20.12.

THEREFORE BE IT RESOLVED, That Special Use Approval and Preliminary Site Plan Approval for the proposed service station/convenience store, located on the southeast corner of Rochester and Wattles, Section 23, within the H-S zoning district, be granted, subject to the following conditions:

1. The applicant shall provide an eight (8) foot wide sidewalk along Wattles Road.
2. The screenwall along the Wattles Road frontage from the east property line to the sidewalk running in off Wattles Road shall be eliminated.
3. The screenwall on the northwest corner of the property that is on a diagonal shall terminate at the same distance from the back of the curb as all other screenwalls.

Yes: All present (8)
Absent: Vleck

MOTION CARRIED

8. PUBLIC HEARING – SPECIAL USE REQUEST AND PRELIMINARY SITE PLAN REVIEW (File Number SU 375) – Proposed Pro Car Wash East, East side of Rochester, South of Wattles, Section 23, Currently Zoned H-S (Highway Service) District

Zachary Branigan of Carlisle/Wortman Associates, Inc. provided a comprehensive overview of the *Special Use Review* for SU 375 dated March 17, 2010 and revised on April 7, 2010 included in the agenda packet. Mr. Branigan reported that this applicant either has to receive a variance from the Board of Zoning Appeals or revise their site plan to meet the landscaping requirement.

As a customer, Mr. Edmunds frequently uses the existing cross access for convenience and access to Rochester Road at the light.

Mr. Branigan stated although they do promote cross access, there are clearly striped perpendicular parking spaces there. He continued by stating that a customer is able to use it as a cross access only when there are no cars parked there. Mr. Branigan explained in order to designate that as cross access, they would have to provide an amendment and make sure that if those parking spaces are taken away, they are not causing nonconformity. He added that the applicant has been made aware that they need to address the cross access issue. At the time Mr. Branigan spoke with the applicant, he was made aware that the applicant may have a verbal agreement with the property owner to the north.

In response to the cross access situation, Robert Waldron, owner of Pro Car Wash East, advised that he has had a verbal agreement with the property owner to the north for forty-one years. He added that the owner is willing to provide him with anything he needs that would verify that the parking stripes were placed in error.

Mr. Schultz reiterated that at some point, the City will have to verify with the northern neighbor that the stripes have been eliminated and they are not a part of their site approval.

Mr. Waldron stated that the northern property owner is more than willing to sign a cross access agreement.

Chair Hutson asked if a license agreement would be more appropriate than a cross access agreement.

Mr. Branigan replied that Christopher Forsyth, Assistant City Attorney, would have to weigh in on that question but he does know that there has to be some sort of legal mechanism to guarantee that there is cross access before the site plan can move forward.

Mr. Forsyth stated the City does ask that a legal document be prepared in regard to the cross access and be submitted to the City Attorney's office for review.

Mr. Savidant added that it is fairly common to receive some pushback from property owners who do not want to encumber their property. He assured everyone that there are hundreds of reciprocal cross access agreements throughout the City.

Mr. Schultz requested that the applicant install closures to the dumpster doors that will keep the doors closed.

Mr. Waldron assured Mr. Schultz that he would correct that.

Chair Hutson opened the Public Hearing for public comment. Having received no comment from the public, Chair Hutson closed the Public Hearing.

Mr. Branigan asked whether it is the applicant's intent to appear before the Board of Zoning Appeals to seek a variance from the 10% landscaping requirement.

Mr. Waldron responded that it is his intent to appear before the Board of Zoning Appeals.

Because the applicant plans to appear before the Board of Zoning Appeals and tonight's meeting meets the statutory requirements, Mr. Branigan stated it is unnecessary for the Planning Commission to take action at this time.

OTHER BUSINESS

9. PUBLIC COMMENTS – Items on Current Agenda

Steve Carnwath of Detroit Meeting Rooms provided Mr. Savidant with an address listing of their other locations.

10. PLANNING COMMISSION COMMENTS

Mr. Strat asked whether all of the planning consultant assignments related to the zoning ordinance and amendments would be completed by June 1st.

Mr. Branigan stated his schedule does not indicate that the zoning ordinance would be completed by June 1st. However, he reported that a meeting is scheduled next week in regard to the Form Based Code District project and that the next step is to draft some of the districts. He explained they are specifically meeting with a subcontractor from Kansas City who is an architect and urban planner with whom they have worked with before. Mr. Branigan assured the Planning Commissioners that they are progressing and a draft should be ready soon.

Mr. Savidant added that the Planning Commissioners will be contacted by e-mail in regard to the exact schedule as soon as possible.

Mr. Strat asked when the Planning Commissioners can expect to receive a checklist from staff in regard to what is to be submitted to the Planning Commission for preliminary site plan approval. Mr. Strat added that the applicant should also submit samples of the materials that are being used in addition to also providing color samples.

Mr. Savidant understands that what Mr. Strat is requesting is an actual checklist to use as a tool when reviewing a site plan and that he will e-mail that to the Planning Commissioners tomorrow.

Mr. Branigan suggested that they provide the Planning Commissioners with what is currently in the ordinance and the proposed language so they can revise the checklist as needed.

Mr. Tagle asked whether it is possible to create standards for items such as screen walls along property lines. As an example, Mr. Tagle stated that DPW has standards for work in the right-of-way.

Mr. Savidant replied that there is not a lot of flexibility in the current ordinance for the applicant or the Planning Commission. He continued by stating that it needs to be recognized that there is a problem with these walls. Mr. Savidant needs to check with the Law Department regarding ordinances on the book regarding the enforcement of the continual maintenance of the walls.

Mr. Tagle explained is talking more about design standards similar to sidewalks or curb cuts.

Mr. Savidant responded that Mr. Tagle's suggestion is an approach they can take in regard to addressing the issues with walls and he will make a note of that.

Mr. Schultz is hoping there will be language providing authority in the new ordinance to enforce site plans, including landscaping. He explained many applicants let the trees die and currently there is no mechanism to have the landscaping replaced.

Mr. Savidant is of the opinion that a site plan is a contract and that landscaping provisions can be enforced. Mr. Savidant added that they can address that issue in the revisions being made to the zoning ordinance.

For the record, Mr. Savidant indicated that Student Representative Adrienne Milnar was present this evening and was sitting in the back of the room.

The Regular Meeting of the Planning Commission adjourned at 10:07 p.m.

Respectfully submitted,

Michael W. Hutson, Chair

Barbara A. Pallotta, Acting Recording Secretary

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