

A regular meeting of the Troy Planning Commission was held Wednesday, March 27, 2019, at 3:30 p.m. in Council Chambers, second floor, City Hall, with Chairman Alan Kappers presiding. Members Present: McGarry, Beamish, Titterington, Wolke and Mahan; Zoning Inspectors Brandon and Watson; and Assistant Development Director Davis.

The minutes of the March 13, 2019, meeting were approved upon motion of Mayor Beamish, seconded by Mrs. Mahan.

PRELIMINARY PLAN, VILLAGES OF CONCORD; PROPOSED BY R L HAWK, LLC.

REMOVE FROM TABLE. Upon motion of Mayor Beamish, seconded by Mr. McGarry, the Villages of Concord was removed from the table by unanimous roll call vote.

Mr. Davis noted that staff had notified the neighbors as requested, the Law Director is not present but submitted an email to the Commission, and Assistant Chief Stanley is present as the Commission requested a Fire Department representative attend the meeting. Mr. Davis referenced the email from the Director of Law.

“At the March 13, 2019 meeting of the Troy Planning Commission, the Planning Commission requested legal guidance regarding the application for preliminary plat approval for a proposed subdivision entitled the Villages of Concord. At this meeting, various residents of adjoining properties raised issues regarding the administration of a Homeowner’s Association on adjoining property. Once these issues were raised, the Planning Commission tabled the pending application until further guidance could be obtained from the Fire Chief and the Law Director.

The general requirements for the approval of a subdivision of land are set forth in Chapter 1115 of the Troy Codified Ordinances. Section 1115.06 requires that the Preliminary Plat conform to all requirements of the subdivision regulations. The Preliminary Subdivision Plat Requirements are set forth in Chapter 1117. These requirements address common space, traffic impact studies, lot requirements, the technical form of the plat documents, and preliminary drainage. The lot requirement provision requires all proposed lots to either abut a publicly dedicated street or a public access easement. The Fire Code addresses sprinkler systems for new construction. Further requirements are set forth in Chapter 1119. These address roadway and drainage design standards.

Certain members of the existing HOA and at least one adjoining property owner have raised concerns about the approval of a previous plat and/or the administration of the HOA. At this point, these matters appear to be civil issues between the private parties. Any aggrieved person can seek court intervention or pursue remedies set forth in the HOA documents. The issue before the Planning Commission is whether or not the proposed preliminary plat satisfies the subdivision requirements as described above. City Staff has examined the proposed preliminary plat submitted by the developer and determined that the proposed preliminary plat satisfies the subdivision regulations.

The Troy Planning Commission is a quasi-judicial body. As members of the Troy Planning Commission, you should use your independent judgment to determine if the applicant has satisfied the all of the requirements of the subdivision regulations. If there is a certain provision of the subdivision regulations that you have questions about, I can certainly provide further guidance.”

Mr. Davis summarized that the Director of Law is stating that the determination of the Commission is to be based on an application meeting the Sections 1115 and 1117; that staff considers applications based on meeting zoning and subdivision regulations and if those are met will recommend approval of an application; that for Villages of Concord the developer has two options – providing an access easement or installing residential sprinklers in future construction and as the developer will comply with installing the residential sprinklers, the Fire Code is satisfied.

Discussion:

-Mr. Kappers commented that it boggled his mind that staff could recommend approval of a plat on private property without the approval of the owners, that the plat indicates the roads are private and no access by the condo owners is being provided. Mr. Davis commented that what was submitted to staff shows access from Laurel Tree and Paul Revere Way and the requirements are being fulfilled with the sprinklers. Mr. Kappers indicated that Paul Revere Way is a private drive outside of the access agreement, that the access easement is not the “end all” but a minimum requirement, and there is not an access easement as the roadways stated are not public thoroughfares.

-Mr. Davis commented that if the homeowners do not feel the applicant has the authority to submit the plat, they have other recourse, and if it were determined there was not authority to provide the access easement staff would put an end to the development.

-Mr. Kappers asked if staff is saying that the HOA that owns the private drive would need to file a law suit to show they are the owners of the property showing the access easement, and Mr. Davis replied that would only be the case if they feel aggrieved by the decision.

-Mr. Kappers commented that the condo documents are clear that the owners must have notice of meeting, action must be taken at a meeting, and staff should see if that took place. Mr. Davis commented that there are a number of HOAs within the City, but staff follows the subdivision regulations in making recommendations. Mr. Kappers commented that the City requires items in the HOA that have to be maintained, and he feels proof should be if the requirements have been met.

-Mr. Titterington commented that he does not disagree with the logic stated by Mr. Kappers, but based on advice of Law Directors, staff understands that the City does not have the right to enforce provisions of a HOA; for Villages of Concord staff consulted with the Law Director who has advised that there is no reason not to recommend the preliminary plan as the developer is meeting the provisions of the Code; and if what has been provided by the developer is not true, that is an issue between the applicant and owners and the owners can take legal action if they wish.

-Mr. Kappers referred to the Codified Ordinances and ORC, and commented that Planning Commissions are appointed in the interest of public health, safety, convenience, comfort, prosperity and general welfare of citizens, and indicated the interest of the welfare of the property owners is to be considered.

-Mr. Wolke commented that the communication of the Director of Law notes that Commission members should use independent judgment, and recognizing that it has been stated that what is asked of the developer are minimum requirements, and based on information received, he does not think what has been provided cuts it. He commented that the Commission has not been given an access easement document and there is no assurance that it will be received, and that the property owners are saying they were promised dual access and the preliminary plan does not show it.

-Mr. Titterington commented that the residential sprinkling is the option if minimum requirements are not being met. Mr. Kappers replied that is not convenient to the owners.

-Mr. McGarry commented that the developer has apparently not met the requirements of providing a second point of access, and is moving on to another inconvenience for new owners. Mr. Davis noted that the City vacated part of Oakmont Drive so the developer could put a sign in the roadway. Mr. McGarry stated concern with the vacation and no access provided, and until the matter is rectified and there is access for emergency vehicles, he does not think the Commission should move forward on the application. Mr. Davis suggested that the property owners have likely used Oakmont Drive after it was vacated. Mr. Kappers commented that the road could be closed off as private property at any time.

-Mr. Titterington asked for staff clarification on what the Law Director is advising. Mr. Davis stated his understanding that the Director of Law sees no reason to deny the application for the same reasons staff has recommended approval – that the developer has met the requirements of zoning and the subdivision regulations.

A motion was made by Mr. Titterington, seconded by Mayor Beamish, to approve the Preliminary Plan for the Villages of Concord as submitted and based on the recommendation of staff and the communication of the Director of Law.

Vote: Yes – Beamish, Mahan, Titterington

No - Kappers, McGarry, Wolke

MOTION FAILED ADOPTION

HISTORIC DISTRICT APPLICATION, 126 S. PLUM STREET, FOR REPAINTING EXTERIOR; CURRENT OWNER – TERRY AND KATHY SMITH; PROPOSED OWNER/APPLICANT – MATTHEW DENIUS. The staff reported noted: property is zoned R-5 Single Family Residential; house was built in 1911 by Albert Thackara; property is not on the National Register; current paint is peeling; proposed paint colors are from the Sherwin Williams, Historical Collection, main exterior walls will be in SW0077 – Classic French Gray, with the main trim in SW7005 – Pure White, the decorative/shaped trim in SW 6258 – Tricorn Black, and the front door in SW 2831 – Classical Gold; there is a sales contract between Mr. Denius and the Smiths; and staff recommends approval based on the findings of:

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed colors are in keeping with the existing color of the building.
- The proposed plan also will provide needed maintenance to the property.

The Commission viewed the color samples.

A motion was made by Mr. Titterington, seconded by Mr. Wolke, to approve the historic district application for 126 S. Plum Street as submitted, based on the exact colors of Sherwin Williams, Historical Collection, main exterior walls will be in SW0077 – Classic French Gray, with the main trim in SW7005 – Pure White, the decorative/shaped trim in SW 6258 – Tricorn Black, and the front door in SW 2831 – Classical Gold; as viewed by the Commission, and based on the findings of staff that:

- The proposed alteration does not detract from the historic integrity of the building;
- The proposed colors are in keeping with the existing color of the building.
- The proposed plan also will provide needed maintenance to the property.

MOTION PASSED, UNANIMOUS VOTE

PLANNED DEVELOPMENT, 44 PETERS AVENUE FOR THE USTORIT STORE AND LOCK STORAGE BUILDING; OWNER/APPLICANT – JASON MARKO.

FINAL DEVELOPMENT PLAN: Staff reported: the Planned Development process requires three steps for approval; the first step is the General Plan, which was previously approved by Planning Commission and City Council by the zoning change to a PD; the second step is the Final Development Plan and the third step is the Record Plan; the Final Development Plan is in accordance with the approved General Plan that was previously approved by Planning Commission and City Council; the specifics of the Final Development Plan are:

PROPOSAL:

Layout: The layout includes the current existing building measuring 5,200 square feet of gross floor area located to the north portion of the property. The proposed development contains a new 30 ft. by 220 ft. building, for a total of 6,600 square feet, with vehicular access around the proposed building and additional paved area for outdoor storage to the south. There will be a green space in the south west portion maintained for drainage and additional landscaping along the east and south property lines shown in Exhibit D-4.

Uses: The proposed use for the Planned Development will be for a self-storage facility with outdoor storage as permitted in the M-2 zoning district. Other uses may be allowed as permitted in the M-2 Light Industrial zoning district.

Parking: The development contains 3 parking spaces. The parking area currently has one driveway access onto Peters Road. The proposed parking area meets the zoning code requirements for the number of parking spaces.

Parks & Recreation Facilities: This planned development does not propose any common open space or recreational facilities.

Traffic: The developer provided that at other currently owned storage facilities that only 1-2 vehicles per week access the sites. Higher usage would generally be one per day.

Utilities: This development will be served by existing City water and sewer lines. The plan seeks to mitigate storm water control by utilizing the existing storm sewer system on the property by installing a new section of storm sewer line. Since the project is disturbing less than an acre there is no requirement for a detention basin.

Protective Covenants: Given this site is currently being used for the same use. The applicant doesn't have a need for any extra covenants or restrictions on the property. There are existing easements for the sewer and storm water utilities located on the property. Please see Exhibit D-6 for discussion of covenants, grants, easements and restrictions.

Modifications: There are no needed modifications from the Zoning code requirements for this development outside of the proposed two principle buildings on the lot.

Comprehensive Plan Compliance: The Troy Comprehensive Plan indicates the proposed area to be developed as commercial and industrial use according to the Future Land Use Map. The property is currently used as an industrial use and this expansion would be in compliance with the comprehensive plan.

Staff recommended approval of the Final Development Plan.

Mr. Kappers commented that the PD looks tight in some areas and asked if there are any setback issues. Mr. Watson advised that all setback requirements are met.

A motion was made by Mayor Beamish, seconded by Mr. Wolke, that the Troy Planning Commission approves the Final Record Plan of the PD at 44 Peters Avenue as submitted as it is in accordance with the approved General Plan.

MOTION PASSED, UNANIMOUS VOTE

FINAL RECORD PLAN: Staff reported that the Final Record Plan is in accordance with the approved General Plan and the Final Development Plan, and recommended that the Final Record Plan be recommended for approval by City Council.

A motion was made by Mr. Titterington, seconded by Mrs. Mahan, that the Troy Planning Commission recommends to Troy City Council that the final Record Plan of the Planned Development at 44 Peters Avenue be approved as it is in accordance with the approved General Plan and the Final Record Plan.

MOTION PASSED, UNANIMOUS VOTE

CONSULTANT REGARDING HISTORIC DISTRICT APPLICATIONS. Mr. Kappers reminded the Commission members to submit any comments regarding historic district applications to the consultant. Mr. Kappers commented that "what is historic" is a question he has.

There being no further business, the meeting adjourned at 4:00 p.m.

Respectfully submitted,

_____ Chairman

_____ Secretary