

A regular meeting of the Troy Planning Commission was held Wednesday, May 9, 2018, at 3:30 p.m. in Council Chambers, second floor, City Hall, with Chairman Alan Kappers presiding. Members Present: Beamish, Titterington, Mahan, Snee, and McGarry; Assistant Development Directors Harris and Davis; zoning inspectors S. Brandon and Robert Watson; Director of Law Grant Kerber.

The minutes of the April 25, 2018 meeting were approved. .

DOWNTOWN-RIVERFRONT OVERLAY DISTRICT APPLICATION – 846 W MAIN STREET AND 31 S. CEDAR STREET (PARCEL LESS THAN ½ ACRE IN SIZE), OWNER – GREENVILLE NATIONAL BANK; APPLICANT - THE MT STUDIO, MIKE TWISS, AIA.

Remove from Table: A motion was made by Mr. Titterington, seconded by Mrs. Mahan, to remove the DR-O Application for 846 W. Main St. and 31 S. Cedar St. from the table. **MOTION PASSED, UNANIMOUS VOTE**

Public Hearing on DR-O Application: At 3:47 p.m., Mr. Kappers declared open the public hearing on the Downtown/Riverfront Overlay District Application for 846 W. Main St. and 31 S. Cedar St.

Staff Report: Staff presented a report attached to the original minutes, noting: the DR-O was created to allow for creative use and re-use of properties within the designated DR-O district when conventional zoning requirements are inappropriate or the underlying zoning district is unduly restrictive; the DR-O district encompasses a large portion of the oldest properties within the City of Troy; these properties are quite often challenged when it comes to proposing an adaptive re-use of an existing property; properties within the DR-O district contain legal, non-conforming lots that are unable to meet the required lot size in today's zoning code; the properties at 846 W. Main St., and 31 S. Cedar St. are prime examples of the intent and purpose of the DR-O; B-2 zoning calls for a minimum size lot of 40,000 square feet -- 846 W. Main St. has a total area of 15,681 square feet and 31 S. Cedar is 2,613 square feet; neither lot meets the required lot width of 150' or setback requirements; therefore, both lots are legal non-conforming; the structure that had been on 31 S. Cedar Street had fallen into major disrepair; Greenville National Bank has eliminated a blight on the neighboring properties by demolishing the Cedar Street structure; staff has reviewed the criteria that are to be considered for a DR-O application, staff commented:

“...applying the DR-O to the properties in question will provide for a creatively designed single-use Planned Development, while preserving its character and vitality through ongoing regulatory supervision. The DR-O will also preserve and enhance property values, enhance the predictability and profitability of private investments made in the City, promote economic vitality of business and industry, and will improve the aesthetic character of all parts of the City.”;

Staff advised that this development satisfies the 17 criteria for Planning Commission when considering DR-O applications and will eliminate two legal, non-conforming lots that are very hard to develop; and staff recommend approval contingent upon the signed copy of the parking agreement between the bank and the other of the LaFiesta property being recorded with the Miami County Recorder's office.

Discussion. Mr. Kappers, noting the staff comment of “the DR-O was created to allow for creative use and re-use of properties”, commented he fails to see how a bank building is a creative use of the property. Staff commented that a bank is a permitted use under the zoning, for development under the zoning, the applicant would have to file for strict variances; the creative use allows for give and take between the City and the applicant and the result is that the City does not have a vacant lot. It is not addressing the use, as that is permitted, it is addressing the setback for the property. In response to the Mr. Kappers, it was stated the applicant could go to the BZA if the DR-O is denied, but there are different criteria to be met, including hardship. Mr. Davis commented that from the staff viewpoint for this application with a lot that is less than half the required size, the DR-O permits a viable development and not just a shotgun building to fit the lot size.

Mrs. Snee commented that she does not feel the “creative use” has to mean the business has to be creative, rather it is creatively using the property for something that might not fit in a current zoning, and even though the use as a bank may not be creative, the creative use can be based on where the lot is.

Mr. Titterington commented that “creative use” is number 4 out of 17 criteria to be considered, but it is not the only criteria; that if there were an application for an existing building and the use of the DR-O would solely be to get around restrictions that would otherwise apply he could not support that; but with a brand new use and upgrade to what had been there, he could argue that this; but the City will be sensitive to an application blatantly using a DR-O to get around other requirements.

Mr. McGarry commented that after he reviewed the application and the Ordinance further, he sees that while the bank use may not be creative, being able to have a use for the lot is creative.

Mr. Davis commented that when staff went back to look at the intent of the ordinance, it is that the DR-O be applied when conventional zoning is inappropriate and restrictive and staff felt that the size of the lot made development restrictive.

Mr. Kappers suggested that by reducing the building size would eliminate the restrictions. Mr. Davis stated that was correct but could result in a shoebox development. Mr. Titterington commented that as staff looked at the lot development, developing based on current requirements would make internal traffic flow more difficult, and considerations were taken to limit and control the traffic onto W. Main Street, and that consideration fits one of the listed criteria.

There were no comments made supporting or opposing the DR-O application for 846 W. Main St. and 31 S. Cedar St. At 3:45 p.m., Mr. Kappers declared the public hearing closed.

Recommendation: A motion was made by Mayor Beamish, seconded Mr. McGarry, that the Troy Planning Commission has reviewed the application to apply the Downtown/Riverfront Overlay District to the property located at 846 W. Main St. and 61 S. Cedar St., that the Commission finds that the criteria under which the Planning Commission shall review said applications, as set forth in Section 1143.25 (q) (1) c of the Zoning Code is met by this application and, therefore approves the application submitted to apply the Downtown/Riverfront Overlay District to the property located at 846 W. Main St. and 31 S. Cedar Street.

Staff asked that the motion be contingent on the recording contingent upon the signed copy of the parking agreement between the bank and the other of the LaFiesta property being recorded with the Miami County Recorder's office. The motion was so amended by the Mayor, seconded by Mr. McGarry.

Yes: Titterington, Beamish, McGarry, Snee and Mahan

No: Kappers

MOTION PASSED

It was asked how the contingency affects the “approval of the Planning Commission” and the requirement to immediately forward the recommendation to Council and Council's ability to hear the application if it chooses within five business days, as the recording of the parking agreement may not be completed or known until after that five-day period.

Mr. Kerber suggested the Commission clarify the motion to indicate that the recommendation of the Commission is not final and forwarded to Council until the Secretary of the Planning Commission receives proof that the parking agreement has been recorded.

Regarding satisfying the contingency, a motion was made by Mr. Titterington, seconded by Mrs. Mahan, that the Troy Planning Commission stays its recommendation until the recorded document is filed with the Secretary of the Planning Commission.

MOTION PASSED, UNANIMOUS VOTE

HISTORIC DISTRICT APPLICATION FOR 10 N. MARKET STREET FOR AN EXTERIOR WALL SIGN; OWNER – 3 NORTH RIDGE, LLC; APPLICANT- KRISTEN SCHULTE, PHYSICAL THERAPIST 212, LLC.

Remove from Table: A motion was made by Mr. Titterington, seconded by Mr. McGarry to remove the Historic District Application for 10 N. Market Street from the table. **MOTION PASSED, UNANIMOUS VOTE**

The applicant was present.

Staff reported: property is zoned B-3, Central Business District; property is listed on the National Register; 90 square feet of signage is permitted with this tenant to have 20 square feet, and application is for a wall sign measuring 2' x 8', or 16 square feet; material is ¼" aluminum composite; lettering will be digitally printed and laminated exterior durable graphic image; colors – white, dark navy blue C:89 M:83 Y:40 K:72, purple C:55 M:100 Y:5 K:0, red C:5 M:100 Y:85 K:0, and Gradient; the item has been tabled as the Commission had concerns with the size of the logo on the sign, and also the angles and colors of the logo, and had asked that the applicant attend the meeting.

Staff had discussed the concerns of the Commission with the applicant who recently opened her practice in the City of Troy and would very much like to have approval for the submitted sign as she feels the logo perfectly describes her philosophy on how "one degree difference in care that will bring your health *great change*; she had hired a marketing company to aid in the creation of the name and logo; she believes the name of the business means nothing without the integration of the logo. Staff has provided photographs of the various signs within the downtown, historic district and came to the conclusion, that the downtown has a wonderful mix of colorful, creative, and one-of-a-kind signs (copy of pictures attached to original minutes); and staff recommends approval based on the findings of:

- The proposed sign will meet all City of Troy sign code requirements; and
- The proposed sign compliments the existing colors of the building.
-

Mr. Kappers stated his concern in considering historic district applications and what is to be considered and the Commission's responsibility – is it maintaining the integrity of the district, are there specific colors, should signage be historic to the 1800s and 1900s, if it is a subjective decision what is the criteria, and if it is rote such as material/area/size only considered, that should be known, and he is looking for guidance. He commented that when he looks at this application with the angles and figures, it does not appear historic and he had asked for photos to help discern if other signs have been approved that may be precedent setting. He was advised that all the signs in the provided photos had been approved by the Commission.

Mr. Titterington commented that this would usually be an architectural review board responsibility, which has been delegation to the Planning Commission, he believes it is subjective and becomes "eye of the beholder", and he looks at applications as comparable to others in the general area to see if it is compatible or sticks out. Mr. Titterington noted that the Commission has had much discussion on some applications, and some applications have been altered. He noted that he saw the first edition of this sign and believes what has now been submitted is much better than the initial.

Mr. Kappers commented he would like to see a workshop and more information if possible to know if the decision is based on "historic" or are there other criteria.

Mrs. Snee asked staff if staff determines an application meets the sign code is the application considered to meet historic district requirements, with staff indicating that would be true. Mrs. Snee asked where the proposed sign would be placed in relation to an existing sign and was told to the right and that there could be another business sign.

Mr. Davis read from part of the sign code, 1143.22 (f) (18):

"Signs shall be in keeping with the character of the adjacent environment. Excessive size and inappropriate placement results in visual clutter and shall be avoided. A good sign should relate harmoniously to exterior building material, texture and color: express a simple, clear message and contain a minimum number of words..."

Mr. Kappers stated he did not hear a whole lot of guidance in the code.

A motion was made by Mr. Titterington, seconded by Mrs. Snee, to approve the application for 10 N. Market Street as submitted, with material of ¼" aluminum composite; lettering will be digitally printed and laminated exterior durable graphic image; colors – white, dark navy blue C:89 M:83 Y:40 K:72, purple C:55 M:100 Y:5 K:0, red C:5 M:100 Y:85 K:0, and Gradient, and based on the findings of staff that:

- The proposed sign will meet all City of Troy sign code requirements
- The proposed sign compliments the existing colors of the building.

Yes: Titterington, Beamish, McGarry, Snee and Mahan

No: Kappers

MOTION PASSED

PRELIMINARY PLAN – VILLAGES OF CONCORD, LOCATED SOUTH OF WAYNE STREET AND NORTH OF THE KROGER LOCATION; OWNER: TROY INVESTMENT GROUP LLC; APPLICANT: ROGER HAWK.

Applicant was not present. Staff reported: applicant has applied for a Preliminary Plan for the Villages of Concord (parcels # D08-103660 and D08-059144, PT Inlot 7189) located south of Wayne Street and north of the of the Kroger Development (State Route 55); property is zoned R-6, Single-Family Residential District, and R-7, Multiple-Family Residential; in 2000, the Villages of Concord subdivision was approved by the Planning Commission and City Council consisting of a layout that encompassed a condo community; a portion of the development was completed in the mid-2000s and now the developer is requesting to finish building the subdivision with single-family lots; entire subdivision consumes a total of 16.6 acres with 6.526 acres already developed; the developed portion includes 20 condominiums, common area with a lake (2.565 acres), and a clubhouse (1.325 acres); remaining 10.028 acres of land proposes to include 35 building lots; the existing clubhouse will be open for use by the entire subdivision; the subdivision is expected to be completed in a single-phase.

Roadways: The two private roadways are already provided and named as Lantern Lane and Paul Revere Way. Five foot sidewalks will be installed in the subdivision along the proposed roads. The private roads will remain private and will not become public roadways.

Lots: The development proposes 35 building lots that range from 6,011 square feet (.138 acres) to 24,393 square feet (.560 acres). The proposed lots meet the lot requirements set by the Zoning Code.

Open Space: The developer is providing the required three percent (3%) of open space as required by the Subdivision Regulations. The open space includes the 2.565 acres area by the lake and the 1.325 acre area that encompasses the clubhouse and outdoor swimming pool. Private open space can be accepted by the Planning Commission in lieu of public parkland or fees-in-lieu-of. The Code requires all non-dedicated open space be reserved for the common use of all property owners in the subdivision, which the owner is providing.

Lots: The development proposes 35 building lots that range from 6,011 square feet (.138 acres) to 24,393 square feet (.560 acres). The proposed lots meet the lot requirements set by the Zoning Code.

Open Space: The developer is providing the required three percent (3%) of open space as required by the Subdivision Regulations. The open space includes the 2.565 acres area by the lake and the 1.325 acre area that encompasses the clubhouse and outdoor swimming pool. Private open space can be accepted by the Planning Commission in lieu of public parkland or fees-in-lieu-of. The

Code requires all non-dedicated open space be reserved for the common use of all property owners in the subdivision, which the owner is providing.

Compliance: The City has reviewed the preliminary plan and it is in compliance with the Zoning Code and Subdivision Regulations. In addition, the Comprehensive Plan shows this area to be developed residentially.

Staff recommended approval.

Discussion ensued regarding the wording of the Condo Association, if the applicant has the authority to make an application that may control areas under the Condo Association, if the clubhouse and pond have been stated to belong to the condo association, the rights of the condo owners, the ownership of the clubhouse and the pond and if the application has the authority to leverage them in an application. Mr. Kappers suggested that the condominium documents and determine how impacted by this application need to be reviewed and ownership clarified as it may be that the clubhouse and pond are part of the old development and not the new development.

A motion was made by Mr. Titterington, seconded by Mrs. Snee, to table the preliminary plan application for the Villages of Concord so that the Law Director can review the condominium documents and come to a decision as to how the condominium is impacted by this application.

MOTION PASSED, UNANIMOUS VOTE

REPEALING ORDINANCE NO. O-9-2018, TO REPEAL THE REZONING OF INLOT 9891, AN 8.015 ACRE PARCEL, BACK TO A-R, AGRICULTURAL-RESIDENTIAL, FROM R-3-B, SINGLE-FAMILY RESIDENTIAL DISTRICT; OWNER – HALIFAX LAND CO., LLC; APPLICANT – NOTTINGHAM DEVELOPMENT, INC. This property is located directly north of Finsbury Lane, west of Piqua-Troy Road and east of the Nottingham Subdivision, and is currently vacant land. The property owner is the Halifax Land Co., LLC and the applicant is Nottingham Development, Inc., Jessica Minesinger, President. The Planning Commission previously recommended the land be rezoned to R-3-B; the recommendation was supported by Council by the adoption of O-9-2018; a referendum has been filed on O-9-2019 and the referendum has been certified by the Board of Elections; the applicant (Mrs. Minesinger) has now requested that the zoning return to A-R; and staff has received correspondence from the owner acknowledging that request.

Mr. Kerber commented that this is a rezoning request by asking that Ordinance No. O-9-2018 repealed; as the ORC provides limited guidance in handling such requests, this is being handled similar to a zoning request; it is asked that the Commission make a recommendation to Council, with a goal of processing the request for removal of the item from the November ballot.

Public Hearing. A motion was made by Mr. McGarry, seconded by Mrs. Mahan, that the Commission not hold a public hearing on the rezoning.

MOTION PASSED, UNANIMOUS VOTE

Recommendation: A motion was made by Mrs. Snee, seconded by Mayor Beamish, that the Troy Planning Commission recommends that Ordinance No. 0-9-2018 be repealed and that the zoning of IL 9891 be returned to A-R, Agricultural-Residential.

MOTION PASSED, UNANIMOUS VOTE

There being no further business, the meeting adjourned at 4:18 p.m.

Respectfully submitted,

_____ Chairman

_____ Secretary