

A regular meeting of the Troy Planning Commission was held in Council Chambers, City Hall on Monday, October 11, 2021 at 3:30 PM with Chairman Mr. Kappers presiding. ATTENDING: Members – Titterington, Wolke, Westmeyer, Kappers, Oda, McGarry and Ehrlich; Staff – Development Director Davis, Zoning Inspector Bruner; and Engineering Technician Watson.

**APPROVAL OF MINUTES:** Upon motion of Mrs. Oda, seconded by Mrs. Ehrlich, the minutes of the Sept. 22, 2021 meeting were approved by unanimous vote.

**HISTORIC DISTRICT APPLICATION, DEMOLITION OF 112-118 W. MAIN STREET; OWNER – APPLICANT 116 W. MAIN LLC – RANDY KIMMEL.** Mr. Kappers stated:

“During the past 2 years the Planning Commission has reviewed over 200 pages of submitted reports, emails, testimonials and opinions of others. We have received numerous phone calls and texts, the last of which I received last night at 9:30 pm, not to mention the face to face comments while we were about our personal business. The Planning Commission talks these matters very seriously. It is composed of an elected official, senior staff member, and 5 unpaid volunteers who love this City and want to make it better. In going about the business of the Planning Commission it is unusual that public comment is permitted on agenda items. But we felt that this matter was so important that we opened the floor to public comment and did so for over 2 hours at our last meeting, keeping the floor open until no one else came forward with comments to make. Even after that meeting, we still received emails, letters and opinions, and have reviewed them all. Now it is up to the Planning Commission to conduct its business, so no public comments will be received at this meeting. And I ask that all of you be respectful of the process, so refrain from clapping, booing and yelling out. That being said, if any of the Commission members wishes to ask a question of the applicant or anyone else in order to assist in the decision making process, then that person will be asked to respond on the specific matter addressed to that person.” Mr. Kappers then asked for a motion to remove the matter from the table.

**REMOVE FROM TABLE.** A motion was made by Mr. Titterington, seconded by Mr. Wolke, to remove the application from the table.

**MOTION PASSED, UNANIMOUS VOTE**

**DISCUSSION.**

-In response to Mr. Kappers, Mr. Wolke indicated the Law Director adequately addressed the legal concerns he raised at the last meeting.

-In response to Mr. Kappers, staff indicated there was nothing else to add. No members of the Commission had questions of staff.

-Mr. Kappers stated: “First of all it bothers me that staff has submitted to this Planning Commission differing recommendations on the same application. The current recommendation is to recommend approval of the demolition, while the recommendation of February 24<sup>th</sup> was against the demolition, “due to the owner arguing for adopting a less than desirable reuse plan.” It goes on to say “The demolition permit with the approved certificate of appropriateness does require a rescue plan with definite plans for reuse of the site (Section 1143.22 (19)(2) & (3).” The purpose is to mitigate any adverse effects of the proposed removal upon the property, the streetscape, and the historic district. The first recommendation of staff goes on to say, “It is staff’s opinion that razing the structure and not replacing it will leave an obvious gap in the streetscape. Planning Commission should require a rescue plan that meets all the requirements of the above section, with new construction that would meet the Architectural Design Standards as a condition to demolition.” And I agree with the first recommendation. The “minimal reuse plan” submitted with the application is inadequate in my opinion. For that reason alone, I believe the application should be denied, and that does even address the concerns or problems with Applicant’s first condition of the Standards for Demolition or Removal in the Ordinances, which must be satisfied by clear evidence, per the ordinance.”

-Mr. Titterington asked staff to explain the differing recommendations. Mr. Davis explained that in the first application the reuse as a parking lot was thought to be more permanent and less desirable, the reuse of seed and straw would be a use that would allow for economic opportunities; and as 9 of the 11 previous applications was for seed and straw to allow for a later application of a more permanent reuse, staff felt the seed and straw would eliminate what would seem to be a permanent use of a parking lot.

-In response to Mr. Kappers regarding if there is a time period that the lot would stay in grass, Mr. Davis indicated there was no time period.

-Mr. Wolke asked if the County Chief Building Official had indicated what would happen to the County’s orders on the building if the Commission voted to deny the application. Mr. Davis indicated that no information was received, and the orders have been submitted to the County Prosecutor for review.

-Mr. Kappers noted that the staff report mentioned “precedent”; however, the Commission previously noted that applications are considered on a case by case basis. It was noted that of the previous reuse plan, some were landscaped as a permanent reuse, three ended up in green space, one became a parking lot with landscaping.

-In response to Mr. Titterington about how many applications were for lots mid-block, staff advised that nine were mid-block and two were corner properties.

**MOTION.**

A motion was made by Mr. Westmeyer that the Planning Commission grant the application for a certificate of appropriateness for the demolition and removal of the structure at 112-118 West Main Street (Tavern Building) based on the fact that the applicant has provided adequate proof of substantial economic hardship by providing clear evidence of at least two conditions, which outweigh the historic, architectural and cultural value of the Tavern Building. Said authorization shall include the following conditions:

1. The rescue plan shall include restoration of the site with landscaping consisting of seed and straw or sod until such time in the future as the property owner comes before the Planning Commission with further requested site improvements;
2. The rescue plan shall also include the salvage, if feasible, of any architectural materials that document the historical nature of the building, including but not limited to historical plaques located on the interior or exterior of the building;
3. Said certificate does not extend to, or authorize, the demolition or removal of any party or common wall;
4. The applicant shall provide notice and duties to the adjacent property owners of its requirement to repair, weatherproof and remediate any shared wall(s) so that said wall(s) are left in a safe condition; and,
5. The applicant shall remediate any exposed walls by sealing, repairing, and/or waterproofing the walls, roofing surfaces, and/or foundations and shall comply with all legal duties owed to neighboring property owners. The applicant shall file an application with the Planning Commission to receive approval for the final treatment of any exposed walls left after demolition.

Motion seconded by Mr. McGarry.

Vote on motion: YES: Westmeyer, Titterington, Oda, McGarry. NO: Wolke, Ehrlich, Kappers

**MOTION PASSED**

**HISTORIC DISTRICT APPLICATION, 301 PUBLIC SQUARE SE FOR EXTERIOR PAINTING; OWNER/ APPLICANT – DAVID FAIR FOR DAVID FAIR ON THE SQUARE.** Staff reported: property is zoned B-3, Central Business District; building was erected in 1904; alterations include new transoms signboard, display windows, doors and replacement windows on the upper floors; building is on the National Register; the SE Public Square streetscape includes three exposed brick facades located at 2 E. Main Street, 221 SE Public Square, and 301 Public Square SE; proposed paint colors are Primary building color: Oakmoss (SW: 6180), Trim color: Relaxed Khaki (SW: 6149), Accent color: Enduring Bronze (SW 7005); front façade of the building had exposed brick on the second and third floors, however, was primed without Planning Commission approval; staff notified the property owner to cease exterior activity until Planning Commission approval; staff also identified the presence of synthetic caulking in between the mortar joints, the Secretary of Interior Standards for the Treatment of Historic Properties state “applying paint or other coatings such as stucco to masonry that has been historically unpainted or uncoated to create a new appearance is not recommended; and repointing with a synthetic caulking compound is not recommended”; the front façade of the building also includes stepped brick around the windows that have been painted; the flat façade with exposed brick allows for the character defining features to stand out in comparison to the remainder of the building; staff concurs with the Standards for Rehabilitation that applying paint or other coatings should not be applied to the original exposed brick; staff encourages the Planning Commission to require removal of the paint of the front façade to restore and protect the exposed brick using the gentlest means possible per the Secretary of Interior Standards; and staff recommends denial of the proposed exterior paint modification, based on the following:

- The proposed modification detracts from the historic integrity of the building and district;
- The Secretary of Interior Standards for the Treatment of Historic Properties do not recommend paint or other coatings on masonry that have been historically unpainted.
- The paint conceals character defining features of the building.

**DISCUSSION.** Mrs. Ehrlich noted that other applicants have started/completed work without the Commission's review; why is this application different with staff recommending denial. Mr. Davis responded that when staff meets with an applicant, staff can advise the applicant if the application seems acceptable or would be recommended for denial. In this case, staff would have advised the applicant that the applicant would not have been supported but with the primer applied before staff was aware of the painting, that option did not exist.

-Mr. Titterington commented that a fee schedule being presented to Council provides for a Historic District application fee with a fee penalty when works starts without approval.

-Mr. Kappers noted that the Commission could order the paint to be removed, and noted that could damage the brick. Mr. Davis commented that staff work with the applicant in that case, would not recommend sandblasting, but seek other guidance for removal from the Secretary of the Interior Guidelines.

-In response to Mr. McGarry, staff indicated it would be likely that the applicant would have to submit a new application if this one is denied.

-In response to Mr. Kappers, staff stated that the building was not previously painted.

-Mr. Wolke commented that he can support applications where brick is in terrible shape and painting helps preserve the structure, but with the patching the owner may have done, he cannot tell if the brick was deteriorated or not.

-Mr. Kappers asked staff if the objection was the paint scheme or that paint was placed on a surface not previously painted. Mr. Davis stated it was that paint would be applied to a surface not previously painted.

-Mr. Westmeyer asked if staff knew if removal of the paint could cause damage; Mr. Davis replied that he did not know.

-Mrs. Ehrlich referred to comments about the wrong caulk being used, with staff stating there are guidelines as to type of caulk to moisture is not further trapped and results in damage. In response to Ms. Ehrlich, staff commented they did not know about the safe removal of the caulk used. Mrs. Ehrlich commented that she asked about the caulk based on comments that some of the materials used on the Overfield Tavern Building (a recent application) had caused damage to the structure.

-Mr. Titterington asked to see the color chips or a better rendition.

-In response to staff contact with the applicant, Mr. Davis stated staff advised the applicant to cease and desist the painting, with the applicant stating he would and then hanging up.

-Mr. Kappers commented that he likes the color scheme, but with this building being on the National Register, he is unsure as to ramifications if further damage would be done by the removal of the paint and caulk.

-Mr. Davis commented that the 2000 Zoning code included the Secretary of the Interior Standards.

-Mr. Kappers suggested Mr. Davis reach out to the Office of the Secretary of the Interior for some guidance.

-Mr. Titterington commented that he is concerned about the response that may be received as these are "guidelines" and not "law"; it is not great that the applicant determined to proceed without approval; there is concern that removal of the paint could result in damage; and this is the only building on the face of the SE Quadrant not painted.

-Mr. Westmeyer stated his disappointment that the work started without approval, but he is glad to see downtown property owners investing in their properties, and suggested the item be tabled to seek more information from and work with the applicant.

A motion was made by Mr. Westmeyer, seconded by Mr. Wolke, to table the application for 301 Public Square SE, and that staff work with the applicant and ask him to address the most egregious parts of his application.

**MOTION PASSED, UNANIMOUS VOTE**

**REVISED FINAL RECORD PLAN, TROY CHRISTIAN SCHOOLS PLANNED DEVELOPMENT – RESIDENTIAL; OWNER/ APPLICANT – TROY CHRISTIAN SCHOOLS.** Staff reported: this Planned Development is located at 700 S. Dorset Road.; the General Plan (Revised) was previously approved by Planning Commission and City Council (O-43-2021); the Revised Final Development Plan was approved by Planning Commission; the Revised Final Record Plan is now submitted for recommendation to Council; and Staff recommends that Planning Commission provide a positive recommendation to City Council to accept the proposed Record Plan as they are in general accordance with the approved General Plan with the condition that Subdivision Regulations Final Plat Notes 1123.04 (b)(c) is added to the final plat prior to going to City Council.

A motion was made by Mr. Wolke, seconded by Mrs. Ehrlich, that the Troy Planning Commission recommends to Troy Council that the Revised Final Record Plan for the Troy Christian Schools Education and Performing Arts Center Planned Development – Residential (PD-R) be approved with the condition that Subdivision Regulations Final Plat Notes 1123.04 (b)(c) is added to the final plat prior to going to City Council.

**MOTION PASSED, UNANIMOUS VOTE**

There being no further business, the meeting adjourned at 4:05 p.m. upon motion of Mr. Wolke, seconded by Mrs. Ehrlich.

Respectfully submitted,

\_\_\_\_\_Chairman

\_\_\_\_\_Secretary