

A regular meeting of the Troy Planning Commission was held remotely on Wednesday, October 14, 2020, at 3:30 p.m., with Chairman Alan Kappers presiding. Members attending – Titterington, Wolke, Oda, Westmeyer, and Ehrlich; Staff attending: Development Director Davis and Assistant Development Director Harris.

MINUTES OF SEPTEMBER 23, MEETING. Minutes were approved upon motion of Mr. Wolke, second by Mr. Titterington.

**HISTORIC DISTRICT APPLICATION – DEMOLITION OF 112-118 W. MAIN STREET, OWNER/APPLICANT 116 W MAIN LLC –**

**RANDY KIMMEL.** Staff reported:

"The applicant requests a certificate of appropriateness from the Troy Planning Commission regarding the demolition of a three-story commercial building that is 17,500 square feet located at 112-118 West Main Street. The owner has provided an application, a narrative justifying the reasons for seeking demolition, and supporting documents. The property is zoned B-3 Central Business District and is located in the middle of the block between S. Plum Street and S. Cherry Street.

There is no Ohio Historic Inventory (OHI) form for this building. The building is not listed on the National Register. There are OHI forms for the adjacent buildings (110 and 122 W. Main) and across the street (Masonic Temple). Staff has reached out to the state Ohio History Connection and they also were unable to find any record of a building survey. A building marker placed at the top of the building indicates the Independent Order of Odd Fellows, along with a second marker located just above the 1<sup>st</sup> level that dates the building at 1902. Additionally, the Troy Historical Society in 1969 placed a bronze building plaque at the center entrance that reads, "COURTHOUSES and JAIL – LOG JAIL built here 1808. LOG JAILER'S HOUSE built beside it in 1810. A second floor over both served as Troy's SECOND COURTHOUSE 1811-24. Troy's FOURTH COURTHOUSE—Two-Story, Greek Revival, brick building with columns in front and a belfry. Erected 1841, used until 1888. Rear part still intact." Apart from these building markers, there is little to no documentation except from the evaluation reports of the structural engineer and contractor indicating the multiple renovations over the years within the buildings.

The property was purchased by 116 West Main LLC (Randy Kimmel) in February of 2018. For a time, the building went through planning phases to preserve and redevelop the property and was marketed for lease. After the January tornado hit the building and did extensive damage to the roof system and structural integrity of the whole building, the owner concluded after a series of inspections and evaluations from the Miami County Chief Building Official, the building contractor and a structural engineer, that renovation was not possible both economically and due to the time constraint to resolve the unsafe conditions. The owner hired Bruns Realty Group to lease or sell the building, but was unable to find a viable tenant or buyer.

The owner has provided a stamped and sealed structural engineer report from Tri-Tech, indicating structural failures at the roof, diaphragms and masonry walls, and possibly floors. The owner has provided a contractor quote for \$659,788 to meet the minimum repairs needed to lift the demolition order. Several pictures have been provided that indicate some of the structural failures. An Adjudication Order declaring the building as unsafe was made by the Miami County Chief Building Official, Rob England. Citing the Ohio Building Code, Section 109, the order states that the building shall be razed within 60 days if the unsafe conditions are not resolved. Additionally, the building has been placarded as unsafe.

**STANDARDS FOR DEMOLITION OR REMOVAL:**

Section 1143.22(f)(10)(B)(1) requires that demolition permits shall not be issued unless accompanied by an approved certificate of appropriateness and a certificate of appropriateness may only be approved if clear evidence that two or more of the following conditions exist:

- I) The structure has incurred extensive damage to its basic structural elements such as the roof, walls, and foundation requiring substantial reconstruction and presenting an immediate danger to the public safety as declared by the Chief Building Official.
- II) The structure is listed as non-qualifying or is not consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback or mass.
- III) The square foot cost of meeting the minimum building code would exceed the square foot market value of similarly used and improved structures in the historic district.
- IV) The structure is contributing and has been declared a public nuisance and its removal will not adversely affect the architectural or historic integrity of the streetscape.

When reviewing these standards:

- I) The applicant has provided a copy of the Chief Building Officials declaration that the structure is unsafe and shall be razed if not repaired within 60 days of receipt of order, dated September 28, 2020. The CBO posted notice that the building is dangerous and unsafe. Barricades remain around the building keeping the public at a safe distance. Staff contacted Mr. England who stated that the aftermath of the tornado compromised the structural supports of the building. Being an old-style building, the masonry walls are structural, which shifted from the storm, pulling floor joists out of their pockets. Additionally, he observed rot that has set into the joists over decades of leaks coming into the building. Mr. England stated that Miami County Building Department oversees five counties, and in the last five years he has placarded only four buildings as unsafe, with this being one of them. Staff concludes that this standard has been met.
- II) The front of the property is fairly consistent with other structures in the historic district in terms of historic character, architectural style, construction material, height, setback and mass. Built in a similar era of the adjacent buildings (122 W. Main St. built in 1897) and (110 W. Main St. built in 1910), the I.O.O.F building of 1902 was joined with previous structures, including the remnant south section of the fourth courthouse. Other than the building plaques from the Historical Society in 1969, there is little to no formal documentation filed as to the historical significance. The number of alterations to the principal 1902 building on W. Main Street would deem it non-qualifying for the National Register, although no OHI form indicates it as qualifying or non-qualifying. Because historical documentation is incomplete or missing, staff is unable to determine that the standard is met or not met.
- III) The third standard requires the square foot cost of meeting the minimum building code would exceed the square foot market value of similar structures in the historic district. The information provided by Bruns General Contracting, shows a cost of \$659,788 to minimally meet the building code standards to be safe. Coupled with the acquisition costs of \$485,000, the price per square foot is \$67.34 (Exhibit B). The most similar commercial building nearby is the Masonic Temple, which was purchased for \$670,000 and is in stable condition. That square foot value comes to \$23.81 square feet. The applicants argue that the minimum repair costs far exceed the square feet market value of similar structures. They estimate substantial additional costs on top of the \$659,788 number, once repairs are initiated and more damaged is discovered (Applicants Narrative). Staff concludes that this standard has been met.
- IV) The fourth standard requires the structure to be declared a public nuisance with no adverse impact on the historic integrity of the streetscape. The property has been posted as unsafe to the public, making it a public nuisance. According to Chapter 3767.41 of the Ohio Revised Code, Buildings found to be "public nuisance" means "a building that is a menace to the public health, welfare, or safety; that is structurally unsafe, unsanitary, or not provided with adequate safe egress; that constitutes a fire hazard, is otherwise dangerous to human life, or is otherwise no longer fit and habitable; or that, in relation to its existing use, constitutes a hazard to the public health, welfare, or safety by reason of inadequate maintenance, dilapidation, obsolescence, or abandonment." Staff concludes that this part of the IV standard has been met.

The second criteria is whether removal will result with an adverse effect on the architectural or historic integrity of the streetscape. It is difficult to determine the level of any adverse effect, when the building is in imminent danger of collapse, and knowing its tied to multiple building structures unseen from the street. However, the removal of the building with a three-story mass along Main Street will change the visual streetscape and relationship to the adjacent buildings. Staff is unable to support this second part of the fourth standard.

Section 1143.22(11) provides criteria to determine substantial economic hardship. The applicant believes they meet these criteria due to:

- 1) That the square foot cost of meeting the minimum building code and requirements of the Ohio Building Code, Section 109 exceeds the market value of the property. Beyond the initial storm damage repair costs, the needed improvements to lease the space would require rents well above market value for Downtown Troy.
- 2) No reasonable alternative exists consistent with the architectural standards and guidelines due to the costs of repairs and the time constraints to make the repairs for reuse of the building.

Section 1143.22(12) gives criteria for unusual and compelling circumstances which the applicant believes they meet based on:

- 1) The property has little or no significant historic and architectural significance and is listed as non-qualifying for the National Register.
- 2) The applicant has demonstrated that the property cannot be reasonably maintained in a manner consistent with the pertinent architectural standards and guidelines.
- 3) Similarly, no reasonable means of saving the property exists due to the above market value costs associated with the remediation and repair needed to stabilize the building.

**REUSE PLAN:**

Planning Commission may consider other appropriate reuse plans under Section 1143.22(10)(B)(2)(V), "when no alternatives or mitigation is possible and the undertakings benefits in relation to the significance of the property justify demolition as an acceptable loss."

The applicant has submitted a reuse plan that results in creating a surface parking lot with green space that would meet both the city parking lot requirements and the architectural review standards (Exhibit D). The applicant would act on the demolition immediately, and properly compact the site with fill and seed and straw. Depending upon asphalt availability, the parking lot structure would be installed in the spring. Future plans for development will be required to come before the Planning Commission for a Historic Review. The applicant feels the reuse plan will mitigate any negative effects to the streetscape and the historic district, with the intention to add a landscape feature using the existing limestone materials to provide historic tribute of the site (Applicants Narrative).

This application has been reviewed for compliance with all requirements of the zoning code except for the additional design standards imposed by the historic district regulations and has been found to comply with same.

**RECOMMENDATION:**

Staff recommends approval for the demolition of the existing structure as proposed, with the condition that a performance bond is posted with sufficient funds to insure completion of the demolition and reuse plan. This finding is based upon the following:

- The property meets the criteria listed in the Historic Preservation Overlay District, Section 1143.22(f)(10) demolition standards;
- The property is not listed on the National Register or OHI form;
- The building has been declared unsafe to the public, with orders to raze within 60 days;
- The applicant has demonstrated substantial economic hardship for the repair costs due to tornado storm damage making the building economically obsolete;
- The property is not eligible for inclusion on the National Register;
- A minimal reuse plan has been submitted."

The Commission viewed a video shot the night of the January tornado when the building was damaged, with the video showing roofing materials and bricks being blown off the building. The Commission discussed the application and submitted documents, noting that most members had toured the building. There was discussion that the building was undergoing interior renovation for development or sale prior to the tornado. It was also discussed that the applicant has indicated it took some time to receive information from the carrier for the building insurance, and that funds were spent to try to protect the building for further damage. It was noted that the ruling of the County Building Inspector was dated 9-28 and the 60 day period for resolution of the order starts that date. Mr. Titterington commented that the original structure is 180 years old, all that remains of that structure is a back wall, and that decades ago the original frontage of the 4<sup>th</sup> Courthouse was removed and the front of the building moved out 30' and there is no indication of the original structure behind the front facade; he further noted that while the building is 180 years old, the original bricks have a useful life of 150-160 years. The application requires a re-use plan, which has been provided, for a parking lot, with it noted such lot would be a finished lot and would not have access off Main Street. It was also noted that a developer could later redevelop the area that becomes as parking lot. Regarding protection of adjacent structures should the demolition be approved, staff advised that part of the process is the application providing a bond. Ben Redick for the applicant, commented that caution must be taken to protect other properties, the sides of adjacent buildings would be cleaned up and left with a presentable surface. It was also discussed that the building remains for sale, with an estimated cost of at least \$1 million for purchase and repair, and at least \$1 million for redevelopment. It was noted that the Commission received a number of emails regarding the application (copies attached to original minutes). The Commission indicated that it would be good to have a representative of the structural engineer and possibility the County Building Inspector attend the next meeting of the Commission.

A motion was made by Mr. Wolke, seconded by Mr. Titterington, to table the application for the demolition of 112-118 W. Main Street until the 10-28 meeting, allow for interested parties to contact the Commission until noon, October 27, for staff to provide information to the neighbors, and to find out of a representative of the structural engineer and building inspector to attend.

**MOTION PASSED, UNANIMOUS VOTE**

**HISTORIC DISTRICT APPLICATION – 101 W. WATER STREET, REPAINTING AND RE-ROOFING; OWNER/APPLICANT – LEEVEE PROPERTY LLC, BRIAN DUGAN.** The staff report noted: zoning is B-3 Central Business District; structure was built in 1860 by Elias Skinner; with numerous alterations over the years; property is not listed on the National Register of Historic Places; the structure was painted and reroofed prior to the applicant seeking approval; colors are Renwick Beige (SW2805) for the 2<sup>nd</sup> floor, Rookwood Dark Brown (SW2808) for the 1<sup>st</sup> floor, and Black Magic (SW6991) for the trim; the roof was shingled from a green asphalt shingle to a Moire Black 30-year dimension shingle by Landmark IR; and staff recommends approval based on the findings of:

- The proposed colors will not detract from the historic integrity of the building;
- The proposed colors will create a positive impact on the building;
- The proposed color scheme fits well with the surrounding character of the Historic District.

A motion was made by Mr. Westmeyer, seconded by Mrs. Ehrlich, to approve the application for 101 W. Water Street as submitted, for the exact colors/materials of Renwick Beige (SW2805) for the 2<sup>nd</sup> floor, Rookwood Dark Brown (SW2808) for the 1<sup>st</sup> floor, and Black Magic (SW6991) for the trim, shingles of a Moire Black 30-year dimension shingle by Landmark IR, and based on the findings of staff that:

- The proposed colors will not detract from the historic integrity of the building;
- The proposed colors will create a positive impact on the building;
- The proposed color scheme fits well with the surrounding character of the Historic District.

**MOTION PASSED, UNANIMOUS VOTE**

**HISTORIC DISTRICT APPLICATION – 10 NORTH MARKET STREET FOR NEW WINDOW SIGN AND A WALL SIGN AT THE REAR OF THE PROPERTY; OWNER – 3 NORTH RIDGE LLC – DUSTIN KIMMEL; APPLICANT – W. ALLEN THRUSH – THRUSH AND SONS, LLC.** The staff report noted that the property is zoned B-3, Central Business District, this small turn-of-the-century commercial building is listed on the National Register; 90 square feet of signage is permitted; this tenant may have 22.5 square feet of signage in the front and 9.166 square feet at the rear; application is for an 82"x38.5" window sign (21.92 square feet) at the front of the building, window lettering is printed 3M IJ180-mc vinyl with gloss overlamine applied to the glass. Colors include trademark Thrush lettering in Light Blue (5DAECB) and Dark Blue (2COACO), with additional lettering that are White with black edging; the sign to the rear will be 22"x60" (9.166 square feet) and will replace the existing sign that says "Law Office, with colors will be the same with a black background using the same vinyl material with a Maxmetal aluminum composite panel; and staff recommends approval based on the findings of:

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

Mr. Titterington commented that that the window sign includes the website, with Mr. Kappers noting that the Commission has not supported "advertising" on the signs.

A motion was made by Mr. Titterington, seconded by Mr. Wolke, to approve the application for 10 N. Market Street as submitted, for the exact colors/materials/sizes stated in the application and based on the findings of staff that:

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

**MOTION PASSED, UNANIMOUS VOTE**

**HISTORIC DISTRICT APPLICATION – 7 S. MARKET STREET FOR A DOOR WINDOW SIGN AND WALL SIGN; OWNER – JAY HARRIS; APPLICANT – SCOTT HUFFMAN WITH LOW VOLTAGE SOLUTIONS, INC.** The staff report noted: property is zoned B-3, Central Business District; building was constructed in 1886 by W.H.H. Dye; the building is on the National Register; allowed signage is 26.25 square feet; application is for a total of 22.67 square feet; the material of the wall sign will be a vinyl wrapped black (Oracal Black 070) in color board with brushed aluminum lettering with a size of 18"x210" (20.42 square feet) and located across the front just above the existing awning; the second sign will be a 13.5"x24" (2.25 square feet) vinyl decal that will stick on the front door window; the "Low Voltage Solutions" sign will have white lettering (SW7005) with black (SW6991) and red (SW6868) highlights; and staff recommends approval based on the findings of:

- The proposed signs will meet all City of Troy code requirements;
- The colors of the signs will not detract from the historic integrity of the building and surrounding properties.

A motion was made by Mr. Wolke, seconded by Mr. Westmeyer, to approve the application for 7 S. Market Street as submitted, for the exact colors/materials/sizes stated in the application and based on the findings of staff that:

- The proposed signs will meet all City of Troy sign code requirements;
- The colors of the signs will not detract from the historic integrity of the building and surrounding properties.

**MOTION PASSED, UNANIMOUS VOTE**

**HISTORIC DISTRICT APPLICATION – 126 S. PLUM STREET FOR INSTALLATION OF A CONCRETE DRIVEWAY; OWNER – MATTHEW DENIUS; APPLICANT – MATTHEW DENIUS AND AMANDA FELTNER.** The staff report noted: application is to replace the bricks and pavers of existing drive with a 11'x58' concrete driveway; property is zoned R-5, Single Family Residential and is located in the block of S. Plum Street between W. Canal Street and W. Franklin Street; house was constructed around 1911 and is not on the National Registry; and staff recommends approval based on the findings of:

- The proposed driveway modification meets the City of Troy requirements; and
- The proposed modifications will not detract from the historic integrity of the building or surrounding properties.

A motion was made by Mayor Oda, seconded by Mrs. Ehrlich, to approve the application for 126 S. Plum Street as submitted, for the exact materials stated in the application and based on the findings of staff that:

- The proposed driveway modification meets the City of Troy requirements;
- The proposed modifications will not detract from the historic integrity of the building or surrounding properties.

**MOTION PASSED, UNANIMOUS VOTE**

**REZONING FROM B-3, CENTRAL BUSINESS DISTRICT, TO OR-1, OFFICE-RESIDENCE DISTRICT, THE FOLLOWING PROPERTIES:**

1. 121 W. Franklin Street: Owner- P&C Ventures, LLC, Applicant- Patricia Rose, parcel D08-001930 (4,221 square feet/0.0969 acres). The property has been used as both an office and residence with over 3,500 square feet of finished living area.
2. 25 S. Plum Street: Owner- MVP 619 Lincoln, LLC, Applicant – Greg Taylor, parcel D08-001937 (2,142 square feet/0.0492 acres). The building with over 2,800 square feet was previously used as office and is currently being renovated for multi-family use.
3. 21 S. Plum Street: Owner- Stevens-McGrath LLC, Applicant – Charles E. Stevens, parcel D08-001940 (3,660 square feet/0.084 acres), holds a two-family residence with just under 3,000 square feet of finished living area.

The Staff reported noted that Ms. Rose, application for 121 W. Franklin Street used the property for both office and a residence for over five years, but has decided to list the property and has found that the market strongly supports single-family use. The OR-1 zoning district allows for residential use on all floors, whereas the B-3 zoning district restricts residential to upper floors only. The rezoning would allow the 121 W. Franklin Street property to be used entirely as single-family or mixed used. City staff contacted both of the property owners at 21 and 25 S. Plum Street, as the properties are similar in that they are being used as residential in a zoning district that restricts that use to upper floors only. The two-family residence at 21 S. Plum Street is a legal but nonconforming use under the current zoning district. The structure was designed and built as a home. In March of this year, Greg Taylor did get approved a Downtown Riverfront Overlay on the 25 S. Plum Street property, which did allow the adaptive reuse of the office building to be converted into residential units. Changing the zoning district to OR-1, would make the underlying zoning district consistent with the primary use of the building which is residential on all floors.

The Zoning Code describes the current B-3 Central Business District as "intended to accommodate office concentrations and the great variety of retail stores and related activities which occupy the prime area within the central business district, and which serve the entire metropolitan area. High intensity and large bulk development characterize the central business district area."

The Zoning Code describes the proposed OR-1 zoning district as "designed to accommodate a mixture of residential and office uses. Medium intensity residential and office uses are permitted with a lot area requirement of three thousand (3,000) square feet per dwelling unit. Residential and office uses may be mixed in the same building or structure. A variety of personal service uses which are compatible with other uses of the "OR-1" Office-Residence District are permitted. This district is mapped along major thoroughfares, near hospitals, and as a transitional area between commercial and residential uses."

The staff report included a map showing the surrounding zoning districts and properties within a two hundred and fifty-foot radius of the land proposed to be reclassified. The rezoning of the three properties will allow the properties to be used in a conforming manner for the uses that have continued to operate on these properties. The OR-1 zoning allows similar low intense uses that are compatible to adjacent and nearby commercial and residential areas.

Staff reported:

"In reviewing a rezoning proposal, Section 1139.07 outlines the criteria on which to base decisions:

*(A) Whether the change in classification would be consistent with the intent and purpose of this Zoning Code.*

The proposed rezoning is consistent with the Zoning Code. Section 1131.02(o) & (r) state the purposes of the Zoning Code are to preserve and enhance property value, and direct particular land uses to the parcel of land best suited for them. The proposed rezoning request achieves these purposes.

*(B) Whether the proposed amendment is made necessary because of changed or changing conditions in the area affected, and, if so, the nature of such changed or changing conditions.*

The proposed rezoning is not made necessary because of changing conditions in the affected area. The proposed use should not have any adverse effects in the area and is similar to the previous and existing uses of the properties, and to that of the surrounding area.

(C) Whether the uses that would be permitted on the property if it were reclassified would be compatible with the uses permitted on other property in the immediate vicinity.

The proposed use is compatible and similar to the uses that currently exist in the surrounding area.

(D) Whether adequate utility, sewer, and water facilities, and all other needed public services exist or can be provided to serve the uses that would be permitted on a property if it were reclassified.

All utilities can be provided.

(E) The amount of vacant land that currently has the same zoning classification as is proposed for the subject property, particularly in the vicinity of the subject property, and any special circumstances, in any, that make a substantial part of such vacant land unavailable for development.

In the vicinity of the subject property, there is no available vacant land with the OR-1 zoning classification.

(F) Whether the proposed amendment would correct an error in the application of this Zoning Code as applied to the subject property.

This would not correct any errors in the application of the Zoning Code. "

Staff did not recommend the Commission hold a public hearing on any of the applications and staff recommended approval of the rezoning of the parcels to OR-1 Zoning based on the findings of:

- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
- o The proposed use is consistent with permitted uses in the OR-1 district

It was noted that the Law Director had advised that the Commission needed to consider each application separately.

**PLANNING COMMISSION ACTION:**

**121 W. Franklin Street:**

**A. Public Hearing**

A motion was made by Mr. Titterington, seconded by Mr. Wolke, that the Commission not hold a public hearing on the application to rezone 121 W. Franklin Street from B-3 to OR-1. MOTION PASSED – UNANIMOUS ROLL CALL VOTE

**B. Recommendation**

A motion was made by Mayor Oda, seconded by Mr. Titterington, that the Troy Planning Commission recommends to Troy City Council that 121 W. Franklin Street, parcel D08-001930, be rezoned from B-3, Central Business District, to OR-1, Office-Residence District, based on the findings of staff that:

- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
- o The proposed use is consistent with permitted uses in the OR-1 district.

MOTION PASSED – UNANIMOUS ROLL CALL VOTE

**25 S. Plum Street:**

**A. Public Hearing**

A motion was made by Mayor Oda, seconded by Mr. Westmeyer, that the Commission not hold a public hearing on the application to rezone 25 S. Plum Street from B-3 to OR-1. MOTION PASSED – UNANIMOUS ROLL CALL VOTE

**B. Recommendation**

A motion was made by Mr. Titterington, seconded by Mr. Wolke, that the Troy Planning Commission recommends to Troy City Council that 25 S. Plum Street, parcel D08-001937, be rezoned from B-3, Central Business District, to OR-1, Office-Residence District, based on the findings of staff that:

- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
- o The proposed use is consistent with permitted uses in the OR-1 district.

MOTION PASSED – UNANIMOUS ROLL CALL VOTE

**21 S. Plum Street:**

**A. Public Hearing**

A motion was made by Mr. Titterington, seconded by Mrs. Ehrlich, that the Commission not hold a public hearing on the application to rezone 21 S. Plum Street from B-3 to OR-1. MOTION PASSED – UNANIMOUS ROLL CALL VOTE

**B. Recommendation**

A motion was made by Mrs. Ehrlich, seconded by Mr. Westmeyer, that the Troy Planning Commission recommends to Troy City Council that 21 S. Plum Street, parcel D08-001940, be rezoned from B-3, Central Business District, to OR-1, Office-Residence District, based on the findings of staff that:

- o The proposed rezoning is consistent with the intent and purposes of the City of Troy Zoning Code; and
- o The proposed use is consistent with permitted uses in the OR-1 district.

MOTION PASSED – UNANIMOUS ROLL CALL VOTE

There being no further business, the meeting adjourned at 4:32 p.m. upon motion of Mr. Westmeyer, seconded by Mrs. Ehrlich.

Respectfully submitted,

\_\_\_\_\_ Chairman

\_\_\_\_\_ Secretary