

**CITY OF LAPEER  
MINUTES OF A REGULAR  
PLANNING COMMISSION MEETING  
MARCH 12, 2020**

A regular meeting of the City of Lapeer Planning Commission was held in the Commission Chambers of Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Thursday, March 12, 2020 at 6:30 p.m.

**Members Present:** Chairperson Jennell RaCosta, Vice Chairman Austin Kelly, Commissioners Joe Black, Dale Kerbyson, Catherine Bostick-Tullius, Debbie Marquardt and Jeff Pattison.

**Members Absent:** Commissioners Dave Sommerville and Anne Shenck.

**Also Present:** Ms. Caitlyn Habben, Rowe Professional Services Company Planning Consultant.

Chairperson RaCosta called the meeting to order at 6:30 p.m.

**MINUTES**

It was moved by Commissioner Bostick-Tullius and supported by Commissioner Pattison to approve the minutes of the regular meeting held on February 13, 2020 as presented.

**MOTION CARRIED.**

**AGENDA AMENDMENT**

It was moved by Commissioner Kerbyson and supported by Commissioner Marquardt to amend the agenda to add Other Business Item F.2 Text Amendment – Parking Lot Design.

**MOTION CARRIED.**

**PUBLIC COMMENTS**

Mr. Bruce Huber, owner of 1101 S. Lapeer Rd., and Dr. Kevin Robertson, owner of 1048 S. Lapeer Rd., distributed to the commission and read into the record the following correspondence:

March 12, 2020

City of Lapeer  
Attention Lapeer City Planning Commission  
576 Liberty Park  
Lapeer, MI 48446

Re: Master Plan 5 Year Review

Dear Commissioners:

We, the undersigned, are property owners of buildings, homes and land abutting State Route M-24. Said properties are specifically located south of Tower Drive and north of Turrill Road in the City of Lapeer. It has been brought to our attention that the Planning Commission will soon be making recommendations to the City Commission regarding certain future land uses in this district or “strip” between Tower Drive and Turrill Road as part of the Master Plan 5 Year Review.

During previous public hearings, the planning commission members have stated their intent to once again codify the prohibition of “drive through eateries” in the aforementioned district. We the owners in this district are currently subject to this prohibition per City Ordinance §7-13.04(B)(9) which states: *“Drive-through restaurants are prohibited on parcels fronting on M-24 between Turrill Road and Tower Street.”*

Let it be known we stand in unison before you to state that we vehemently oppose this prohibition and intend to seek all recourse available to have it removed. We respectfully request the Planning Commission recommend removal of this prohibition prior to completion and implementation of the five year Master Plan review and any resulting zoning and ordinance changes.

It is our opinion that the existing prohibition, as written, is arbitrary and discriminatory. It economically damages our property values to our detriment and prevents productive beneficial uses of the properties for the long-term interests of the entire community”. A Planning Commissioner’s Handbook states the following:

“As a planning commissioner, you wield considerable power over how your community grows and develops. With this power comes the expectation that you will hold yourself to the highest ethical standards. Part of being ethical means exercising your power in the public’s interests, as opposed to personal self-interest or other narrow, private interests.”

Planners and commissioners must not base decisions on personal tastes or personal aesthetic preferences and visions. Commissioners must be fair and impartial. Common sense and good city planning must prevail and the removal of this prohibition is agreed upon by many.

Let us give you some historical perspective. In 2010, several property owners with locations on the east side of M-24 between Tower Drive and Orchard Drive, agreed to make a substantial investment to improve and expand sanitary infrastructure so as to allow future commercial development along the M-24 corridor. The property owners worked with the City Manager. We paid for sewer line extension along the M-24 right of way. A special assessment district was established. The cost to the various participants was approximately \$32,414 each. None of these costs deferred to the City. All the participants annexed into the City of Lapeer with the understanding that commercial zoning would be granted to all the properties upon request. Annexation was permitted under the guidelines laid out in the “Interlocal Agreement of 2006” between Lapeer Township and Lapeer City.

Lakestone Bank and a new Medical Clinic have subsequently connected to the sewer line we paid to have installed to our properties. This infrastructure was a great benefit to them and increased the value of their properties. It is ironic that under the existing ordinance, Lakestone Bank is permitted to install drive through facilities. On the other hand, in the event an eatery wishes to purchase one of our properties and requests to have a drive through service window, they will be summarily denied. For many years, we have sought to sell to developers – and have been denied one of the highest and best uses, a drive through restaurant.

Developers and future business owners have been left with no choice but to shoe-horn a facility in the highly congested commerce areas between Tower St. and Genesee St. Look no further than the recent construction on the corner of Baldwin Rd. and M-24 and the new Culver's restaurant adjacent to it on West St. and Baldwin Rd. Planners and zoning administrators granted several variances to facilitate the placement of these businesses. This is at one of the most congested and troublesome intersections in the City of Lapeer, the site of numerous auto accidents". Note that both of these users originally desired to locate between Tower Drive and Turrill Road, but discovered they could not because of zoning prohibition.

Our properties are either zoned B-2 or slated to become B-2. We have been denied a critical use afforded to other property owners in B-2 Districts throughout the City of Lapeer. A "red" letter has been placed on our collective backs and our properties are stigmatized. We are second class citizens in the commercial real estate marketplace.

Think carefully about the current denial as it pertains to our ability to market. For example, the City of Lapeer is one of the largest property owners in the I-69/M-24 corridors. The City land is for sale and is competing for buyers in the marketplace. A large billboard is posted advertising this same land for sale. The City of Lapeer is afforded FULL use of their property, INCLUDING drive through restaurants, under B-2 zoning. One can easily argue that owners in our district are placed at a competitive disadvantage therefore making our property less desirable than that of the City of Lapeer. The City may also offer developers special tax advantages to locate on their acreage. A distinct advantage we are not afforded.

In summary, please note that we are not asking for special privileges. We are only asking for the same permitted uses afforded property owners with B-2 zoning. To date, we have been denied our right to the highest and best use and buyers have been lost. Properties for sale in our district linger on the market. In a free dynamic marketplace with a level playing field the potential buyers of properties will decide which business use and location is most appropriate. Those same decisions will ultimately create a more prosperous community.

Sincerely,

Clara Longoria-State Farm Agent  
Aguinaldo Longoria Jr  
Owner: Parcel L21-16-550-012-10  
(vacant city parcel north of Orchard Dr)

Bruce and Kim Huber – Real Estate One  
Owners: 1101 S. Lapeer Rd.

Kevin Robertson – Lapeer Commons  
Owner: 1048 S. Lapeer Rd.

Pete Lucia – Property Manger  
Lapeer Properties LLC

Mark and Cindy LaBaza  
Co-Owners: 1040 S. Lapeer Rd.

Farid & Michelle Nassar  
Nassar Tax & Accounting  
Owners: 1053 S. Lapeer Rd.

Roberta Bergin  
Owner: 1109 S. Lapeer Rd.

Kim Huber, owner of 1101 S. Lapeer Rd., addressed the commission on the issue of the ordinance language restricting drive-through restaurants and inquired why the same issue is not in place for the properties south of I-69. Ms. Huber stated the properties in the transition zone are devalued and asked when the Master Plan was changed with the restriction added.

Mark Bergin, representing his mother Roberta Bergin owner of 1109 S. Lapeer Rd., addressed the commission stating his mother's home is the only home in the zone used as a residence, that she needs to sell the property and go into assisted living, that she cannot sell the property as a residence and that he is pointing out the human side of the issue to the commissioners.

Clara Longoria, owner of vacant parcel #L21-16-550-12-10 in the restriction zone, addressed the commission on the blocking of rights to sell her property, the costs of the assessment to extend sewer service and stated the owners did not anticipate the restriction at the time of investment. Ms. Longoria also stated there is a conflict of interest with the former Planning Commission Chairman Joe Black who works for Lakestone Bank who has tapped their annexed property into the sewer system. Ms. Longoria stated the Planning Commission is also ignoring the Zoning Board of Appeals consensus to revisit the issue of the restriction, is restricting trade and that the restriction is discretionary and can be changed by the Planning Commission. Ms. Longoria asked that the commission vote tonight to remove the restriction and allow the property owners to sell their property for the highest and best use.

Jack Tindall, stated he has been a realtor in the Lapeer area for many years and that he has three solid businesses looking to come into Lapeer who will not come without the benefit of allowing a drive through which would create employment, taxes and increase property values.

Discussion was held on the six parcels that were included in the sewer extension special assessment district.

### **PUBLIC HEARINGS SCHEDULED**

There were no public hearings scheduled.

### **SITE PLAN REVIEWS**

There were no site plans to be reviewed.

### **OTHER BUSINESS**

#### **Master Plan – 5 Year Review**

Ms. Habben reiterated that Master Plan Goals are visionary statements, Objectives are sub-components of the goals and Strategies are measurable actions to reach objectives.

Ms. Habben continued the review and commissioner input process of the Transportation Goals, Objectives and Strategies section.

Discussion was held on the status of the update review process and edits being requested by the DDA to the Downtown section to be incorporated into draft update. Discussion was also held on the need to keep the strategies detailed in order to assist with future grant funding applications, whether there is a need to update the Non-Motorized Transportation Plan and the need to add the Greater Lapeer Transportation Authority to the list of agencies to coordinate with on transportation issues.

Commissioner Pattison suggested the commission consider adding exploration of the option of connecting the existing trail system to John Conley Drive to the Transportation strategies of the Master Plan, Parks and Recreation Plan or Non-Motorized Transportation Plan.

Chairman RaCosta commented on the need for increased maintenance at Mt. Hope Cemetery including landscaping and road maintenance.

Ms. Habben reviewed various updates proposed to Chapter 7 A Priority Action Plan for Lapeer section of the Master Plan and the Relationship Between Future Land Use Classifications and Zoning Districts. Discussion was held on options to incorporate regulation of and the status of State legislation of Air BnB's and short term rentals. Discussion was also held on the proposed elimination of the B-1 Neighborhood Business District, current B-1 zoned properties that would transition to B-2 General Business and the need to avoid creating non-conforming properties with elimination of the B-1 district. Ms. Habben stated the Priority Action Table section of the plan assigning responsible parties to various actions will be reviewed next.

### **Text Amendment – Parking Lot Design**

Ms. Habben reviewed the proposed text amendments requested by the City Department of Public Works to Zoning Ordinance Article 16 Parking, Loading, Access and Circulation Requirements including amendments to sections 7.16.04, Table 7.16.3, Section 7.16.05, 7.16.08 and Section 7.18.04 Site Plan Review. Discussion was held on the proposed amendment to change the requirement for double line striped parking spaces to be one single stripe. After discussion, it was the consensus of the commissioners to keep the double line stripe requirement for parking spaces. It was moved by Commissioner Kelly and supported by Commissioner Bostick-Tullius to schedule a public hearing for 6:30 p.m. on April 9, 2020 to consider the proposed text amendments as revised. **MOTION CARRIED.**

### **TRAINING REPORT**

Ms. Habben informed the commissioners of an educational training opportunity provided by Rowe Professional Services Company on April 29<sup>th</sup> in Flint.

### **COMMISSIONER COMMENTS**

Commissioner Kelly commented on an issue with the existing street striping at the entrance area to the Domino's Pizza site at Baldwin/M-24 and when the issue of the drive-through restaurant restriction will be reviewed again during the Master Plan update process.

Commissioner Kerbyson commented on various public comments made at the start of meeting, the history of the annexed Lakestone Bank parcel, the City-owned 72 acres south of I-69 and the MDOT Access Management Plan requirements.

**ADJOURNMENT**

There being no further business, it was moved by Commissioner Kelly and supported by Chairman RaCosta to adjourn the meeting at 8:33 p.m.

**MEETING ADJOURNED.**

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Mr. Jeff Pattison, Secretary