

**CITY OF LAPEER
MINUTES OF A REGULAR
PLANNING COMMISSION MEETING
AUGUST 13, 2020**

A regular meeting of the City of Lapeer Planning Commission was held electronically via GoToMeeting at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan on Thursday, August 13, 2020 at 6:30 p.m.

Members Present: Vice Chairman Austin Kelly, Commissioner Dale Kerbyson, Commissioner Catherine Bostick-Tullius, Commissioner Jeff Pattison, Commissioner Anne Shenck and Commissioner Debbie Marquardt.

Members Absent: Chairperson Jennell RaCosta.

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

Vice Chairman Kelly called the meeting to order at 6:30 p.m.

MINUTES

It was moved by Commissioner Shenck and supported by Commissioner Kerbyson to approve the minutes of the meeting held on June 11, 2020 as presented.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kerbyson, Marquardt, Pattison, Shenck and Kelly.

Nays: None.

Absent: Commissioner RaCosta.

Abstain: None.

MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments at this time.

Agenda Amendment

It was moved by Commissioner Kelly and supported by Commissioner Kerbyson to consider Item F.1 S.S. Equipment Repair Metal Roof Approval at this time.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kerbyson, Marquardt, Pattison, Shenck and Kelly.

Nays: None.

Absent: Commissioner RaCosta.

Abstain: None.

MOTION CARRIED.

S.S. Equipment Repair – 1404 Imlay City Rd. – Metal Roof Approval

Ms. Habben reviewed the request from Scott Schalau of S.S. Equipment Repair for approval to install a metal roof on the property located at 1404 Imlay City Road. Ms. Habben presented photos of the area to be converted to a metal roof and stated the roof will be a gray, non-reflective color and that other improvements to the building have already been completed.

It was moved by Commissioner Kerbyson and supported by Commissioner Kelly to approve the metal roof request from S.S. Equipment Repair LLC located at 1404 Imlay City Road due to it being compatible with the overall architectural design of the building.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kelly, Kerbyson, Marquardt, Pattison and Shenck.

Nays: None.

Absent: Commissioner RaCosta.

Abstain: None.

MOTION CARRIED.

PUBLIC HEARINGS SCHEDULED

Rezoning – 550 S. Saginaw – Keith & Shannon Jordan

Ms. Habben reviewed the request from Keith & Shannon Jordan to rezone 550 S. Saginaw Street from RM-1 Multiple-Family Residential to OS-1, B-1 or B-2 in order to utilize the site for a mental health outpatient office. Ms. Habben reviewed the standards of Section 7.23.06(b) required in order to grant the rezoning, aerial photos and the Zoning Map and the Future Land Use Map of the subject site and surrounding area. Ms. Habben stated the mental health outpatient use is consistent with the OS-1 Office Service zoning designation and that the property was previously used as a church.

Discussion was held regarding whether the site was currently being used as an office.

Vice Chairman Kelly opened the public hearing at 6:44 p.m.

Mr. Seth Groat, 317 S. Saginaw St., inquired if any changes would be made to the site that would affect the potential for flooding and stated the area was flooded in 2009.

Ms. Habben stated no changes are currently planned to the site, surface or building.

Vice Chairman Kelly closed the public hearing at 6:47 p.m.

It was moved by Commissioner Kerbyson and supported by Commissioner Shenck to recommend approval to the City Commission of the rezoning request from Keith and Shannon Jordan to rezone 550 S. Saginaw from RM-1 Multiple-Family Residential to OS-1 Office Service due to the request meeting Section 7.23.06(b) Standard 2.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kelly, Kerbyson, Marquardt, Pattison and Shenck.

Nays: None.

Absent: Commissioner RaCosta.

Abstain: None.

MOTION CARRIED.

Rezoning – TK Terminal LLC – 155 S. Saginaw St. – Parcel #20-84-901-040-00

Ms. Habben reviewed the request from TK Terminal LLC to rezone Parcel #20-84-901-040-00 located on a portion of the property known as 155 S. Saginaw Street from R-1 Single-Family Residential to I-1 Industrial. Ms. Habben reviewed the standards of Section 7.23.06(b) required in order to grant the rezoning, aerial photos, the Zoning and the Future Land Use maps of the subject site and surrounding area and stated there are

no changes proposed to the existing industrial building or use currently operating on the site. Ms. Habben reviewed the applicant's response to the request and stated the request is not consistent with the Future Land Use Map designation of Medium Density Single Family Residential, that the site is currently utilized as an industrial use and is land-locked with a shared access with the adjacent 155 S. Saginaw Street parcels.

Mr. Cory Mabery, of Davis Land Surveying, stated some of the existing buildings and uses have been in place since the mid-1980's and were used in conjunction with the previous Co-Op grain elevator use.

Discussion was held on portions of the parcel located in the flood plain.

Vice Chairman Kelly opened the public hearing at 6:52 p.m.

Mr. Seth Groat, 317 S. Saginaw St., stated the last building was built in 2010 to hold dry grain and feed, that area residents are required to purchase flood insurance and that the area flooded in 2009. Mr. Groat stated he does not agree with chemical storage on the site, that the neighbors were concerned with rodents at the time three buildings were proposed to be built on the site and inquired what types on chemicals are on the site.

Mr. Cory Mabery stated the has been no determinations made for future uses on the site, that the request at this time is only for rezoning to continue the storage and warehousing use.

Michelle Groat, 317 S. Saginaw St., inquired on what type of chemicals are on the site now and proposed to be on site in the future and stated she is concerned on how the rezoning will affect home values and health of area residents.

Debbie Jostock representing the applicant stated the site will be used for storage of seed and equipment.

Vice Chairman Kelly closed the public hearing at 7:04 p.m.

Discussion was held on the fact the current use is permitted in the I-1 Industrial district.

It was moved by Commissioner Marquardt and supported by Commissioner Kerbyson to recommend approval to the City Commission of the rezoning request from TK Terminal LLC to rezone parcel #L20-84-901-040-00 from R-1 Single-Family Residential to I-1 Industrial due the request being an allowed use in the I-1 district.

ON A ROLL CALL VOTE:

Yeas: Commissioners Kelly, Kerbyson, Marquardt and Pattison.

Nays: Commissioners Bostick and Shenck.

Absent: Commissioner RaCosta.

Abstain: None.

MOTION CARRIED.

Text Amendment–LaBaza–Drive-Through Restriction–M-24 Tower Dr. to Turrill Rd

Ms. Habben reviewed the current restriction in place since adoption of the 2008 Master Plan for drive-through restaurant uses for parcels along M-24 from Tower Drive to Turrill Road, the potential to expand the restriction area south of Turrill Road to I-69 and aerial photos of the restricted area. Ms. Habben summarized a detailed analysis of the policy including several pros and cons of the restriction, additional considerations due to the impact of Covid-19, changes in the demand for drive-through restaurant options and the options before the commission of keeping the current restriction, modifying the restriction and removing the restriction.

Discussion was held on ordinances in place for facade appearance and odor control, the ability to add requirements during the site plan review process, single family residences in the area along Baldwin Road and Cliff Drive and the joint meeting held with the City Commission at which the issue was discussed.

Ms. Habben reviewed the request received from Mark LaBaza for a text amendment to Section 7-13.04.B(9), the standards required in order to approve the amendment and the language proposed to apply the restriction to parcels located completely between Tower Drive and Turrill Road and fronting on M-24.

Larry Opalewski representing the applicant addressed the commission on the request including changes in planning and zoning conditions due to Covid-19 and recent economic impacts on restaurants stating the proposed amendment would only affect the LaBaza parcel. Mr. Opalewski reviewed the location of the LaBaza parcel between Belle Tire and Taco Bell and stated the City has a robust ordinance controlling development, that allowing drive-through restaurants on the parcel will better serve the community and will allow development for the highest and best use for the property.

Mr. Mark LaBaza stated his property is located between Belle Tire and Taco Bell, across from Sonic and a mile from the I-69 interchange, that he has frontage on M-24 and Baldwin Road split by the imaginary line of Tower Drive, that four purchase offers have fallen through for the property and that he does not believe leapfrogging is a concern. Mr. LaBaza stated several other buildings have been vacated, relocated and re-utilized, that the pandemic has changed everything, that 60% of new restaurants have drive-throughs, that the City has ordinance provisions in place for the development and that he is only concerned with his parcel not the rest of the restricted area.

Commissioner Kerbyson stated there a very real concern of businesses leapfrogging and restricting use of their original vacated sites which is happening across the state.

It was moved by Commissioner Kerbyson and supported by Commissioner Kelly to recommend the City Commission accept the text amendment request as presented by Mr. LaBaza to Section 7-13.04.B(9).

Discussion was held on whether the subject parcel is located in the Annexation by Choice area of the Lapeer Township agreement, standards for approving the policy change in the Zoning Ordinance and Master Plan, the fact the issue has been discussed at length previously and the possibility of postponing action on the request.

Commissioner Kerbyson left the meeting at 7:44 p.m.

Vice Chairman Kelly opened the public hearing at 7:46 p.m.

Clara Longoria, S. Lapeer Rd. property owner, stated the drive-through restaurant restriction is considered spot zoning, that with the Covid-19 pandemic drive-throughs are the way of the future, that drive-through operations are being revamped and that she would recommend the commission approve option #4 to remove the restriction completely. Ms. Longoria stated drive-through restaurants are interested and ready to build in the area, that the property owners will keep coming forward on this until the restriction is removed and that businesses like Tropical Smoothie, Dominoes and Culver's create traffic congestion and are being granted multiple variances and placed on lots that they don't fit.

The following written statement was submitted by email:

August 13, 2020

Lapeer is losing many opportunities for business growth due to the unjustified and parochial prohibition of drive through facilities on the S. Main commercial corridor. As a property owner on this corridor, I implore the Planning Commission to do the right thing and remove this prohibitive restriction from its zoning.

Thank you.
Bruce Huber
Real Estate One Gardner Associates
1101 S. Lapeer Rd., Lapeer, MI 48446

Mr. Larry Opalewski further stated that at this time he and his client are not advocating for the huge change to remove the restriction, they are just concerned with fair treatment for only the one parcel and that they would request a decision on the request be made today.

Vice Chairman Kelly closed the public hearing at 7:53 p.m.

At this time a roll call vote was taken on the previous motion made by Commissioner Kerbyson and supported by Commissioner Kelly to recommend the City Commission accept the text amendment request as presented by Mr. LaBaza to Section 7-13.04.B(9).

ON A ROLL CALL VOTE:

Yeas: Commissioners Kelly and Marquardt.
Nays: Commissioners Bostick, Shenck and Pattison.
Absent: Commissioners Kerbyson and RaCosta.
Abstain: None.

MOTION DENIED.

It was moved by Commissioner Bostick and supported by Commissioner Shenck to recommend denial to the City Commission of the text amendment request by Mark LaBaza due to it not meeting any of the standards in Section 7-23.06.A.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Pattison and Shenck.

Nays: Commissioners Kelly and Marquardt.

Absent: Commissioners Kerbyson and RaCosta.

Abstain: None.

MOTION CARRIED.

Text Amendments – Adult Use / Recreational Marijuana

Ms. Habben reviewed various proposed amendments to Sections 7-06, 7-08, 7-13, 7-16, 7-20 and 7-24 of the Zoning Ordinance in order to be consistent with Chapter 69 recently adopted by the City Commission Regulating the Establishment of Adult Use Marijuana Businesses and Facilities as well as the standards necessary for approving the amendments. Discussion was held regarding the provision in Chapter 69 regulating the hours of operation to 7 a.m. to 11 p.m. for all facilities, the current zoning ordinance restrictions limiting hours of operation for only Provisioning Centers to 7 a.m. to 11 p.m. and Safety Compliance Facilities to 7 a.m. to 7 p.m. with no limitations on the hours of operation for Grow, Processing and Secure Transporter facilities.

Discussion was held regarding the intent and clarification needed on Chapter 69 hours of operation restriction of 7 a.m. to 11 p.m. and the current ability of Grow, Processing and Secure Transporter facilities to operate on a 24 hour basis. It was the consensus of the Commission to only restrict the hours of Provisioning Centers, Safety Compliance and Secure Transporter facilities to 7 a.m. to 11 p.m.

Vice Chairman Kelly opened the public hearing at 8:16 p.m.

There being no comments, the public hearing was closed.

It was moved by Commissioner Kelly and supported by Commissioner Pattison to recommend approval to the City Commission of the text amendments to Section 7-06.02, 7-08.02, 7-13.12, 7-16, 7-20.04 and 7-24.09 as revised due to the amendments meeting Section 7-23.06.A Standards 1-4 and Standard 5.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kelly, Marquardt, Pattison and Shenck.

Nays: None.

Absent: Commissioner Kerbyson and RaCosta.

Abstain: None.

MOTION CARRIED.

OTHER BUSINESS

Women’s Healthcare Associates – 1177 S. Main St. – Landscaping Plan

Ms. Habben reviewed the request from Dr. Jonathon Zaidan to revise the approved landscaping plan for the new Women’s Healthcare Associates building recently constructed at 1177 S. Main Street. Ms. Habben reviewed the originally proposed landscaping plan showing various trees, shrubs and perennial plantings and photos showing only the grasses that were actually planted.

Discussion was held on the applicant's reason for not planting the originally approved planned materials which was indicated to be due to lower maintenance and the bond submitted for completion of the site work in order to obtain a final Certificate of Occupancy.

It was moved by Commissioner Bostick and supported by Commissioner Marquardt to deny the proposed landscaping plan amendment for 1177 S. Main Street.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kelly, Marquardt, Pattison and Shenck.

Nays: None.

Absent: Commissioner Kerbyson and RaCosta.

Abstain: None.

MOTION CARRIED.

CORRESPONDENCE

Oregon Township Master Plan Update

Ms. Habben briefly reviewed the Oregon Township Future Land Use Map included in the townships draft Master Plan update. This item will be reviewed further at the September meeting.

TRAINING REPORT

Ms. Habben stated Rowe Professional Services Company will be scheduling additional virtual training sessions.

COMMISSIONER COMMENTS

The commissioners thanked Vice Chairman Kelly and Ms. Habben for the good job facilitating and hosting the first virtual meeting of the Planning Commission.

ADJOURNMENT

There being no further business, it was moved by Commissioner Kelly and supported by Commission Shenck to adjourn the meeting at 8:30 p.m.

ON A ROLL CALL VOTE:

Yeas: Commissioners Bostick, Kelly, Marquardt, Pattison and Shenck.

Nays: None.

Absent: Commissioner Kerbyson and RaCosta.

Abstain: None.

MOTION CARRIED AND MEETING ADJOURNED.

Mr. Jeff Pattison
Secretary