

**CITY OF LAPEER
MINUTES OF A REGULAR
PLANNING COMMISSION MEETING
SEPTEMBER 8, 2022**

A regular meeting of the City of Lapeer Planning Commission was held at 6:30 p.m. on Thursday, September 8, 2022 at Lapeer City Hall, 576 Liberty Park, Lapeer, Michigan.

Members Present: Chairperson Jennell RaCosta, Vice Chairman Austin Kelly and Commissioners Dale Kerbyson, Jeff Pattison, Catherine Bostick-Tullius and Doug Roberts.

Members Absent: Commissioners Debbie Marquardt, Marty Johnson and Anne Shenck.

Also Present: Rowe Professional Services Company Planning Consultants Caitlyn Habben and Lauren Marshall, and Recording Secretary Kimberly Hodge.

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

MINUTES

095 2022 9-8 Regular Meeting Minutes

Motion by Bostick-Tullius. Seconded by Kelly.

Approve the minutes of the regular meeting held on August 11, 2022 as presented.

Ayes: Commissioners RaCosta, Kelly, Kerbyson, Pattison, Bostick-Tullius and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments at this time.

096 2022 9-8 Agenda Amendment – Semi Grown Site Plan Extension

Motion by Kerbyson. Seconded by Bostick-Tullius.

To amend the meeting agenda to add item F.2 Semi Grown Site Plan Approval Extension.

Ayes: Commissioners RaCosta, Kelly, Kerbyson, Pattison, Bostick-Tullius and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

PUBLIC HEARINGS SCHEDULED

Drive-Through Restaurant Restriction – Text Amendment

Planning Consultant Caitlyn Habben reviewed the request initiated by the City Commission to amend the Zoning Ordinance to removed Article 9 of Section 7-13.04.B which prohibits drive-through restaurant uses on parcels fronting M-24 located completely between Tower Drive and Turrill Road. Habben reviewed the standards for approval of a text amendment and findings of fact for Standards 1 through 5 of Section 7-23.06.A.

Rezoning – Residential to B-1 or B-2 – S. Main St. Parcels – Tower Dr. to Turrill Rd.

Consultant Habben reviewed the Planning Commission initiated request to consider rezoning several parcels located in the Annexation by Choice area between Tower Drive and Turrill Road from Residential to either B-1 Neighborhood Business or B-2 General Business. Habben stated the rezoning would not affect City parcels already zoned B-2, reviewed aerials photos, the City zoning map identifying the parcels being considered for rezoning and the Lapeer Township Zoning Map which identifies the area as zoned R-1B Single Family Residential which also allows office uses. Habben reviewed rezoning approval standards 1 and 2 of Section 7-23.06.B. and stated the permitted uses in the B-1 Neighborhood Business district are less intense than uses allowed in B-2 and that B-1 is a transitional district which does not allow drive-through restaurants, sit down restaurants or automotive related uses.

Chairperson RaCosta opened the public hearing on the drive-through restaurant restriction removal text amendment at 6:45 p.m.

Barb Walker, 948 Turrill Road stated concerns with selling her property if annexed as commercial or residential.

City Commissioner Eric Cattane, 724 Peppermill Circle stated the only reason the issue is before the Planning Commission is due to the approval of a car wash in the restriction area which is also considered loud, noisy and obnoxious, that the restriction is not fair and it needs to go.

Dr. William Laur, Arborview Veterinary Clinic 1006 S. Lapeer Rd., stated the City is putting the cart before the horse, that the agreement with Lapeer Township does not expire and cannot be disregarded and that the City should honor the agreement and change it the right way.

Clara Longoria, 10266 Coachman Ct., Davison, stated she has owned per property on S. Main Street for 24 years, that she has been treated unjustly, that she is in a grudge match with the City, that the restriction is unfair and discriminatory of an industry, that the ordinance does not restrict drive-through restaurants on the City-owned parcels south of I-69 and that the Master Plan is a vision, not a law.

Shannon Gagnon, 1170 Cliff Dr., stated concerns about what would happen to her property, that she is surrounded by woods and solar panels, that she just updated her home, that she was told by Commissioner Cattane this issue would not affect her house so she invested a significant amount of money in improving her home, that now she will be surrounded by commercial and that the issue has been going on since she bought her house in 2004.

Brad Walker, 948 Turrill Rd., stated he is also concerned about what will happen to his property.

Jacob Hawkins, 1060 Cliff Dr., stated his realtor sold him his home on it being a good location, that he is concerned about traffic and his property value going down.

Chris Perry, 1283 Turrill Rd., stated the Master Plan wanted a buffer zone for the area between Tower Drive and Turrill Road, that she is not for drive-through restaurants in the area and that the City should stick with the plan and the agreement with Lapeer Township.

Lisa Fialkowski, 1170 Cliff Dr., stated businesses cannot get employees hired to work at the existing businesses, that there are not employees to support additional drive-through restaurants, that lifting the restriction is not necessary and that there are other vacant properties in the City for drive-through restaurants.

Consultant Habben summarized the attached written correspondence received from:

Jim Gross – 1000 Baldwin Rd. – Opposed to Text Amendment - In favor of keeping the drive-through restaurant restriction in place;

Kevin Robertson – owner of Lapeer Commons PUD (Belle Tire/Tommy's Car Wash) – In Support of Text Amendment – In favor of eliminating drive-through restaurant restriction;

JJ Schmidt – Realtor w/Marlin Properties – In support of Text Amendment – In favor of eliminating drive-through restaurant restriction;

Sonny Longoria – Owner of parcel at M-24/Orchard – In support of Text Amendment – In favor of eliminating drive-through restaurant restriction;

Tom Makarchuk – Owner of parcel at southeast corner of Turrill Rd./M-24 – In support of Text Amendment – In favor of eliminating drive-through restaurant restriction; and

Dr. Paul LePor – 1101 S. Main St. – In support of Text Amendment – In favor of eliminating drive-through restaurant restriction – Opposed to rezoning to B-1 Neighborhood Business.

There being no further comments on the drive-through restaurant text amendment, the public hearing was closed at 7:01 p.m.

Discussion was held on the significant amount of time spent by the Planning Commission on the drive-through restaurant restriction issue, that the issue is once again before the Planning Commission due to the request from the City Commission, that businesses need to grow while listening to the residents and that the commission wanted to hear from the residents who live in the area not just business owners. Discussion was held on the language in Standard 5, the options to approve, deny or postpone action on the request and issues the text amendment would create due to the Master Plan and the Zoning Ordinance being inconsistent. Discussion was also held on the fact the restriction has been in place since 2008, changes made to requirements for MDOT limiting access driveways for traffic safety, the intent of the City to develop the area as commercial at the time the Lapeer Township Agreement was approved and that some drive-through uses are permitted in the area.

097 2022 9-8 Drive-Through Restaurant Restriction Text Amendment

Motion by RaCosta. Seconded by Roberts.

To recommend denial of the text amendment to Section 7-13.04.B(9) because it does not meet any of the standards in Section 7-23.06.A.

Ayes: Commissioners RaCosta, Bostick-Tullius and Roberts.

Nays: Commissioners Pattison, Kelly and Kerbyson

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION FAILED.

098 2022 9-8 Drive-Through Restaurant Restriction Text Amendment

Motion by Kelly. Seconded by Kerbyson.

To postpone further action on the Drive-Through Restaurant Restriction Text Amendment until a future meeting.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

Consultant Habben briefly summarized again the Planning Commission initiated request to consider rezoning parcels in the Annexation by Choice area from Residential to B-1 or B-2, the Lapeer Township R-1B Residential zoning district which allows office uses and Standards 1 and 2 of Section 7-23.06.B.

Chairperson RaCosta opened the public hearing on the rezoning at 7:22 p.m.

Lisa Fialkowski, 1170 Cliff Dr., stated concerns with rezoning an existing residential area, locating businesses next to her home, that the area is a dirt road with houses with families and lives, that it does not make sense and that there are other vacant spaces for businesses to locate that would take away her neighborhood.

Commissioner Eric Cattane, 724 Peppermill Circle, requested clarification of the current zoning of parcels on Cliff Drive and stated that residents can still sell their homes, that there are concerns with spot zoning and that if rezoned the City is admitting the zoning has been wrong for the last 12 years.

Barb Walker, 948 Turrill Rd., stated she bought her home in 1988, that she has attended many past Lapeer Township meetings where the township does not want a lot of commercial in the area, that the Township does not want drive-throughs in the area, that the agreement with the Township should be honored and that the City needs to be fair to all residents.

Clara Longoria, 10266 Coachman Ct., Davison, stated the Planning Commission is delaying the issue again and has lost its power, that the B-1 district was in the trash can and is now being taken out of the trash can, that the Planning Commission's power is to delay the issue and that B-1 is nowhere's Ville and they should not go there.

Dr. William Laur, 1006 S. Main, stated it is an issue of honor and integrity, that if the City wants to amend the agreement they should go back to Lapeer Township, that the City needs to respect and not circumvent the agreement and that the City is on poor legal ground.

Consultant Habben summarized the attached written correspondence received from:

Dr. Paul LePor – 1101 S. Main St. – In support of Text Amendment – In favor of eliminating drive-through restaurant restriction – Opposed to rezoning to B-1 Neighborhood Business;

Lapeer Township – Requesting City to adhere to Lapeer Township Annexation Agreement Paragraph #7 – Development Restrictions; and

Attorney Trey Brice of Jaffe, Taitt, Heuer & Weiss – Representing Richard Witek of 1080 Cliff Dr. – Opposed to Rezoning to B-1 or B-2.

There being no further comments, the public hearing was closed at 7:36 p.m.

Discussion was held by the commissioners concerning the B-1 Neighborhood Business district's compatibility with the Master Plan, that rezoning properties to B-1 would address a change in condition of the area which would up-zone the area minorly rather than drastically, the intensity of the car wash and Popeye's and their connections to the Baldwin Road residential area, the proposed Security Credit Union's access to Cliff Drive and whether the City has the authority to restrict future developments on S. Main from constructing a connections Cliff Drive. Discussion was also held on the current policy of the City to leave residential zoning in place until a property owner requests a rezoning, the less intense uses permitted in the B-1 district than permitted in the B-2 district which would be used as a buffer/transitional district, the other jurisdictions which control connections on Cliff Drive and S. Main/M-24 and considering a future amendment to the Master Plan to address a change in policy to require B-1 zoning in the area on S. Main between Tower Drive and Turrill Road.

099 2022 9-8 Withdrawal of Rezoning – S. Main St. (Tower Dr. to Turrill Rd.)

Motion by Kelly. Seconded by Roberts.

To withdraw consideration of the Planning Commission initiated rezoning to B-1 or B-2 of properties on S. Main St. between Tower Dr. and Turrill Rd.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

100 2022 9-8 Master Plan Amendment – Future Consideration of B-1

Motion by Bostick-Tullius. Seconded by Pattison.

To add consideration of a Master Plan amendment to recommend B-1 zoning on S. Main St. between Tower Drive and Turrill Road to a future meeting agenda.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

Zoning Ordinance Update – Text Amendments

Consultant Habben text amendments to various sections of the Zoning Ordinance proposed at Planning Commission meetings held over the past year resulting from the Master Plan update, MEDC RRC requirements and administrative issues. Habben summarized the amendments to the following sections regarding and regulating:

- Adding the terms Rowhouses and Stackable Flats to the Multiple-Family Residential District;
- Removal of the B-1 Neighborhood Business District;
- Removal of the CBD-2 Central Business District;
- Shipping Containers;
- Additional downtown indoor entertainment permitted uses, Bar-cades, Video Game Lounges and rooftop uses;
- Maximum building height;
- Balcony projections;
- Cross access requirements between adjacent uses on M-24;
- Single-family district electrical capacity limits;
- Natural feature setbacks;
- Building appearance, color and materials;
- Metal roof approval process;
- Landscaping;
- Lighting standards;
- Parking calculation requirements for outdoor seating areas, institutional uses/places of worship, beauty/nail salons, conference/meeting rooms and marihuana facilities;
- Loading area screening;
- Signs – content neutrality, canopy letter size, A-frame/sandwich style signs, graphic updates; and
- Zoning Board of Appeals variance approval expiration and compliance with site plan approvals and extensions.

Consultant Habben reviewed the standards for approval of the text amendments in Section 7-23.06.A and the process to move the proposed amendments forward to the City Commission.

Habben summarized the attached correspondence received from DDA Executive Director James Alt requesting the Planning Commission to revisit allowing 1st floor residential uses in the downtown area.

The commissioners reviewed previous discussion on the 1st floor downtown residential use issue and the DDA's position that allowing the use downtown at least in the rear of spaces would provide ADA accessible residential units without requiring elevators. Discussion was held on how and what method to calculate and regulate the allowable space for residential uses in the rear of 1st floor spaces downtown, requiring a minimum residential unit size, methods used by other cities to regulate 1st floor residential spaces and whether there is currently a demand for 1st floor residential uses in downtown Lapeer.

Chairperson RaCosta opened the public hearing on the Zoning Ordinance update text amendments at 8:25 p.m.

Clara Longoria, 10266 Coachman Ct., Davison, stated the Planning Commission's vision included removal of the B-1, CBD-2 and P-1 districts, that the commission wanted to throw the B-1 district into the trash can, that the B-1 district permits 36 less uses than the B-2 district, that it is all about tamping down the area using crafty wording, that the property owners will have no control and the Planning Commission is using their power to delay.

Dr. William Laur, 1006 S. Lapeer Rd., stated the shared M-24 curb cuts require cooperation between land owners which makes implementation difficult and that an urban renewal project may be required.

There being no further comments, the public hearing was closed at 8:29 p.m.

Discussion was held on and the consensus of the commission was to hold off on removing the B-1 Neighborhood Business district from the Zoning Ordinance. Discussion was also held on not limiting rezoning requests from Cliff Drive property owners, the need for a buffer between commercial and residential uses, the fact all uses permitted in the B-1 and OS-1 districts are allowed in the B-2 district and the consensus of requiring 25% of square footage or the minimum unit size permitted in the Multiple-Family Residential district to calculate the minimum unit size for 1st floor residential units in the rear of spaces downtown.

101 2022 9-8 Zoning Ordinance Update – Text Amendments

Motion by Kerbyson. Seconded by Pattison.

To recommend the City Commission approve the text amendments to Articles 6, 7, 8, 9, 11, 13, 14, 15, 16, 17, 22 and 24 because they meet standards 1-5 of Section 7-23.06.A including the amendment to permit and calculate 1st floor residential uses in downtown as proposed.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED.

SITE PLAN REVIEWS

There were no site plans to be reviewed.

OTHER BUSINESS

October Meeting Date

Discussion was held regarding scheduling and quorum issues for the October Planning Commission meeting and potentially rescheduling the meeting for a week earlier or a week later than the regular meeting date.

102 2022 9-8 October Meeting Cancellation

Motion by Kelly. Seconded by Roberts.

To cancel the October Planning Commission meeting due to quorum issues.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED

Semi Grown – 39 & 47 W. Genesee – Site Plan Approval Extension

Consultant Habben reviewed the request received from Rick Swaine for an extension of the site plan approval for the Semi Grown project to construct a marihuana facility at 39 & 47 W. Genesee and summarized utility issues contributing to the delay of the project.

103 2022 9-8 Semi Grown – 39 & 47 W. Genesee – Site Plan Extension

Motion by Bostick-Tullius. Seconded by Pattison.

To approve a one year extension to the site plan approval for the Semi Grown project at 39 & 47 W. Genesee to expire on October 14, 2023.

Ayes: Commissioners RaCosta, Bostick-Tullius, Pattison, Kelly, Kerbyson and Roberts.

Nays: None.

Absent: Commissioners Marquardt, Johnson and Shenck.

MOTION CARRIED

CORRESPONDENCE

Consultant Habben stated the Development Activities Report is as submitted.

TRAINING REPORT

Consultant Habben distributed an informational flyer on the Rowe Fall 2022 CES Presentation scheduled for October 19, 2022 at Rowe's Flint office.

COMMISSIONER COMMENTS

Commissioner Pattison commented that it was nice to see the public in attendance and that they are welcome to attend all City meetings.

Commissioner Kelly commented it was nice to see the public to participate in the discussions and conversations.

Commissioner Roberts commented that he considers what is best for the entire City and takes the position of both sides into account and that open dialogue gives full clarity on the decisions made.

Commissioner Bostick-Tullius commented that the commission needs to hear all opinions to make a decision.

Chairperson RaCosta thanked the public participants and stated all sides matter, that there is a lot of misinformation out in the public on current issues and that if a person has questions they should contact City Hall.

ADJOURNMENT

Motion by Kerbyson. Seconded by Kelly.

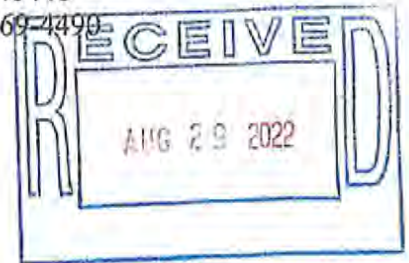
Adjourn the meeting at 8:50 p.m.
MEETING ADJOURNED.

Commissioner Jeff Pattison
Secretary

Kimberly Hodge
Recording Secretary

#1

Jim Gross
1000 Baldwin Rd
Lapeer, MI 48446
Phone 810-969-4490



Lapeer City Hall
Attn: Planning Commission
576 Liberty Park
Lapeer, MI 48446

Dear Members,

As you can see from my address my wife and I live directly across the street from vacant property which is scheduled for commercialization eg. Fast food restaurants. I am also kitty corner from the property at 1029 Baldwin requesting General/Neighborhood Business rezoning. My understanding was that the rezoning requests were already acted upon and authorized. About a year ago I attended a meeting where the drive-through request for the property directly across from me was supposedly approved for fast food as well as egress onto Baldwin from the establishments.

I was opposed to drive-through restaurants at the last two meetings and remain opposed. My argument primarily has to do with traffic flow. If you consider the nature of the community from Taco Bell southward it is totally residential. This is confirmed by the 25 mile per hour speed limit that is supposed to be in effect but rarely observed. By constructing drive-through fast food restaurants, the complexion of the neighborhood is totally changed. What do these businesses want? Customers who will come and leave speedily thereby increasing traffic. When will the traffic increase? Most often during rush hours.

If you examine the traffic flow on Baldwin you see the majority of drivers are trying to get to M-24 or businesses north of Taco Bell. When looking at the corner where Meijer traffic converges with the very busy enterprises like Culvers, Dominoes, etc. you see a lot of major congestion and accident-prone areas. Now there is a new development along Baldwin, Lapeer Villas, These apartments are adding to the traffic in the area and their only means of access is on Baldwin Rd. At the last zoning meeting a year ago the members agreed it would be unwise to create another congested area such as at the "Culver curve." Yet, the vote reflected approval of drive-through establishments and ignored this concern.

I am also concerned about what these establishments will do to the neighborhood. These businesses will create a lot of noise, pollution and I believe increased crime. We moved here to reside in quiet, peaceful "lovely Lapeer," but, not to have a steady stream of cars beaming their lights at us as we wait for a chance to get onto the highway that Baldwin will become.

I realize business establishments are the hallmark of progress and taxable income for the city of Lapeer. However, I also believe that progress must be made prudently, understanding the ramifications of permitting businesses which create many problems. The problems could easily be avoided by encouraging development south of I-69—a short distance away from the targeted area. Others in this neighborhood have not protested as they say you have already made your decision. I ask that you carefully consider your decisions especially in view of the township's good faith arrangement at the time of annexation that specified limitations.

Thank you for your attention.

#2

Kim Hodge

From: hkwenterprises <hkwenterprises@gmail.com>
Sent: Thursday, September 8, 2022 9:55 AM
To: Kim Hodge
Subject: Drive thru restrictions

Ms. Hodge: Good morning. I am prevented from attending this evening's meeting due to a 88th Bday dinner for my mother. Please register this email as my support for ending the restaurant drive-thru prohibition in the area of concern. "Lapeer Commons" with Belle Tire and the upcoming Tommy's Carwash would certainly benefit from a casual eating entity with drive-thru as would the workers and even the daycare families.

Thank you in advance for hearing this plea and that of many others.

Respectfully,
Kevin Robertson
248-459-1980

Kim Hodge

From: JJ Schmidt <jj@marlinproperties.com>
Sent: Thursday, September 8, 2022 2:02 PM
To: Kim Hodge
Subject: Drive-Thru Restaurant Restriction

Ms. Hodge – Good afternoon. I understand there is a Planning Commission meeting tomorrow, where the City is considering amending / changing their current position on drive-thrus.

I am a commercial real estate broker. I do work for different Retailers and Restaurant chains, principally in the role of helping them find new locations. One of my QSR (Quick Service Restaurant) clients, recently expressed interest in locating along the M-24 corridor in Lapeer. I have spent quite a bit of time researching opportunities, unfortunately with the City's prohibition on drive-thrus we have been unable to find an acceptable location. In my experience, without a drive-thru this category of restaurant will not proceed on a site. I certainly welcome the City changing their position so we have an opportunity to consider expanding in Lapeer.

If you would be kind enough to share my e-mail with the members of the Planning Commission I would appreciate it, thank you. JJS

JJ Schmidt
Marlin Properties
Cell 248-830-7733

#4

Kim Hodge

From: Clare Longoria <clare.longoria.hr4e@statefarm.com>
Sent: Thursday, September 8, 2022 4:23 PM
To: Kim Hodge
Subject: FW: [EXTERNAL] Removal of drive-thru ordinance

Dear Ms Hodge,

Please see Aguinaldo (Sonny) Longoria's email below requesting the restaurant with drive thru restriction be removed on parcel # L21-16-550-021-10, which butts S. Main, Orchard Dr and Cliff Dr. He is requesting this be read out loud at tonight's public hearing.

Unfortunately, his Parkinson's is worsening and affects his ability to see/read and type. Please note the email address is from him below.

Sincerely,

Clare Longoria, State Farm Insurance Agent

814 S Main Street Ste 5 Lapeer MI 48446

Office: (810) 664-5822

Fax: (810) 664-2370

clare.longoria.hr4e@statefarm.com

[Unauthenticated Payment](#)



Want to pay your bills online? View your policy information? Enroll for paperless billing?



From: ally 210 <sonny.longoria@gmail.com>
Sent: Thursday, September 8, 2022 4:09 PM
To: Clare Longoria <clare.longoria.hr4e@statefarm.com>
Subject: [EXTERNAL] Removal of drive-thru ordinance

Dear Clare, I agree that the Restaurant Drive-thru restriction be removed which applies to our M24 / ORCHID property.

#5

Kim Hodge

From: Tom Makarchuk <tmakarchuk@icloud.com>
Sent: Thursday, September 8, 2022 4:20 PM
To: Kim Hodge
Subject: Planning and Development-Restaurant and Drive-Thru Ban.

Dear Ms. Hodge,

I am writing this email to encourage you and others to remove the ban on restaurants and drive-thru services on M-24 between Tower and Turrill Rds.

I am the co-owner of the parcel on the southeast corner of Turrill Rd. and M-24 and believe removal of the ban is in the best interests of the city as well as property owners on M-24 and other property owners in proximity. Development of this area is long overdue and the benefits to the city and residents should not be overlooked, along with additional jobs becoming available.

I thank you in advance for your consideration.

Sincerely,
Tom Makarchuk

Sent from my iPhone

TOTAL FAMILY HEALTH

PAUL D. LEPOR, D.O.

Stoneridge Professional Bldg. - 1122 S. Lapeer Rd. - Suite B - Lapeer, MI 48446

Office: 810-664-3660

Fax: 810-664-3680

6

9/01/2022

Dear Planning Commissioners:

Please be advised I own 1101 S. Main St. (a B2 commercial parcel fronting M24) and the adjacent rear parcel (parcel # L21-16-550-025-00) that is currently zoned R2 in the city.

I am completely against the limitation of B1 zoning and would strongly support leaving it like it currently is and support the removal of the restaurant with drive thru prohibition as well.



Paul D. Lepor, D.O.



Functional Medicine

Combining nutrition with the best of
Traditional & Preventive Healthcare



Township of Lapeer

Lapeer County, Michigan
1500 Morris Road, Lapeer, MI 48446
Phone (810) 664-3700
Fax (810) 667-4101

7

8-30-22

TO: City of Lapeer Planning Commission
RE: 9/8/22 Public Hearing Re-Zoning

I'm writing on behalf of the Lapeer Township Board. I would like to express our opinion in regards to the proposed rezoning of City of Lapeer parcels that were formerly Township of Lapeer parcels.

In December of 2006, and re-affirmed in March of 2007, the City of Lapeer and the Township of Lapeer entered into an Interlocal Agreement. We're sure that you are all aware of this, and/or have read the agreement.

With this being said, we respectfully ask that you please pay particular attention to the paragraph listed as #7 in the Interlocal Agreement. This section deals with Development Restrictions. This was, and still is, a very important stipulation within this agreement. Please make an educated and honorable decision when acting upon this proposed re-zoning.

The City and the Township have had a good working relationship on most matters in the past, and we look forward to extending that relationship into the future.

Sincerely,

Scott Jarvis
Lapeer Township Supervisor

CC: Dale Kerbyson, Lapeer City Manager



time period expires, any unused sewer and water taps may be used anywhere within the TOWNSHIP areas designated on the Exhibit B map. All sewer and water lines constructed in the CITY or TOWNSHIP areas depicted on the Exhibit B map shall belong to the CITY and shall be the responsibility of the CITY to operate and maintain. All such lines shall be constructed in compliance with and operated under the provisions of CITY sewer and water ordinances. In the event the TOWNSHIP ever develops its own sewer or water system it shall have the right to take ownership and control of any lines in the TOWNSHIP which were constructed at the expense of property owners and the CITY shall relinquish ownership and control at no charge to the TOWNSHIP. The TOWNSHIP shall reimburse the CITY for the undepreciated value of any water or sewer lines taken over by the TOWNSHIP which were constructed at CITY expense. The TOWNSHIP shall not have the right to take over any water line which is a necessary part of a loop for water lines within the CITY.

5. SEWER AND WATER FRANCHISES AND FEE COLLECTIONS. The TOWNSHIP shall grant a franchise to the CITY to provide sewer and water service within the areas designated in this Agreement and shall extend such franchise upon any expiration as long as any users in TOWNSHIP are connected to CITY sanitary sewer and/or water services. The TOWNSHIP shall also adopt an ordinance which allows the CITY to notify the TOWNSHIP as to any delinquent sewer and water charges and have the amounts placed on the TOWNSHIP tax assessment roll for collection from the responsible property owners. TOWNSHIP agrees to add to its real property tax billings, at the request of the CITY, the amount of any delinquencies owed to the CITY by sewer and/or water users located in the TOWNSHIP.

6. SEWER AND WATER OPERATIONS AND SERVICES. The CITY shall provide the necessary services to operate the sanitary sewage and water system within the TOWNSHIP for any TOWNSHIP users who tap into the CITY sewer or water system pursuant to this Agreement. These services shall include, but not be limited to, billings, maintenance, repairs, and meter readings. The CITY shall have the right to inspect individual tap-ins and the right to make whatever inspections or investigations are reasonably necessary to protect the health, safety and welfare of the public and to take appropriate remedial action. In the case of manufactured homes located within manufactured housing parks, a single meter owned by the park owner shall be installed for billing purposes.

7. DEVELOPMENT RESTRICTIONS. The TOWNSHIP hereby approves of development on any annexed land described in attached Exhibits A and B so long as it is developed under CITY zoning ordinance provisions which are substantially the same as the ordinance provisions applicable in the TOWNSHIP at the time of the signing of this Agreement. For any proposed development not in substantial compliance with TOWNSHIP ordinances, the TOWNSHIP shall have the right to review and approve or deny the site plan for any such development, which site plan approval shall not be unreasonably withheld. In order for the TOWNSHIP to determine substantial compliance, the CITY shall forward to the TOWNSHIP a copy of all site plans submitted for development within the annexed areas. Said site plans shall be forwarded to the TOWNSHIP as soon as they are received by the CITY. The land in Section 18 which is part of the previously approved Planned Unit Development (PUD) shall only be developed in compliance with a PUD plan which is substantially the same as the Plan approved by the Lapeer Township Planning Commission. In addition, in the event property located in the north one-half of Section Four is ever annexed into the CITY, it shall only be developed in

compliance with zoning regulations mutually agreed upon between the TOWNSHIP and the CITY.

8. SHARING OF PROPERTY TAX REVENUE. As to any assessable real or personal property located within any annexed area described in Exhibit A, CITY shall each year pay to the TOWNSHIP the equivalent of two and one-half (2.5) mills per One Thousand (\$1,000.00) Dollars of taxable value, or the then-current TOWNSHIP millage rate, whichever is larger. In no event shall the annual payment exceed the equivalent of three and one-half (3.5) mills. The first such payment shall be due by March 1, 2008 and each subsequent payment shall be due on or before March 1 of each year, in perpetuity. Said annual payment to the TOWNSHIP shall be accompanied by a list of all real and personal properties in the annexed areas and the taxable values for those properties. In the event the property tax system in the State of Michigan is changed to such an extent that the millage equivalent payments provided for herein would not substantially carry out the intent of this paragraph, the parties shall negotiate a payment system which would be as nearly identical to that specified herein as reasonably possible.

9. COMMUNITY CENTER. The CITY shall provide TOWNSHIP residents membership in the CITY Community Center on the same terms and costs as those available to CITY residents. The obligation to provide access shall continue so long as the CITY operates a Community Center or comparable facility.

10. TURRILL ROAD. The CITY shall upgrade or have the developers of property upgrade that portion of Turrill Road adjacent to any annexed area to accommodate traffic generated by any development within the annexed areas. The CITY and the TOWNSHIP shall cooperate to see that Turrill Road is improved for the entire distance between M-24 and Saginaw Street/Clark Road. In order to accomplish the purposes of this paragraph, the TOWNSHIP shall transfer any jurisdiction it may have over that portion of Turrill Road to the CITY upon the request of the CITY.

11. POLICE SERVICES. The CITY shall provide police protection to the entire area designated for future annexation in Exhibits A and B, both before and after annexation actually takes place. The TOWNSHIP shall provide the CITY with a letter of authorization for the CITY police to have jurisdiction within the future annexation area.

12. BOUNDARY PROTECTION. The boundaries of the CITY shall not be extended into any lands adjacent to lands described in this Agreement in the absence of explicit TOWNSHIP approval. In the event there is mutual agreement to any such future additional annexations, all of the terms of this Agreement shall apply to any such annexations. To accomplish the intent of this Agreement provision, the CITY shall not file, support or encourage annexation petitions with the State Boundary Commission. Both the CITY and the TOWNSHIP commit to openly oppose any such annexation petitions which may come up for public hearing at the State Boundary Commission. The provisions of this section shall be applicable for a period of fifty (50) years from the date of this Agreement.

13. OTHER ASSETS AND LIABILITIES. No other assets or liabilities shall be divided between the CITY and the TOWNSHIP as a result of the annexations authorized by this



27777 FRANKLIN ROAD, SUITE 2500 • SOUTHFIELD, MICHIGAN 48034-8214
PHONE 248.351.3000 • FAX 248.351.3082
www.jaffelaw.com

Trey Brice
tbrace@jaffelaw.com
248.727.1407



September 6, 2022

Lapeer City Hall
Attn: Planning Commission
576 Liberty Park
Lapeer, MI 48446

Re: Rezoning Application for South Main Street, Baldwin Road and Cliff Drive

Dear Planning Commission Members:

This law firm represents Richard Witek who resides at 1080 Cliff Drive (Churchill Farms Subdivision Lot 26, which is contiguous to one of the lots (PIN L21-16-550-025-00) included in the rezoning application proposal to rezone several parcels located on South Main Street, Baldwin Road and Cliff Drive from residential to business. The Witek family understands the need for changes along the M-24 commercial corridor and have seen other residential lots along this route be repurposed for commercial uses. These changes, however, should not carry over to the adjacent residential neighborhoods. The Witek family is not opposing the rezoning of the parcels fronting South Main Street. The objection is focused on to the rezoning of the parcels on Cliff Drive and Baldwin Road. Based on the City's Zoning Ordinance, the rezoning of these properties should not be approved.

In the press for municipal water and sewer services, several lots in the area have been annexed from Lapeer Township into the City of Lapeer. The process has been on parcel-by-parcel basis and has resulted in a haphazard, non-thoughtful rezoning practice. The current application is a scattershot of parcels spread across several roads. We are hopeful that the Planning Commission will consider the request for the parcels on Cliff Drive and Baldwin Road outside of the scope of the South Main Street parcels at issue in this rezoning, and look at how these rezonings fit in the larger area map and affect the surrounding properties.

Article 7.23 of the City of Lapeer Zoning Ordinance sets forth the review criteria to amend the City Zoning Map. Section 7.23.06(b) provides the test to approve a rezoning request:

(b) In the case of a proposed zoning map amendment (rezoning) the city shall find one of the following:

- (1) The requested amendment is in compliance with the City Master Plan or that a mistake in the plan or changes in conditions or city policy have occurred that are relevant to the request. If the Planning Commission recommends approval of a request that is not in compliance with the current plan due to a mistake or change in conditions or policy, it shall immediately initiate an amendment to the plan to address the identified mistake or change.
- (2) The property cannot be reasonably used as it is currently zoned and the proposed request represents the most suitable alternative zoning classification based on the City Master Plan.

In order to approve a rezoning request, the Planning Commission and City must find one of the two above elements to be true. Without weighing on whether or not the rezoning of the parcels on South Main Street meets this test, it is clear that the parcels on Cliff Drive and Baldwin Road (and in particular PIN L21-16-550-025-00) do not. The applicant cannot point to any mistakes in the City Master Plan or changes in conditions that would necessitate a rezoning, nor are the properties unusable as currently zoned.

The first prong of the test requires the applicant to provide evidence that there is a mistake in the City Master Plan, or that conditions have changed to such a degree that the Master Plan should be amended to allow the proposed rezoning. The City of Lapeer Master Plan provides a prospective view for the City and its managed growth. While there are certain parts of the City identified for future commercial use, the residential neighborhoods east of M-24 are not included. The imposition of a concentrated commercial traffic use in the neighborhood would overload Cliff Drive in particular. Such a change would require widening and paving of the current gravel road and other costly road improvements. None of which are contemplated in the City Master Plan. There are no mistakes or changes in condition since the Master Plan was updated just a few years ago that would allow this rezoning. Therefore, the request to rezone the parcels on Cliff Drive and Baldwin Road is not in compliance with the City Master Plan.

The second prong of the test has two parts. The applicant must first show that the property cannot be used as currently zoned, and then second the applicant must show that the proposed zoning classification is the most suitable alternative. The properties on Cliff Drive are currently zoned R-2 Single Family Residential and the parcel on Baldwin Road is zoned R-3 Single Family Residential. These are an appropriate zoning classifications which allows the properties to be used for residential purposes. Other properties along Cliff Drive and Baldwin Road are also used and occupied by residences. The Witeks reside immediately next door to PIN L21-16-550-025-00. Not only does the residential zoning classification provide reasonable use of the parcels, but the applicant cannot present an argument that it does not. As a result, there is no need to consider other zoning classifications for these parcels.

September 6, 2022

Page 3

While demographics and land use evolve over time necessitating change, the approach must be mindful of both the larger picture and the specific impact it will have on other surrounding properties. As shown above, the request to rezone the parcels on Cliff Drive and Baldwin Road, and in particular PIN L21-16-550-025-00, does not meet the test required in the City's Zoning Ordinance. Consequently, the Planning Commission has no alternative but to deny the rezoning request for these parcels.

Sincerely,

Jaffe, Raitt, Heuer & Weiss

Professional Corporation

Trey Brice

Trey Brice

TRB/tb

cc: Richard Witek

Scott Jarvis, Lapeer Township Supervisor



Memorandum

To: Caitlyn Habben AICP, Planning Consultant
From: James Alt, DDA Executive Director
Date: Sept, 6, 2022
RE: **Zoning Ordinance Update**

Hi Caitlyn,

The Lapeer Main Street DDA appreciates the opportunity to provide feedback to the planning commission on the draft zoning ordinance updates. In general, the DDA agrees with the proposed updates as suggested by the Planning Department.

One area that I would like to see the planning department revisit is the non-allowance of 1st floor residential. I believe that there is an opportunity and a benefit to allowing 1st floor residential, with restrictions, to the downtown area. 1st Floor downtown apartments offer the following advantages:

- Allows true Accessible/504 Compliant apartments to the downtown. This is the only way a residential unit can truly be handicap accessible. In the event of a fire, elevators are often one of the first things shut down. This can cause a danger handicap residents and often times can be a deterrent to them living downtown and enjoying the benefits of living in a downtown area.
- They can add critical income to a renovation project or new build project.
- Keeps development costs down, one of the ways is by lessening or removing the requirement for an elevator in many cases.
- It adds additional people to the downtown which means potentially more people spending money and supporting the downtown businesses.
- They can take a larger commercial space and make it more "rent friend" by creating a more manageable, size appropriate space.

Bruce Johnston of Revitalize LLC – a company that often partners with the MEDC on various projects, and has been involved in the planning for a new development in the fire block across the The PIX recently gave a presentation to the Michigan Downtown Association on the benefits of allowing 1st floor residential. He added a few additional things as well.

- 1st floor residential should be looked at for the rear side of a building – I agree with this. Street level, storefront area should be for storefronts. The MEDC also considers this a non-starter for projects that they support.
- Although no traditional of downtowns throughout MI, many lower-level apartments existed long ago.

- In his experience, lower-level apartments add people living in the downtown, help the building cash flow better, and add value and tax income to the property. Potentially a win, win, win.

More and more cities across the state of Michigan have been looking at, or adding 1st floor residential (with conditions) they include:

- Imlay City
- Clawson
- Grand Rapids
- Whitehall
- Alma
- Albion
- Cheboygan
- Cadillac
- And I believe Almont just voted to allow or are looking into allowing.

Some ideas from other cities that are allowing 1st floor apartments/residential:

- Size appropriate – What works for our downtown? how much of the commercial space can be utilized for the apartment 20 – 30 – 40%
- Only allowed in rehabilitation that completes vacant upper floors as well, or new new building constructions (pending other criteria is met)
- Must comply with 504 or accessibility regulations – entry, door width, turn around space, kitchens, etc.
- Must show financial need of project
- Cities that are changing their ordinance are doing so to meet the needs of the downtown and the growing demand for downtown living.
- Must have entry off the alley or parking area in the back of the building.

James Alt

Executive Director

Lapeer Main Street DDA

james@lapeerdda.com

810-728-6598