

PUBLIC NOTICE

CITY OF BERKLEY, MICHIGAN REGULAR MEETING OF THE CITY PLANNING COMMISSION

Tuesday, November 27, 2018
7:30 PM - City Hall
Information: (248) 658-3320

CALL TO ORDER
PLEDGE OF ALLEGIANCE
ROLL CALL
APPROVAL OF AGENDA
APPROVAL OF MINUTES -- *Meeting of October 23, 2018*
COMMUNICATIONS
CITIZEN COMMENTS
ORDER OF BUSINESS

1. **REZONING REQUEST**: RZ-01-18—GEORGE BANOT & EDDIE HANNA, 3910 ELEVEN MILE ROAD
Attachments: [RZ-01-18 Application](#), [3910 Eleven Mile Aerial Photo](#), [Public Hearing Notice](#)
2. **REZONING REQUEST**: RZ-02-18—ATEX BUILDERS, LLC, 3339 CUMMINGS AVE
Attachments: [RZ-02-18 Application](#), [Applicant Narrative](#), [3339 Cummings Survey](#), [Neighbor Support Petition](#), [Public Hearing Notice](#), [RZ-01-86](#)
3. **SPECIAL LAND USE REQUEST**: PSU-02-18—MICHIGAN STATE FEDERAL CREDIT UNION, 3165 TWELVE MILE RD
Attachments: [Special Use Application](#), [Applicant Narrative](#), [3165 12 Mile Rd Floor Plan](#), [Public Hearing Notice](#)
4. **PUBLIC PARTICIPATION PLAN**: APPROVAL
Attachments: [Public Participation Plan](#), [Extended Comments](#)
5. **DESIGN OVERLAY DISTRICT**: DISCUSSION
Attachments: [Design Overlay District-Revised](#), [Overlay Districts-MSU Extension](#)

LIAISON REPORTS
COMMISSIONER/STAFF COMMENTS
ADJOURN

Notice: Official Minutes of the City Planning Commission are stored and available for review at the office of the City Clerk.

The City of Berkley will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities at the meeting upon four working days notice to the city. Individuals with disabilities requiring auxiliary aids or services should contact the city by writing or calling City Clerk, ADA Contact, Berkley City Hall, 3338 Coolidge, Berkley, Michigan 48072, (248) 658-3300.

THE REGULAR MEETING OF THE BERKLEY CITY PLANNING COMMISSION WAS CALLED TO ORDER AT 7:30 PM, OCTOBER 23, 2018 AT CITY HALL BY CHAIR KAPELANSKI.

The minutes from this meeting are in summary form capturing the actions taken on each agenda item. To view the meeting discussions in their entirety, this meeting is broadcasted on the city's government access channel, WBRK, every day at 9AM and 9PM. The video can also be seen, on-demand, on the city's YouTube channel: <https://www.youtube.com/user/cityofberkeley>.

PRESENT: Mark Richardson Martin Smith Ann Shadle
 Michele Buckler Greg Patterson Tim Murad
 Kristen Kapelanski Lisa Kempner

ABSENT: Matt Trotto

ALSO PRESENT: Ross Gavin, City Council Liaison
 Tim McLean, Community Development Director
 Vivian Carmody, DDA Director
 Several members of the public

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APPROVAL OF AGENDA

It was moved by Commissioner Murad to approve the agenda as written and supported by Commissioner Buckler.

AYES: Kempner, Murad, Patterson, Richardson, Shadle, Smith, Buckler, Kapelanski

NAYS: None

ABSENT: Trotto

Motion Carried.

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APPROVAL OF MINUTES

It was moved by Commissioner Richardson to approve minutes from September 25, 2018 and supported by Commissioner Patterson.

AYES: Murad, Patterson, Richardson, Shadle, Smith, Buckler, Kempner, Kapelanski

NAYS: None

ABSENT: Trotto

Motion Carried.

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COMMUNICATIONS

None

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CITIZEN COMMENTS

None

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1. PUBLIC PARTICIPATION PLAN: DRAFT #3

Community Development Director McLean discussed revisions to the plan. Mr. McLean also pointed out that there will be an extended public comment period for the proposed plan. Comments and feedback may be left in the online survey. Links to the survey are posted on the City website and City Facebook page. The comment period will end November 9, 2018 at 5:00PM.

Commissioner Richardson stated that he felt that necessary revisions were addressed in this draft.

Commissioner Buckler agrees with the comments made by Mr. Richardson. Ms. Buckler stated that this draft has enough specificity and balance to allow for meaningful participation.

Commissioner Murad asked if the photos in the document can be larger and easier to read.

Mr. McLean responded that he would work on making the photos easier to see.

Chair Kapelanski pointed out a few typos in the draft.

CITIZEN COMMENTS

Kurt Hite, Robina: Asked about clarifying postponements in the PUD flowchart.

Sue Citraro, Sunnyside: Stated she could not find links to the survey.

Dean Smith, Larkmoor: Stated that there are multiple channels for citizen input in the draft plan. Mr. Smith, using the example of input on social media, asked how those comments would get to the Planning Commission. Mr. Smith also asked about mechanisms to correct misinformation.

Vivian Carmody, DDA Director: asked if a Design Review Board flow chart could be included in the plan once it is established.

Chair Kapelanski stated that there were multiple notices for the online survey. Ms. Kapelanski also responded that language could be added to the Public Participation Plan urging residents to forward comments on social media to City staff through written or electronic communication if they would like those comments entered into the public record.

2. EXTERIOR APPLIANCES ORDINANCE

Community Development Director McLean briefly reviewed revisions that were made, based upon feedback from the previous meeting.

Commissioner Shadle stated that she didn't want to create a burden for existing appliances in side yards. Ms. Shadle asked about language for non-conformity.

Commissioner Patterson stated that it would be expensive to relocate exterior appliances to a rear yard in cases of future replacement.

Chair Kapelanski stated that a/c units are quieter than generators. Ms. Kapelanski also stated that lot sizes can make placement a challenge.

Commissioner Murad agreed that yard size can make placement difficult.

Chair Kapelanski stated that not permitting a/c units in a side yard could lead to a larger number of variance requests and unhappy residents.

Commissioner Buckler stated that she has an a/c unit in a rear yard and that it has not been a challenge or infringement. She stated that she can hear neighboring units inside her home.

Vice Chair Smith stated that language could be added to address existing appliances in side yards.

Commissioner Richardson stated that he is not in favor of placement of exterior appliances in a side yard.

Vice Chair asked about window a/c units.

Chair Kapelanski replied that those would not be considered exterior appliances.

Commissioner Buckler stated that there needs to be some type of standard for noise ordinance.

Vice Chair Smith stated that he favors industry standards for exterior appliances regarding noise.

Commissioner Kempner stated that she was not in favor of a standard "from the property line."

Citizen Comments

Patti Curtis, Kenmore: Asked if front and side yards are defined in the ordinance. She also stated that generator noise tends to be consistent whereas a/c units tend to get louder.

Kurt Hite, Robina: In favor of language for existing appliances in side yards.

Dean Smith: Stated that as proposed the decibel standard would be impossible to enforce. Mr. Smith suggested deferring to manufacturer noise rating. He also stated that excessive noise is usually a sign of a product defect.

3. PROPOSED ORDINANCE/DESIGN REVIEW BOARD

Community Development Director McLean briefly reviewed revisions that were made, based upon feedback from the previous meeting.

DDA Director Carmody stated that an overlay district simplifies the process.

Vice Chair Smith stated that the Design Review Advisory Board addressed many of his questions. Mr. Smith also referenced some inconsistent language in the revised draft. He also expressed concerns that this process could be an extra step that can delay site plan approval.

Commissioner Kempner stated that the overlay would not give developers a choice.

Mr. McLean stated that there is existing language in the zoning ordinance for development that requires a full site plan review by the Planning Commission.

Commissioner Kempner addressed the topic of guidelines as opposed to items required by ordinance. She inquired as to how many inconsistencies exist between the zoning ordinance and design guidelines.

Commissioner Buckler asked if not having a set meeting schedule and having an "on demand"

meeting could streamline the process.

DDA Director Carmody stated that timing to convene could be difficult.

Commissioner Buckler asked if this meeting could happen via conference call.

DDA Director Carmody responded that the Open Meetings Act would apply.

Commissioner Murad asked if a member of the Planning Commission should be on the Design Review Board.

Commissioner Kempner stated that she was uncomfortable with language that could override existing zoning.

Commissioner Shadle stated that an overlay district clarifies concerns from the first draft. Ms. Shadle suggested a non-voting liaison to the Design Review Board.

Commissioner Buckler asked about mechanisms to enforce what is approved.

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LIAISON REPORTS

Commissioner Patterson discussed Tail on the Train event for Parks & Rec.

Commissioner Murad discussed the upcoming State of the City event.

Commissioner Richardson discussed the City Manager and DPW Director as guest speakers for the Environmental Committee on energy efficiency..

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STAFF/COMMISSIONER COMMENTS

N/A

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With no further business, the meeting was adjourned at 9:22PM.

MEMORANDUM

NOVEMBER 12, 2018

TO: CITY OF BERKLEY PLANNING COMMISSION
FROM: TIMOTHY MCLEAN, COMMUNITY DEVELOPMENT DIRECTOR
RE: REPORT FOR THE PLANNING COMMISSION MEETING, NOVEMBER 27, 2018

- 1. REZONING REQUEST:** RZ-01-18—GEORGE BANOT & EDDIE HANNA, 3910 ELEVEN MILE ROAD, NORTHWEST CORNER OF ELEVEN MILE RD., AND CUMMINGS AVE., PARCEL ID: 25-18-353-031, LOT 278, THOMAS PARK SUBDIVISION, IS REQUESTING A REZONING FROM ELEVEN MILE DISTRICT TO SINGLE FAMILY RESIDENTIAL DISTRICT (R-1D).

The property owner of 3910 Eleven Mile Rd (former business Holly Market) is requesting that this parcel be rezoned from Eleven Mile District to single family residential (R-1D). Due to the small size of the parcel, it will be difficult to meet minimum off-street parking requirements for principal permitted uses in the Eleven Mile District. The existing building has a dwelling unit that had been accessory to the primary use. With the dwelling unit, if the rezoning request is granted, the property owner would rehab the building for the principal use as residential.

For rezoning requests, Sec.138-858 of the Berkley City Code requires that the Planning Commission make findings in five key areas.

EXISTING USES OF PROPERTY WITHIN THE GENERAL AREA OF THE PROPERTY IN QUESTION

EXISTING LAND USE: Vacant building, formerly Holly Market (convenience store) with an attached dwelling unit that was accessory to the primary use.

SURROUNDING LAND USE:

North: Parking for neighboring business

South: Undeveloped

East: Storage

West: Manufacturing

THE ZONING CLASSIFICATION OF PROPERTY WITHIN THE GENERAL AREA OF THE PROPERTY IN QUESTION

Existing Zoning: Eleven Mile District

Surrounding Zoning:

North: Eleven Mile District

South: Oak Park

East: Eleven Mile District

West: Eleven Mile District

THE SUITABILITY OF THE PROPERTY IN QUESTION TO THE USES PERMITTED UNDER THE EXISTING ZONING CLASSIFICATION

Berkley City Code allows a wide variety of uses under the Eleven Mile District, including the following:

- 1) Warehousing and wholesale establishments, and storage (other than accessory to a permitted retail use).
- 2) Communications and information businesses.
- 3) The design, manufacture, and testing of such technology as electronics, robotics, medical devices and instruments.
- 4) Establishments involved in chemistry, biotechnology and nanotechnology.
- 5) The design, manufacture, and testing of alternative energy and power generation.
- 6) The compounding, processing, packaging or treatment of such products as: bakery goods, candy, cosmetics, pharmaceuticals, toiletries, food products, hardware and cutlery; tool, die, gauge and machine shops from the following previously prepared materials: canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, leather, paper, plastics, precious or semiprecious metals or stones, shell, textiles, tobacco, wax, wire, wood and yarns.
- 7) Welding or metal fabrication.
- 8) The manufacture of pottery and figurines or other similar ceramic products using only previously pulverized clay, and kilns fired only by electricity or gas.
- 9) Manufacture of musical instruments, toys, novelties and metal or rubber stamps, or other small molded rubber products.
- 10) Manufacture or assembly of electrical appliances, electronic instruments and devices, radios and phonographs (excluding large stampings).
- 11) Laboratories, experimental, film or testing.
- 12) Manufacture and repair of electric or neon signs, light sheet metal products, including heating and ventilating equipment, cornices, eaves and the like.
- 13) Building material sales.
- 14) Warehouse, storage and transfer and electric and gas service buildings and yards, heating and electric power generating plants and all necessary uses, coal, coke and fuel yards, water supply and sewage disposal plants, water and gas tanks and holders.
- 15) Automobile service or repair establishments.
- 16) Carwashes.
- 17) Artist studios or florists, where retail sales are accessory to the primary use.

18) Automobile sales

19) Professional offices for lawyers, architects, landscape architects, urban planners, engineers or other similar or allied professions.

20) Accessory uses.

21) Other uses of a similar and no more objectionable character.

However, Section 138-489 limits those uses that may be considered no more objectionable in character:

There shall be no dwellings, schools, other than trade or industrial schools, hospitals or other institutions for human habitation or care, unless accessory and incidental to a permitted principal use; or all classes of business uses except when such uses are for the convenience shopping of persons in the eleven mile district, subject to the regulations applicable to such uses.

This requirement goes back as far as the 1971 Zoning Ordinance. Given this verbiage, day care centers, schools, retail uses, medical uses and residential uses are prohibited in this district.

THE TREND OF DEVELOPMENT, IF ANY, IN THE GENERAL AREA OF THE PROPERTY IN QUESTION, INCLUDING CHANGES, IF ANY, WHICH HAVE TAKEN PLACE IN ITS PRESENT ZONING CLASSIFICATION

The building at 3910 Eleven Mile has served as a convenience/grocery store since at least the early 1970's. Over the years, it has operated under various names/owners; Greenwood Market, Ditri's Place, Currie's Party Store, Holly Market. The zoning has changed over the years. The property had previously fallen under the designation of Industrial (M-1).

Under current zoning, grocery and convenience stores are not permitted uses. Due to the small size of the parcel, it would be near impossible to meet minimum off-street parking requirements. A principal permitted use in the Eleven Mile District at this location would almost certainly require either a shared parking agreement or a variance from the Zoning Board of Appeals.

THE OBJECTIVES OF THE CURRENT MASTER PLAN FOR THE CITY.

The Master Plan identifies this area as Consumer Trade. This is what the master plan says about this district:

Consumer Trades

- *General Location.* North side of 11 Mile Road, between Kipling and Ellwood.
- *Intended Land Uses.* Businesses sometimes considered light industrial or require large amounts of space for storage or use, and also may offer retail sales of their product. Example businesses may include florists, artist studios, warehouses, lumber yards, suppliers, repair shops, landscaping companies, light assembly, research and technology facilities, along with any associated offices. Limited housing opportunities, as part of a live-work opportunity, may be allowed, especially to the rear of the properties as transition to single family homes located to the north.

- *General Character Description.* The Consumer Trades designation offers an appropriate location for these businesses while preventing a conversion to higher intensity industrial uses. The operation of these uses may involve some truck traffic, outdoor storage and related noise. Development and redevelopment of these areas should concentrate on minimizing the impacts of these activities by screening outdoor storage areas and facing overhead doors away from the street and the residential to the rear so that loading and unloading activities are less visible.
- *Key Changes.* This new land use designation is essentially an adaptation of the existing Industrial area, with an emphasis on reducing the intensity of uses and encouraging new opportunities along with a new identity for the Berkley side of this corridor.

When the Master Plan was updated in 2007, the Eleven Mile District was created, and a majority of the properties on Eleven Mile Rd, from Greenfield to Coolidge fell under the designation of Eleven Mile District. Residential as a principal not considered at that time. However, it is worth noting that there is one parcel on Eleven Mile Rd between Greenfield and Coolidge that was recently rezoned to single family residential.

A public hearing was advertised in the Daily Tribune and notices were sent to all properties and property owners within 300 feet. As of this writing, the City has not received any letters or emails regarding the case.

At the meeting on November 27, after holding the public hearing, the Planning Commission will consider a recommendation to City Council. If there is not enough information, the Planning Commission may postpone the recommendation. If the Planning Commission makes a recommendation, then the matter will go before City Council in December.

Attachments:

[RZ-01-18 Application](#)

[3910 Eleven Mile Aerial Photo](#)

[Public Hearing Notice](#)

- 2. REZONING REQUEST:** RZ-02-18—ATEX BUILDERS, LLC, 3339 CUMMINGS AVE, WEST SIDE OF CUMMINGS AVE., BETWEEN TWELVE MILE RD., AND BEVERLY BLVD., PARCEL ID'S: 25-18-103-030, S 20 FT OF LOT 113, ALSO ALL OF LOT 114, BERKLEY SCHOOLL-PARK SUBDIVISION, IS REQUESTING A REZONING FROM PARKING DISTRICT (P-1) TO SINGLE FAMILY RESIDENTIAL (R-1D).

The property owner of 3339 Cummings Ave is requesting that this parcel be rezoned from Parking District (P-1) to single family residential (R-1D). There is an existing residence on this parcel. When this parcel was purchased, the new owner was unaware that the property was not zoned under a residential designation. The new property owner intended to demolish the existing residence and construct a new house. As the property is currently zoned P-1, this would not be permitted. Consequently, the applicant is requesting that this property be rezoned.

In 1986, the City rezoned a number of residential properties along the Twelve Mile corridor as Parking District. This was intended to create more parking for that corridor. The property at 3339 Cummings Ave was one of several parcels to be rezoned as Parking District (RZ-01-86). There are at least three other parcels that were rezoned as P-1 that still have houses on the property.

For rezoning requests, Sec.138-858 of the Berkley City Code requires that the Planning Commission make findings in five key areas.

EXISTING USES OF PROPERTY WITHIN THE GENERAL AREA OF THE PROPERTY IN QUESTION

EXISTING LAND USE: Single Family Residential

SURROUNDING LAND USE:

North: Parking

South: Single Family Residential

East: Single Family Residential

West: Single Family Residential

THE ZONING CLASSIFICATION OF PROPERTY WITHIN THE GENERAL AREA OF THE PROPERTY IN QUESTION

Existing Zoning: Parking District (P-1)

Surrounding Zoning:

North: Parking District (P-1)

South: Single Family Residential (R-1D)

East: Single Family Residential (R-1D)

West: Single Family Residential (R-1D)

THE SUITABILITY OF THE PROPERTY IN QUESTION TO THE USES PERMITTED UNDER THE EXISTING ZONING CLASSIFICATION

Under the P-1 designation, the only principal permitted use is off-street parking. The ordinance does allow for some special uses for a drive-thru. The property in question is surrounded by residentially zoned properties. There is an existing residence on the property. Despite this property being rezoned as Parking District, the use has remained residential.

THE TREND OF DEVELOPMENT, IF ANY, IN THE GENERAL AREA OF THE PROPERTY IN QUESTION, INCLUDING CHANGES, IF ANY, WHICH HAVE TAKEN PLACE IN ITS PRESENT ZONING CLASSIFICATION

The property in question has remained residential despite the P-1 designation. Along the Twelve Mile corridor there are some parking lots that abut the residential districts. However, because this parcel has never been developed as parking after 32 years, it is questionable if parking is the highest and best use for this property.

THE OBJECTIVES OF THE CURRENT MASTER PLAN FOR THE CITY

The Master Plan references the fact that a majority of parking lots in the City of Berkley are located in the Twelve Mile Corridor. The Master Plan references that the western end of Twelve Mile Rd suffers higher vacancy rates due to “lack of available property depth.” However, there is no reference to increasing parking through encroachment into residential districts.

A public hearing was advertised in the Daily Tribune and notices were sent to all properties and property owners within 300 feet. Correspondence from neighboring property owners is included under Attachments.

At the meeting on November 27, after holding the public hearing, the Planning Commission will consider a recommendation to City Council. If there is not enough information, the Planning Commission may postpone the recommendation. If the Planning Commission makes a recommendation, then the matter will go before City Council in December.

Attachments:

[RZ-02-18 Application](#)

[Applicant Narrative](#)

[3339 Cummings Survey](#)

[Neighbor Support Petition](#)

[Public Hearing Notice](#)

[RZ-01-86](#)

3. **SPECIAL LAND USE REQUEST:** PSU-02-18—MICHIGAN STATE FEDERAL CREDIT UNION, 3165 TWELVE MILE RD, SOUTH SIDE OF TWELVE MILE RD. TAX ID# 04-25-18-203-004 IS REQUESTING SPECIAL USE APPROVAL FOR A BANK IN THE DOWNTOWN DISTRICT.

EXISTING ZONING / LAND USE: Downtown District/Existing, unoccupied building

SURROUNDING ZONING / LAND USE:

NORTH: Downtown District / Downtown Business

SOUTH: Parking District / Municipal Parking Lot

EAST: Downtown District / Downtown Business

WEST: Downtown District / Downtown Business

DISCUSSION:

The following standards for Special Use approval should be met in order to recommend the matter for City Council's approval.

1. *The proposed use will promote the use of land in a socially and economically desirable manner.*
2. *The proposed use is necessary for the public convenience at that location.*
3. *The proposed use is compatible with adjacent land uses.*
4. *The proposed use is designed so that the public health, safety and welfare shall be protected.*
5. *The proposed use will not cause injury to other property in the neighborhood.*

The applicant, Michigan State Federal Credit Union is proposing to utilize the property at 3165 Twelve Mile Rd as a bank while the new facility at 1833 Coolidge is being constructed. The property is currently zoned as Downtown District. Banks are permitted in the Downtown District as a Special Use.

The applicant is proposing signage on the front of the building. Signage may be approved administratively when the applicant applies for a sign permit. The applicant is also proposing the installation of an automatic teller machine (ATM). The floor plan indicates that the proposed ATM would be placed in the space of a window on the front of the building. This would be a reduction in the size of the window which would trigger a full site plan review with the Planning Commission. More information is needed from the applicant regarding the proposed ATM. No additional changes to the building façade are noted in the floor plan.

Municipal parking is located at the rear of the building. By ordinance, the proximity of municipal parking to the building is such that no on-premise parking is required. Minimum parking standards for banks are: *One per 200 square feet of usable floor area plus three per teller station plus eight stacking spaces for the first drive-in window and six stacking spaces per each additional window plus two per automatic teller machine (ATM).* Since there is no drive-in window or drive-up ATM, the standard would be one space per 200 square feet of usable floor area. Based on the usable floor area, the applicant would have needed six parking spaces.

Following the public hearing, a recommendation to City Council must be made in the form of a motion by Planning Commission on whether or not to approve the Special Use request. The recommendation may be based on certain terms and conditions.

Attachments:

[Special Use Application](#)

[Applicant Narrative](#)

[3165 12 Mile Rd Floor Plan](#)

[Public Hearing Notice](#)

4. PUBLIC PARTICIPATION PLAN: APPROVAL

Final revisions have been made to the proposed Public Participation Plan. Survey Monkey was utilized to allow for an extended period to submit comments on the proposed plan. If the plan is adopted at that time, it would go before City Council to be officially adopted by resolution. A motion is necessary to adopt the Public Participation Plan.

Attachments:

[Public Participation Plan](#)

[Extended Comments](#)

5. DESIGN OVERLAY DISTRICT: DISCUSSION

DDA Director Carmody has made revisions to the proposed Design Overlay District. The revisions have incorporated comments and suggestions from the Planning Commission. As there seemed to be some questions and confusions relative to how overlay districts work, please see the attached article on overlay districts. If the Planning Commission is agreeable to the revised draft, it is recommended that a date be set for a public hearing.

Attachments:

[Design Overlay District-Revised](#)

[Overlay Districts-MSU Extension](#)